

GAHC010123342019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/302/2021

LATE DILIP KUMAR DUTTA REPRESENTED BY SMTI ANJALI DUTTA AND 2
ORS

W/O- LATE DILIP KUMAR DUTTA, R/O- VILL.- KUKURACHOWA, P.O.
NAMTIDOLL, DIST.- SIVASAGAR, ASSAM, PIN- 785684 (WHO WAS
SUBSTITUTED VIDE ORDER DTD. 29/03/2018 PASSED IN I.A. NO. 1060/2018).

2: SRI PURNANANDA PHUKAN
S/O- SRI TANKESWAR PHUKAN
R/O- HAHCHARA RAILUNG CHETIA GAON
P.O. HAHCHARA (KUJIFALI)
P.S. AND DIST.- SIVASAGAR
ASSAM
PIN- 785701.

3: SRI MUKUT DUTTA
S/O- LATE DURGESWAR DUTTA
R/O- VILL.- SALAGURI NO. 2
P.O. SALAGURI
DIST.- SIVASAGAR
ASSAM
PIN- 785701

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY ADDITIONAL CHIEF SECRETARY TO THE GOVERNMENT OF
ASSAM, REVENUE AND DM, AGRICULTURE, IRRIGATION, CO-OPERATION
DEPARTMENT.

2: THE REGISTRAR OF CO-OPERATIVE SOCIETIES
ASSAM
KHANAPARA
GUWAHATI- 781022.

3:THE DY. REGISTRAR OF CO-OPERATIVE SOCIETIES
SIVASAGAR
INCHARGE PRINCIPAL OF ASSAM
CO-OPERATIVE TRAINING INSTITUTE
JOYSAGAR
DIST.- SIVASAGAR
ASSAM.

4:THE ASSAM STATE CO-OPERATIVE UNION
REP. BY ITS CHIEF EXECUTIVE OFFICER
B. BARUAH ROAD
OPPOSITE B. BARUAH COLLEGE
GUWAHATI- 781007.

5:THE ASSAM RAJIV GANDHI UNIVERSITY OF CO-OPERATIVE
MANAGEMENT
REPRESENTED BY PRINCIPAL SECRETARY TO THE GOVERNMENT OF
ASSAM
BASIC TINIALI
GADAGHAR NAGAR
JOYSAGAR
DICIAL DHULIA GAON
ASSAM-785665

Advocate for the Petitioner : MR. B D KONWAR, SR. ADV.

Advocate for the Respondent : MR. S K TALUKDAR, SC, COOPERATIVE DEPTT.

BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

09.04.2024

(Vijay Bishnoi, CJ)

The appellants who are working with the Assam State Cooperative Union (ASCU) had approached the learned Single Judge by way of filing the writ petition essentially with the prayer to direct the respondents State to make the payment of their due salary and other emoluments as revised from time to time.

The learned Single Judge has dismissed the writ petition filed on behalf of the appellants while observing that since the appellants are the employees of the ASCU and not the employees of the State, no mandamus can be issued to the State for paying their monthly salary and other emoluments as revised from time to time. Being aggrieved with the impugned order passed by the learned Single Judge, the appellants have preferred this writ appeal.

Learned counsel for the respondents has submitted that the question involved in this writ petition is no more *res integra* as a coordinate Bench of this Court in Writ Appeal No.5/2022 [*Sri Amarjit Barman and others Vs. State of Assam and others*] and other connected Writ Appeals has already taken a view that the ASCU cannot be said to be an authority or instrumentality of the State under Article 12 of the Constitution of India. Hence, the writ petition filed by the appellants against the State seeking relief of payment of salary is not maintainable.

Having gone through the Judgment dated 17.03.2023 passed by a coordinate Bench in Writ Appeal No.5/2022 [*Sri Amarjit Barman and others Vs. State of Assam and others*] and other connected Writ Appeals we are in full agreement with the same. Hence, we do not find any illegality in the impugned judgment passed by the learned Single Judge whereby the writ petition filed by the appellants has been dismissed as not maintainable. Hence, no case for interference is made out.

The Writ Appeal is dismissed. However, the appellants are free to approach the forum under the appropriate Labour legislation from or the Cooperative Societies Act for redressal of their grievances. It is also observed that if there is any delay on the part of the appellants in approaching the

appropriate forum, the question regarding condonation of delay would be taken into consideration sympathetically.

JUDGE

CHIEF JUSTICE

Comparing Assistant