

GAHC010068842023



2024:GAU-AS:8854

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

Case No. : WP(C)/1792/2023

ALA UDDIN SHEIKH
S/O- KOBAS ALI SK.,
R/O- VILLAGE- AIRANJONGLA PT. I,
P.O. AM CO. ROAD,
DISTRICT- DHUBRI, ASSAM.
PIN- 783323.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM,
EDUCATION DEPARTMENT (ELEMENTARY),
DISPUR, GUWAHATI- 781006.

2:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
DISTRICT- DHUBRI
ASSAM

PIN- 783301.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
GAURIPUR
DISTRICT- DHUBRI
ASSAM

PIN- 783331.

5:THE TREASURY OFFICER
DHUBRI
DISTRICT- DHUBRI
ASSAM.
PIN- 783301.

6:ABDUL JALIL SARKAR
S/O- ABDULLAH SARKAR

R/O- VILL. CHIRAKHOWA POYESTI CHARGE

P.O.- MAJERCHAR
DISTRICT- DHUBRI

ASSAM. PIN- 783325

Advocate for the Petitioner : MR. R ISLAM, MR G U AHMED

Advocate for the Respondent : SC, ELEM. EDU, MR. D A KAIYUM (R- 6),MR. M S MONDAL (R- 6),MS S PATAR ,MR A HUSSAIN,MR. A T SARKAR

Linked Case : WP(C)/3368/2023

ABDUL JALIL SARKAR
S/O- LATE ABDULLAH SARKAR

VILLAGE- CHALAKURA POYESTI CHAR

P.O.- MAJER CHAR

DISTRICT- DHUBRI
ASSAM.
PIN- 783301.

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM
DEPARTMENT OF SCHOOL EDUCATION (ELEMENTARY)

DISPUR
GUWAHATI- 781006.

2:THE DIRECTOR
ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GUWAHATI- 781019.

3:THE DISTRICT ELEMENTARY EDUCATION OFFICER
DHUBRI
P.O. AND DISTRICT- DHUBRI
ASSAM.
PIN- 783301.

4:THE BLOCK ELEMENTARY EDUCATION OFFICER
GAURIPUR EDUCATION BLOCK
P.O.- GAURIPUR

DISTRICT- DHUBRI
ASSAM.
PIN- 783331.

5:THE TREASURY OFFICER
DHUBRI
P.O. AND DISTRICT- DHUBRI

ASSAM
PIN- 783301.

6:ALA UDDIN SHEIKH
S/O- KOBAS ALI SHEIKH

R/O- AIRANJONGLA PART-I

P.O.- A.M.CO. ROAD

DISTRICT- DHUBRI
ASSAM

PIN- 783323.

Advocate for : MR. D A KAIYUM

Advocate for : SC

ELEM. EDU appearing for THE STATE OF ASSAM AND 5 ORS

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Date of hearing : 07.12.2023

Date of Judgment: 06.09.2024

Judgment & order(CAV)

Heard Mr. R. Islam, learned counsel, appearing on behalf of the petitioner in WP(c)1792/2023 as well as appearing on behalf of respondent No. 6 in WP(c)3368/2023; and Mr. D. A. Kaiyum, learned counsel, appearing on behalf of the petitioner in WP(c)3368/2023 as well as appearing on behalf of respondent No. 6 in WP(c)1792/2023. Also heard Mr. B. Talukdar, learned standing counsel, Elementary Education Department, appearing on behalf of the State respondents in both the writ petitions.

2. The challenge made in the above-noted writ petitions, is to the orders issued by the respondent authorities for the purpose of holding the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa. A further challenge in the above-mentioned writ petitions is to the inter-se seniority position as assigned to the petitioners in both the writ petitions.

3. The facts requisite for adjudication of the issues arising in the present proceedings, is so noted from the writ petition being WP(c)1792/2023 and the parties are also denoted in terms of their placement in the said writ petition.

4. The petitioner in WP(c)1792/2023 was appointed by the School Management Committee(SMC) of Poyesti Chalakura Nuria M.E. Madrassa, as an Assistant Teacher on 21.04.1993. The said school at the relevant point of

time, was a venture school. The respondent No. 6, herein, was appointed as an Assistant Teacher(Arabic) in the said school by its School Management Committee(SMC) on 10.08.1987. With the enactment of the Assam Venture Educational Institutions (Provincialization) Act, 2011; the cases of the serving teachers of the said school were considered for provincialization of their services under the said Act of 2011. In terms of the consideration so made; the respondent No. 6, herein, was provincialized as an Assistant Teacher(Arabic) in the school, in question, vide issuance of the order, dated 19.12.2013 w.e.f. 01.01.2013. The respondent No. 6 accordingly joined as a provincialized teacher on 23.12.2013.

It is to be noted that the service of the petitioner, herein, was not provincialized on account of the fact that one of the serving teachers of the said school had approached this Court by way of instituting a writ petition being WP(c) 2749/2013, assailing the consideration as made in the case of the petitioner, herein, as the second teacher of the said school.

On account of the interim directions passed by this Court in the above-noted writ petition; the service of the petitioner, herein, was not provincialized along with the other serving teachers of the school, in question. Thereafter, upon disposal of the said writ petition being WP(c)2749/2013, and the subsequent rejection by the authorities of the case of the petitioner, therein, for provincialization; the Director, Elementary Education Department, Assam, vide order, dated 17.11.2014, proceeded to provincialize the service of the petitioner, herein, in the said school as an Assistant Teacher w.e.f. 01.01.2013.

Thereafter, on 31.01.2023, the incumbent in the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa, having retired from his service on

attaining the age of superannuation and a vacancy accordingly being available in the said post; a move was initiated for allowing one of the senior teachers to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa. The jurisdictional Block Elementary Education Officer(BEEO), on 03.01.2023, forwarded a list of 3 senior teachers of the said school for provincialization of their services. The seniority of the teachers in the said list, was assigned basing on the date of their joining in the said school, while it was in the venture stage and accordingly, therein, the respondent No. 6 was placed at Serial No. 1, while the petitioner, herein, was so placed at Serial No. 6. After having prepared the said list, the Block Elementary Education Officer(BEEO), on 06.01.2023, proceeded to prepare a gradation list of the Assistant Teachers working in the school, in question, and therein, by reckoning the dates of birth of the teachers of the said school; seniority position came to be assigned to them. Accordingly, the petitioner, herein, was placed at Serial No. 2 of the said gradation list while the respondent No. 6, herein, was so placed at Serial No. 4. On account of a dispute arising as to who would be eligible to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa; the jurisdictional District Elementary Education Officer(DEEO) vide order, dated 25.01.2023, proceeded to direct the Block Elementary Education Officer(BEEO), Gauripur, to take-over the charges of the post of Headmaster of the said school. Thereafter, the jurisdictional District Elementary Education Officer(DEEO), vide his speaking order, dated 24.03.2023, proceeded to consider the dispute pertaining to the inter-se seniority position between the petitioner, herein, and the respondent No. 6, herein, and on making such consideration; proceeded to hold that the respondent No. 6 is senior to the petitioner, herein. Such determination was so made by reckoning the date of joining of the petitioner as well as the respondent No. 6 in the said school in its venture stage. Thereafter, basing on such determination so made; the District Elementary Education Officer(DEEO),

Dhubri, vide order, dated 24.03.2023, allowed the respondent No. 6 to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa, temporarily, till alternative arrangement is so made.

It is, at this stage, that the petitioner, herein, had instituted the present proceeding i.e.WP(c)1792/2023,before this Court and this Court vide order, dated 31.03.2023, on considering the issue so raised; was so pleased while issuing notice in the matter, to stay the order, dated 24.03.2023, i.e. the order allowing the respondent No. 6, herein, to function as the in-charge Headmaster of Poyesti Chalakura Nuria M.E. Madrassa.

This Court, in the present proceeding i.e. WP(c)1792/2023, had also stayed the speaking order, dated 24.03.2023, to the extent of the respondent No. 6, therein, being permitted to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa.

In pursuance to the interim directions as passed by this Court vide order, dated 31.03.2023, in WP(c)1792/2023; the jurisdictional District Elementary Education Officer(DEEO) vide his order, dated 10.04.2023, proceeded to stay his speaking order, dated 24.03.2023, as well as the order, dated 24.03.2023, allowing the respondent No. 6 to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa. Thereafter, vide order, dated 04.05.2023, the jurisdictional District Elementary Education Officer(DEEO) proceeded to allow the petitioner, herein, to function as the in-charge Headmaster of the said school till disposal of the proceeding i.e. WP(c)1792/2023.

5. Being aggrieved by the order, dated 04.05.2023, the respondent No. 6, herein, proceeded to institute the writ petition being WP(c)3368/2023 before this Court, assailing the same. The respondent No. 6, in the said writ petition, has also assailed the gradation list, dated 06.01.2023, as prepared by the jurisdictional Block Elementary Education Officer(BEEO), and the assignment of seniority position therein to the teachers of the said school basing on their respective dates of birth.

6. Mr. Islam, learned counsel for the petitioner in WP(c)1792/2023, has contended that the provincialization as effected in the case of the petitioner, herein, as well as in the case of the respondent No. 6, having been so effected w.e.f. 01.01.2013; there exists no other parameters involved for determination of the seniority position of the petitioner and the respondent No. 6. The learned counsel by further contending that the petitioner as well as the respondent No. 6 having joined against sanctioned posts only on their respective services being so provincialized; their seniority as Assistant Teachers would be so reckonable from the date of such provincialization.

7. Mr. Islam, learned counsel for the petitioner in WP(c)1792/2023, has contended that the period of services as rendered by the petitioner as well as the respondent No. 6 in Poyesti Chalakura Nuria M.E. Madrassa during its venture stage, cannot be reckoned for the purpose of determination of their inter-se seniority position and such seniority shall be so determined from the date of their respective provincialization of services.

8. Mr. Islam, learned counsel for the petitioner, has further contended that the date of provincialization of the petitioner as well as the respondent No. 6, both, being w.e.f. 01.01.2013; the inter-se seniority position between them, is

mandated to be so fixed by relying on their respective dates of birth. The date of birth of the petitioner, herein, and the respondent No. 6, herein, being recorded as 15.01.1967, and 30.01.1969, respectively, Mr. Islam, learned counsel, has contended that it is the petitioner, herein, who has to be considered senior amongst them. Accordingly, the learned counsel has submitted that the order, dated 04.05.2023, issued by the jurisdictional District Elementary Education Officer(DEEO), allowing the petitioner, herein, to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa; is required to be directed to be continued with till the said post is so filled-up on regular basis.

9. Mr. Islam, learned counsel for the petitioner in WP(c)1792/2023, in support of his submissions, has relied upon 2(two) decisions of this Court rendered in the cases of **Dina Kanta Boruah v. State of Assam & ors.** [WP(c)7616/2015] and **Pralay Kanti Chowdhury & 3 ors. v. State of Assam & ors.**[WP(c)6069/2021].

10. Per contra, Mr. Kaiyum, learned counsel for the respondent No. 6 in this proceeding i.e. WP(c)1792/2023 as well as for the petitioner in WP(c)3368/2023, has submitted that the respondent No. 6 was appointed as an Assistant Teacher(Arabic) in Poyesti Chalakura Nuria M.E. Madrassa by its School Management Committee(SMC) on 10.08.1987. The petitioner having been so appointed in the said school only 21.04.1993, as a second Assistant Teacher; it is the respondent No. 6 who would be senior to the petitioner in the school, in question. The learned counsel has further contended that during the period when the school, in question, was in its venture stage, it was the respondent No. 6 who was treated to be senior to the petitioner, herein.

11. Mr. Kaiyum, learned counsel, has also submitted that the service of the respondent No. 6, herein, was provincialized vide order, dated 19.12.2013, w.e.f. 01.01.2013. However, in the said order of provincialization; the name of the petitioner was not so included on account of pendency of proceeding in the matter pertaining to his provincialization before this Court.

12. Mr. Kaiyum, learned counsel for respondent No. 6, has also submitted that the service of the petitioner was provincialized only vide an order, dated 17.11.2014. Accordingly, considering the dates of provincialization of the petitioner as well as the respondent No. 6 and their respective dates of joining in the said school upon such provincialization of their services; Mr. Kaiyum, has contended that it is the respondent No. 6, who is to be deemed to be senior to the petitioner, herein. The learned counsel has also contended that the gradation list of senior teachers of the school, in question, as prepared by the jurisdictional Block Elementary Education Officer(BEEO), placing the respondent No. 6 at Serial No. 1 and the petitioner at Serial No. 3 reflected the correct position, inasmuch as, the same was so prepared by reckoning their initial dates of joining in the Poyesti Chalakura Nuria M.E. Madrassa, during the period, it was in its venture stage. However, Mr. Kaiyum, learned counsel, has contended that the gradation list as prepared by the jurisdictional Block Elementary Education Officer(BEEO) on 06.01.2023, wherein, by reckoning the dates of birth of the teachers working in the said school; the petitioner came to be placed at Serial No. 2 while the respondent No. 6 was so placed at Serial No. 4, does not reflect the correct position, inasmuch as, the continuous service of the teachers in the said school was ignored and the criteria of date of birth, foreign to the purpose for determination of seniority of the teachers working in the said school, was brought in.

13. Mr. Kaiyum, learned counsel for the respondent No. 6, has contended that the jurisdictional District Elementary Education Officer(DEEO), vide his speaking order, dated 24.03.2023, had rightly decided the inter-se seniority position between the petitioner and the respondent No. 6 and had held the respondent No. 6 to be senior to the petitioner after reckoning their respective dates of joining in the school, in question, before provincialization as well as the dates of their respective joining in the said school after provincialization of their services. The learned counsel has submitted that the criteria as applied by the jurisdictional District Elementary Education Officer(DEEO) for determination of the inter-se seniority position between the petitioner and the respondent No. 6 would not call for any interference, inasmuch as, the said criteria is based on the continuous service rendered by both the petitioner and the respondent No. 6 in the said school. The learned counsel, accordingly, has, accordingly, submitted that basing on such determination of inter-se seniority position; the respondent No. 6 having been allowed to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa, vide the speaking order, dated 24.03.2023; the said position is required to be maintained.

14. Mr. Kaiyum, learned counsel, by referring to the interim directions passed by this Court in WP(c)1792/2023, vide order, dated 31.03.2023, has contended that this Court while staying the effect and operation of the speaking order, dated 24.03.2023, and the consequential order allowing the respondent No. 6 to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa; had, in fact, not directed the respondent authorities to permit the petitioner, herein, to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa. The learned counsel has, therefore, contended that the matter being subjudice; the respondent authorities ought not to have issued the order, dated 04.05.2023, allowing the

petitioner, herein, to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa.

15. In support of his submissions, Mr. Kaiyum, learned counsel for the respondent No. 6, has relied upon a decision rendered by the Division Bench of this Court in the case of **Nripen Kalita v. State of Assam & ors.**, reported in **(1988) 2 GLR 17**.

16. I have heard the learned counsels appearing for the parties and also perused the materials available on record.

17. For the purpose of convenience, the facts in WP(c)1792/2023 is being continued to be considered and the parties are continued to be denoted in terms of their placement in the said writ petition.

18. While it is not disputed that the respondent No. 6, herein, had joined his service in Poyesti Chalakura Nuria M.E. Madrassa on 10.08.1987 and the petitioner, herein, had joined the said school only on 21.04.1993; what is to be noted is that at the relevant point of time, neither, the petitioner, nor, the respondent No. 6, were holding sanctioned vacant posts under the Government. The said school, at the relevant point of time, wherein the initial entry, therein, occasioned in respect of both the petitioner as well as the respondent No. 6; was in its venture stage. Thereafter, on the enactment of the Assam Venture Educational Institutions (Provincialization) Act, 2011; the cases of serving teachers in the school, in question, including that of the petitioner and the respondent No. 6 were taken-up for consideration for provincialization of their respective services in the said school. However, on

account of a proceeding initiated before this Court by one of the serving teachers of the said school against the petitioner, herein; the provincialization in respect of the petitioner was kept in abeyance, but, 1(one) post of Assistant Teacher was kept vacant in the said school awaiting the outcome of the decision of this Court in WP(c)2749/2013. Accordingly, the services of the respondent No. 6 along with other serving teachers of the said school, came to be provincialized vide order, dated 19.12.2013, w.e.f. 01.01.2013, while the service of the petitioner, herein, was so provincialized after disposal of the said writ petition being WP(c)2749/2013 by this Court only vide the order, dated 17.11.2014. What is further required to be noted is that although the service of the petitioner was so provincialized subsequently vide an order, dated 17.11.2014, for the reasons noted-above; the effect of such provincialization was so made w.e.f. 01.01.2013, like that so made in respect of the respondent No. 6, herein. Accordingly, the services of both the petitioner and the respondent No. 6 were so provincialized w.e.f. 01.01.2013. The services of both the petitioner as well as the respondent No. 6 having been so provincialized in Poyesti Chalakura Nuria M.E. Madrassa w.e.f. 01.01.2013 and they having become government servants with effect from the said date; it is now to be seen as to the criteria that would be required to be applied for determination of their inter-se seniority position in the said school.

19. The decision as relied upon by Mr. Kaiyum, learned counsel for the respondent No. 6 in the case of **Nripen Kalita**(supra), would not be applicable to the facts of the present case, inasmuch as, the said decision was so rendered on a consideration of the provisions of Assam Secondary Education(Provincialization) Service and Conduct Rules, 1979. The said school wherein the petitioner and the respondent No. 6 are so serving, is a Upper Primary School and the said Rules of 1979, as considered by this Court in the case of **Nripen Kalita**(supra), has got no application to their service conditions.

20. The decision as relied upon by Mr. Islam, learned counsel for the petitioner, in the case of ***Dina Kanta Boruah***(supra) which pertains to the procedure for effecting promotion to the post of Headmaster in an Upper Primary School, would have an application to the facts of the present case. On a perusal of the said decision of the coordinate Bench of this Court, it is seen that the petitioner, therein, was also provincialized under the provisions of the Assam Venture Educational Institutions (Provincialization) Act, 2011. The issue that arose in the said proceeding is pertaining to the eligibility of the petitioner, therein, to be promoted to the post of Headmaster of an Upper Primary School. This Court by noticing the procedure as mandated in a Notification, dated 02.03.2020, pertaining to "Procedure for Promotion and Appointment to the Post of Headmaster of M.E./ M.E.Madrassa/M.V. and Senior Basic Schools of the State"; proceeded to hold that the petitioner, therein, having not served continuously for more than 10 years in a provincialized M.E. school, is not entitled to be considered for promotion to the post of Headmaster of an Upper Primary School. This Court, after noticing the provisions of the Assam Elementary Education (Provincialization) Service and Conduct Rules, 1981, governing the service conditions of the incumbents in an Upper Primary School, proceeded to draw the following conclusions:

"20) The 1981 Rules, noted above, being framed under the said 1974 Provincialization Act and having statutory force, defined "Sanctioned Post", which means the post sanctioned by the Government either during the regime of the Board as constituted under the Assam Elementary Education Act, 1968, or, after provincialization and post created by the Board during the regime of the Board. The "Period of Service" as defined under said 1981 Rules means the period of continuous service against a sanctioned post.

21) As per the provisions of said 1981 rules, the 'period of service' of the petitioner shall be only with effect from 01.01.2013, the date from which his service was provincialized and brought under the Government. Even considering the said 1981 Rules, the petitioner did not complete 10(ten) years of service as an Assistant Teacher of a ME School for consideration of his case for promotion to the post of Headmaster in any such provincialized ME School provincialized under the 1974 Provincialization Act."

21. A perusal of the said decision, would go to reveal that the period of eligibility of a provincialized employee working in an Upper Primary School was reckoned with effect from the date when his service was so provincialized. Accordingly, this Court had negated the claim of the petitioner in WP(c)7616/2015, by holding that the petitioner, therein, did not have the 10(ten) years of mandatory service as an Assistant Teacher with effect from the date of his provincialization and accordingly, it was held that he was not eligible to be promoted to the post of Headmaster of an Upper Primary School.

22. The other decision as relied upon by Mr. Islam, learned counsel for the petitioner, in ***Pralay Kanti Chowdhury*** (supra), also pertains to the recruitment to the post of Headmaster in a High School covered by the Assam Secondary Education (Provincialized Schools) Rules, 2018, and the said Rules not being applicable to the services rendered by the petitioner, herein, and the respondent No. 6, as well; the decision therein, would not stand extended to the facts involved in the school, in question.

23. However, what is to be noted is that the Division Bench of this Court in the said case, had concluded that the service rendered by a teacher in a venture school, cannot be equated with the service rendered by a teacher in a provincialized school, inasmuch as, in a venture school, there was, admittedly, no transparency in appointment of teachers/Headmaster, etc.. It further proceeded to hold that the posts were seldom advertised and the admitted position is that recruitment was so made on the basis of the procedure as followed by each of the School Management Committee(SMC). This Court also noted that it is only when the service of a teacher is provincialized, that a particular criteria is applied and accordingly, proceeded to hold that a graduate teacher would be considered as a graduate teacher only after his service has

been provincialized.

24. The decision of the Division Bench of this Court in ***Pralay Kanti Chowdhury***(supra) although rendered in the context of the service rendered by a teacher in a High School covered by the said Rules of 2018; the observation as noted-above of the Division Bench of this Court, would apply to the facts of the present case also and accordingly, the service that is required to be so reckoned for assignment of inter-se seniority position to the petitioner, herein, and the respondent No. 6, herein, shall be the service so rendered by them after provincialization of their respective services w.e.f. 01.01.2013.

25. In the present case, the date of provincialization of the petitioner and the respondent No. 6, being the same and this Court having already concluded that the services rendered by both of them in a venture school, would not be reckonable for the purpose of determination of their inter-se seniority position after provincialization of their services; this Court is of the considered view that the only criteria now available to be applied, for the purpose of assignment of inter-se seniority position between the petitioner and the respondent No. 6, would be their respective dates of birth, inasmuch as, the same is a determinable factor.

26. Accordingly, noticing that the dates of birth of the petitioner, herein, and the respondent No. 6, herein, is 15.01.1967, and 31.01.1969, respectively, this Court proceeds to hold that it is the petitioner in WP(c)1792/2023, who would be senior to the respondent No. 6, herein.

27. In view of the above position; the petitioner, herein, accordingly, being held to be senior to that of the respondent No. 6; there being no other issue arising, disentitling him to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa; this Court would uphold the order, dated 04.05.2023, issued by the jurisdictional District Elementary Education Officer(DEEO), allowing the petitioner in WP(c)1792/2023, to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa. It is further directed that the said order, dated 04.05.2023, would be so continued with till a regular selection is held for the purpose of recruitment against the post of Headmaster of the said school.

28. Accordingly, the speaking order, dated 24.03.2023, as well as the consequential order, dated 24.03.2023, allowing the respondent No. 6 to hold the charge of the post of Headmaster of Poyesti Chalakura Nuria M.E. Madrassa, stands set aside. The gradation list, dated 06.01.2023, as prepared by the jurisdictional Block Elementary Education Officer(BEEO) and under challenge in the connected writ petition being WP(c)3368/2023, is upheld.

29. In view of the above position; the writ petition being WP(c)1792/2023, stands allowed and the writ petition being WP(c) 3368/2023, stands dismissed. However, there shall be no order as to costs.

JUDGE

Comparing Assistant