

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. OF 2026
(@ SPECIAL LEAVE PETITION (CIVIL) NO.5653 OF 2025)**

RAJAT CH. KALITA & ANR.

APPELLANT(S)

A1 SHRI RAJAT CH. KALITA

A2 SHRI PHUKAN DAS

VERSUS

THE STATE OF ASSAM & ORS.

RESPONDENT(S)

**R1 THE STATE OF ASSAM REP. BY THE PRINCIPAL SECRETARY
TO THE GOVT. OF ASSAM CO-OPERATIVE DEPARTMENT DISPUR**

R2 THE REGISTRAR OF CO-OPERATIVE SOCIETIES, GOVT. OF ASSAM

R3 THE ASSAM STATE CO-OPERATIVE UNION

R4 THE CHIEF EXECUTIVE OFFICER, ASSAM STATE CO-OPERATIVE UNION

R5 THE PRINCIPAL SECRETARY, DEPARTMENT OF FINANCE, DISPUR

O R D E R

Heard Mr. Kaushik Choudhury, learned counsel for the petitioners and Mr. Chinmoy Sharma, learned Senior AAG for the respondent no.1 - State of Assam.

2. Despite service of notice on respondents no.2 to 5, there is no appearance on their behalf.

3. Leave granted.

4. The present appeal arises out of a judgment passed by the Division Bench of the Gauhati High Court dated

17.10.2023 in Writ Appeal No. 168 of 2019, by which the order dated 25.04.2019 passed by the learned Single Judge of the Gauhati High Court in W.P.(C) No.2047/2019 holding that no *mandamus* can be issued against the State of Assam for payment of salaries to the appellants herein has been upheld.

5. Learned counsel for the appellants submitted that the issue got settled *inter se* between the parties by an order dated 24.02.2006 passed by the learned Single Judge of the Gauhati High Court in W.P.(C) No.7086/2005. Thereafter, the Review Petition being R.A.No.70 of 2006 was also dismissed *vide* order dated 04.05.2007 and challenge to the same before the Division Bench in W.A. No.369/2007 met the same fate by order dated 10.12.2009.

6. Learned counsel for the respondent no.1-State of Assam submits that this Court in the case of *State of Assam v. Barak Upatyaka D.U. Karmachari Sanstha*¹ has held that no such *mandamus* can be issued.

7. Having considered the matter in depth, we find that the order impugned cannot be sustained. First and foremost, the issue with regard to the liability of the State to make the payment has been settled between the parties by the order dated 24.02.2006 passed by the

1 (2009) 5 SCC 694

learned Single Judge of the Gauhati High Court. Thereafter, even at the level of the Division Bench in appeal, the same was upheld by the order dated 10.12.2009. The order on which reliance has been placed, i.e., *Barak Upatyaka D.U. Karmachari Sanstha* (supra) is dated 17.03.2009. Thus, the Division Bench having passed the order nine months after passing of the order by this Court in *Barak Upatyaka D.U. Karmachari Sanstha* (supra), the State, if it was so aggrieved, being conscious of this fact, had to file a review or move before this Court against the order dated 10.12.2009, more so, for the reason that it was *inter se* between the parties, i.e., a judgment in *personam*. The same not having been done, now at this stage, we find that the learned Single Judge as also the Division Bench by the order impugned have misdirected themselves and have reopened and gone behind and, in fact, unsettled the settled position.

8. Accordingly, the appeal is allowed. The order passed by the learned Single Judge, as upheld by the Division Bench are set aside. The respondent no.1-State of Assam is held liable to make the payment in terms of the order dated 24.02.2006 passed by the Gauhati High Court in W.P.(C) No.7086 of 2005. Let the appellants be paid whatever is due to them in accordance with law

without any delay.

9. Pending application(s), if any, shall stand disposed of.

.....J.
(AHSANUDDIN AMANULLAH)

.....J.
(MANMOHAN)

NEW DELHI
SEPTEMBER 28, 2026

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 5653/2025

[Arising out of impugned final judgment and order dated 17-10-2023 in WA No.168/2019 passed by the Gauhati High Court]

RAJAT CH. KALITA & ANR.

PETITIONER(S)

VERSUS

THE STATE OF ASSAM & ORS.

RESPONDENT(S)

Date : 28-09-2026 This petition was called for hearing today.

CORAM :

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) :Mr. B.K Sharma, Sr. Adv.(NP)
Mr. Kaushik Choudhury, AoR
Mr. Jyotirmoy Chatterjee, Adv.
Ms. Aaheli Roy, Adv.

For Respondent(s) :Mr. Chinmoy Sharma, Sr. A.A.G.
Mr. Shuvodeep Roy, AoR
Mr. Vijay Deora, Adv.
Mr. Aditya Agarwal, Adv.
Mr. Saurabh Tripathi, Adv.
Mr. Deepayan Dutta, Adv.

O R D E R

Leave granted.

2. The appeal is allowed in terms of the signed order, which is placed on the file.

(POOJA SHARMA)
AR-CUM-PS

(ANJALI PANWAR)
ASSISTANT REGISTRAR