

## **Case relating to Legality of Instructions etc. to candidates:**

**Parties :** Dr. M. Vennila Versus Tamil Nadu Public Service Commission, Rep. By Deputy Secretary, Government Estate, Anna Salai, Chennai

**Court :** High Court of Judicature at Madras

**Case No :** Writ Petition No.32383 of 2005

**Judges:** THE HONOURABLE MR. JUSTICE P. SATHASIVAM & THE HONOURABLE MR. JUSTICE J.A.K. SAMPATHKUMAR

**Appearing Advocates :** For the Petitioner : N. Chandra Raj, AR.L. Sundaresan, Senior Counsel for A.L. Gandhimathi, M. Venkateshan for M. Ajmal Khan, C. Kasirajan, Veerakathiravan, R. Karthikeyan for G. Thalai Mutharasu, MA.P. Thangavel, M. Maharaja, M. Michael Bharathi, A. Edwin Prabahar, M. Kumar, G. Sankaran, S. Nagamuthu, Thanjai, S.T.S. Murthi, C. Jagadish, S. Vedavalli, R. Saravana Kumar, P. Tamilvel, S. Selvathiramurugan, M.R. Sivakumar, Advocates. For the Respondent: N.R. Chandran, Advocate General assisted by R. Sureshkumar., V. Karthikeyan, Additional Government Pleader (Education) for State.

**Date of Judgment :** 12-06-2006

### **Head Note :-**

Constitution of India-Article 226-Selection to the Post of Assistant Surgeon General-Application Rejected of-On the Ground that not Signing the Declaration in the form-Challenged of-Application in Violation of Terms of Information Brochure-No Interference under Article 226-have extracted relevant provision, viz., Instructions, etc. to Candidates as well as the Information Brochure of the Tamil Nadu Public Service Commission-hold that the terms and conditions of Instructions, etc. to Candidates and Information Brochure have the force of law and have to be strictly complied with-the view that no modification / relaxation can be made by the Court in exercise of powers under Article 226 of the Constitution of India and application filed in violation of the Instructions, etc. to Candidates and the terms of the Information Brochure is liable to be rejected-the view that strict adherence to the terms and conditions is paramount consideration and the same cannot be relaxed unless such power is specifically provided to a named authority by the use of clear language. As said at the beginning of our order, since similar violations are happening in the cases relating to admission of students to various courses, we have dealt with the issue exhaustively make it clear that the above principles are applicable not only to applications calling for employment, but also to the cases relating to the admission of students to various courses-constrained to make this observation to prevent avoidable prejudice to other applicants at large.

Para 25

Comparative Citations:

2006 (3) CTC 449; 2006 (3) MLJ 376

### **Judgment :-**

Common Order: (P. Sathasivam, J.)

A simple, but important question having far reaching consequences in the field of education and employment arises for consideration in this batch of writ petitions.

2. Since the issue raised in these writ petitions is one and the same, they are being disposed of by the following common order.

3. For convenience, we shall refer the case of the petitioner in W.P.No.32895 of 2005.

(a) According to the petitioner i.e., Dr. M. Vennila, she passed out M.B.B.S. degree in the year 2005 in Tamil Nadu Dr.M.G.R. Medical University. She got her name registered in the Tamil Nadu Medical Council, Chennai on 2.5.2005. The Tamil Nadu Public Service Commission, the respondent in the writ petition issued Notification on 1.7.2005 for filling up the post of Assistant Surgeon (General/ Specialty) in the Tamil Nadu Medical Service for the year 2003-04. The respondent also issued an advertisement in the Newspapers for the said direct recruitment for filling up 1295 posts of Assistant Surgeon (General) and 530 posts in 21 different Specialties. The advertisement was published in leading Newspapers on 4th to 6th July, 2005. On the basis of the said advertisement, the petitioner, Dr.M.Vennila applied for the post of Assistant Surgeon (General) along with prescribed fee and other documents in time. She properly filled up all the columns of application form as instructed by the respondent in the information brochure and signed all the relevant places as indicated by the respondent. The last date for receipt of duly filled in application form was 4.8.2005 and she sent the application well in time.

(b) The procedure for selection of candidates includes written examination and oral test in the shape of interview. The respondent scheduled the date for written examination as 16.10.2005. But, she received the impugned communication from the respondent dated 23.9.2005 rejecting her application on the ground that she did not sign the declaration in the application form. As per the general instructions, the column No.24 of the application form required the petitioner to fill up the details regarding "previous/present employment." In the sub-column 24(a) the petitioner was required to fill up the details of "previous appearance in oral tests". Since she misunderstood that the declaration column found in the application form was only for office use, she did not sign the same. She filled up the application correctly providing necessary information as asked for and enclosed the requisite fee and copies of relevant documents as required by the respondent. The application is complete in every aspect and the approach of the respondent that she did not sign the application form is not correct. The rejection of her application form by the respondent is arbitrary and not sustainable.

(c) Similar averments have been made in all the writ petitions.

4. According to the respondent, namely, Tamil Nadu Public Service Commission, by Notification dated 1.7.2005 applications were invited from candidates for direct recruitment to the post of Assistant Surgeon (General/Specialty) in the Tamil Nadu Medical Service for the year 2003-2004. The last date prescribed for receipt of filled in applications in the office of Tamil Nadu Public Service Commission was 4.8 .2005 and the same was mentioned in the notification issued by the Commission. In response to the notification, 7123 candidates applied to the Commission and out of 7123 candidates, initially a total number of 5317 candidates were found eligible to take up the examination for recruitment and the applications of 1306 candidates were found defective for one or other reasons and accordingly, they were rejected.

5. Paragraph 17 of the Commission's Instructions, etc. to candidates, which was supplied to all candidates along with the application form makes it clear that the filled up applications must reach the Controller of Examinations on or before the prescribed date and the applications received after that date or applications which are not signed or applications which are not in the proper form or not correctly filled up or in respect of which the prescribed certificates and documents are not received on or before that date and applications or which do not otherwise fulfill the terms of instructions found in the "notification/advertisement" will be considered defective and will be summarily rejected. Further, the Commission has also enclosed "Information Brochure" along with the application form. The illustrations as to how the applications are to be filled up are also given. The language used and the columns given in the

application are clear and there is no ambiguity in the columns of application regarding the places at which the applicant has to subscribe his/her signature.

6. The signature connotes the authenticity of the person who certifies as well as the accuracy and correctness of the particulars provided and furnished by him. As such, the non-signing by the applicant at page 2 of the application has made the particulars furnished by the applicant unauthenticated and could not be considered as a valid application. Not even a single candidate who had failed to sign in the application form and who had failed to produce the essential documents, were allowed to write the written examinations held on 16.10.2005 suo motu, except the candidates who had obtained interim orders from the Court. The petitioners are supposed to go through the Notification, Instructions, etc. to Candidates, Information Brochure and OMR application form properly in order to ensure whether the particulars and information that are required to be furnished in the OMR application are duly furnished and see that the documents are enclosed with the application form as per the requirements. Even in the space "For Office Use Only", there is a blank space, which alone is intended to be utilized by the Office and the same has sufficiently been started from 'declaration' which is intended to be signed by the candidates. Had the petitioner gone through the declaration at page-2 of the application carefully, no confusion would have arisen. It is the duty of the petitioner to verify the filled in application before submitting the same to the Commission and the petitioner cannot expect that the omissions would be got rectified by any means.

7. In the light of the above pleadings, we heard learned counsel for the petitioners and learned Advocate General for the respondent.

8. The main contentions raised on behalf of the petitioners are as follows:

1. All columns are duly filled up and only in declaration column, candidates did not sign due to ambiguous formatting of the application form and on this ground the applications cannot be rejected;

2. The failure to sign column 24 would not affect in any way, since the applicants signed all other places.

3. Tamil Nadu Public Service Commission (TNPSC) permitted some candidates to rectify certain defects and failed to treat the petitioners on par with them.

4. The reason for rejection of applications is flimsy, unjust and arbitrary and it is only an irregularity which can be rectified at any stage of recruitment.

5. The respondent had not given a chance or opportunity to the petitioners to rectify the defect.

6. It is only a bona fide mistake.

9. Learned Advocate General met all the points and submitted that paragraph-17 of the Commission's Instructions, etc. to Candidates makes it clear that the applications which are not signed in the proper form or which are not correctly filled up or not enclosed with prescribed certificates and documents will be considered defective and will be summarily rejected. He also contended that the Information Brochure supplied to all the candidates along with the application form gives all the details as to how the columns in the application are to be filled up. He further contended that a model form duly filled up has also been enclosed with the application to all the candidates and that the details mentioned in the notification/advertisement and instructions found in the form of Information Brochure are mandatory. According to him, the application without signature

of the applicant has no effect at all and it lacks authenticity and accordingly, the respondent is justified in rejecting the applications of the petitioners.

10. We have perused the relevant materials and considered the rival contentions.

11. The application forms issued by the TNPSC, the respondent herein, contained two pages. At the top portion, the candidates are specifically requested to read carefully the brochure before filling up the application form. The same has been mentioned both in English as well as in vernacular language (Tamil). As per the application, the applicant has to fill up all the details regarding name, examination particulars, date of birth, religion, community, educational qualification, main subject, code, etc. In first page itself the candidate has to affix recent passport size photograph and sign at the bottom of the affixed photograph. In the second page, the candidate has to fill up details of fee paid, age concession, claim for fee exemption, subject chosen for examination, post preference, particulars of previous/present employment and previous appearance for oral test, etc. Thereafter, that is, after column 24, the applicant has to sign. At the end of the application six declarations have been printed in English and Tamil language and at the end, i.e., after declaration, the applicant has to sign. In other words, altogether the applicant has to sign in three places one at the first page and in two at the second page.

12. It is not in dispute that in paragraph 17 of the Commission's Instructions etc. to Candidates, necessary instructions have been given and the applicants are also informed that failure to fulfill all the columns will render the applications summarily rejected. Column 17 of Commission's Instructions etc. to Candidates reads as under.

"17. Application must reach the Controller of Examinations on or before the prescribed date. Applications received after that date or applications which are not signed or applications which are not in the proper form or which are not correctly and completely filled or in respect of which the prescribed certificates and documents are not received on or before that date and application which do not otherwise fulfill the terms of these instructions and the "Notification/Advertisement" will be considered defective and will be summarily rejected. The filling in of the application form correctly and completely and sending with it all the documents as required in the Commission's "Notification/Advertisement" and "Instructions, etc., to Candidates" form part of the test for selection. Failure in this regard will entail summary rejection of the application. "

As said earlier, the said instructions have been furnished in Tamil language also.

13. In addition to the same, all the candidates were supplied specimen application form duly filled up. A perusal of the filled in specimen form makes it clear that whether and in how many places the applicant has to sign. Apart from this, we also verified all the columns in the application form. We are satisfied that the language used and the columns given in the application form are very clear and there is no ambiguity in the columns of application regarding the places where the applicant has to subscribe his/her signature.

14. As rightly pointed out by the learned Advocate General, the insistence upon signature under each and every page has its own significance. Signature connotes the authenticity of the person who certifies as well as the accuracy and correctness of the particulars provided and furnished by him. In such circumstances, we are of the view that non-signing by the applicants at page 2 of the application form has rendered the particulars furnished by them unauthenticated and the application could not be considered as a valid application. The respondent is fully justified in arriving at a conclusion that the particulars furnished by the petitioners without signature are construed as being not authenticated.

15. As rightly pointed out, the filled in application must be in order and intact in all aspects and before filling up the application form, the applicants are supposed to go through the Notification, Instructions, etc., to candidates, Information Brochure and OMR application form properly in order to ensure that the particulars and information which are required to be furnished are duly furnished and to see that the documents are enclosed along with the

application form as per requirements.

16. Now, let us consider whether the requirements as stated in the Notification/Information Brochure are to be strictly complied with or not and in other words, whether they are mandatory?

17. Learned counsel appearing for the petitioners referred to two decisions of the Supreme Court, viz., (i) *M/s. G.J. Fernandez vs. State of Karnataka* (AIR 1990 S.C. 958); and (ii) *M/s. Poddar Steel Corporation vs. M/s. Ganesh Engineering Works* (AIR 1991 S.C. 1579) and contended that failure to sign below the Column-24 and below the declaration column is curable. In view of the above submission, we verified the factual position in the above referred to decisions. It is not in dispute that both the decisions relate to submission of Tender Forms. On going through the factual details and the ratio laid down therein, in view of the specific details furnished in the Information Brochure and Notification issued by the Tamil Nadu Public Service Commission, we are satisfied that the same are not helpful to the petitioners. As a matter of fact, in the latter decision, viz., AIR 1991 SC 157 9 (cited supra), the defect that was pointed out by the Government Agency was that though the earnest money under the terms of tender notice was permitted to be deposited only by cash or by demand draft drawn on the State Bank of India, the payment of earnest money was sent by way of certified cheque of Union Bank of India and in that situation, the Supreme Court after pointing out that the payment of earnest money by certified cheque of Union Bank of India, drawn on its own Branch could be treated as sufficient compliance of the terms. Their Lordships have also held that it could not be said that the authority inviting the tenders could not waive the literal compliance of such a condition and accept the tender especially when it was in its interest not to reject the bid which was the highest. In our case, in all these writ petitions, the petitioners have not signed the applications, some in two places and others below the declaration. In such circumstances, as said earlier, the decisions relied on by the learned counsel for the petitioners are not helpful to their stand.

18. The learned counsel for the petitioners referred to the decision of a learned single Judge of this court in the case of *G. Packkiaraj vs. The Secretary, Tamil Nadu Public Service Commission, Government Estate, Chennai-2* and another (2006 (2) TNLJ 52 (Civil)). It is a writ petition relating to rejection of an application of the petitioner, G.Packkiaraj, who applied for the post of Assistant Public Prosecutor Grade-II. The application was rejected, since he did not sign the application. According to the petitioner, he did sign at the bottom of the application as well as Column 15 where the applicant has to affix his photograph and sign underneath the photograph. But in the application form, there is one other place, i.e. at the end of Column 24 where the signature of the applicant was required to be made. In that particular column, the petitioner failed to put his signature. It was on that ground, the application of the petitioner came to be rejected inasmuch as, as per the instructions issued to the candidates, applications which are not signed would be summarily rejected. It was contended before the learned Judge that the petitioner was totally misled by the application which was issued in a single sheet, which required the signature of the applicant in more than one place and when it required the signature of the applicant at the end of the application form, which was just below the "Declaration part", the non-signing by the petitioner below the column-24 was not deliberate and was only due to inadvertence and therefore, the meritorious claim of the applicant should not be thrown out on account of such minuscule mistake. On behalf of the Commission, very same objection was raised, viz., that the Instructions to the Candidates were specific to the effect that the applications without signature would be summarily rejected. It was informed before the learned Judge that the petitioner was permitted to write the examinations as a special case, subject to the outcome of the writ petition. It was further informed before the learned Judge that the petitioner was successful in the written examinations and also attended viva-voce test and the respondents found that he secured the required minimum marks for attending the oral test. His result was kept in a sealed cover and the same was opened before the learned Judge who noted that the petitioner secured 216.50 marks in the written test out of 400 and in the oral test he secured 30 out of 60 marks and in all, the petitioner secured 246.50 marks. In the circumstances, the learned Judge came to the conclusion that the petitioner is a meritorious candidate, that too belonging to Scheduled Caste and arrived at a

conclusion that "minuscule mistake committed by the petitioner should not loom large in order to deprive of his very valuable right." It is not in dispute that there also the notification of the Commission made it clear that all columns are to be filled up and the applicants are to sign at all the places indicated therein. In spite of the specific instructions, the petitioner therein has not signed at a place where he has to sign in the application form. The academic excellence of the petitioner might have influenced the mind of the learned Judge to out-waive his mistake in not filling up the relevant column. However, the conditions stated in the Notification as well as in Information Brochure are not only mandatory and also binding on the candidates as well as the Commission/State Government. We will give our reasons as to the mandatory nature in the latter paragraphs. We have already mentioned that the petitioner therein was not only successful in written test but also in vivo-voce and secured pass mark and he belongs to Scheduled Caste, and therefore, the learned Judge issued a direction to the Commission to entertain his application and issued further direction to declare him as successful in the examinations. We are unable to accept the view expressed by the learned Judge. In view of the academic excellence and of the fact that the petitioner was successful in the written examination as well as in vivo-voce, the conclusion arrived at by the learned Judge should be confined to the case before him and the same cannot be cited as a precedent for other cases. In fact, in respect of rejection of the applications applied for the very same post of Assistant Surgeon, another learned Judge by orders dated 05.10.2005 and 07.10.2005, dismissed Writ Petition Nos.32270 and 32548 of 2005 respectively. Though the orders of the learned Judge are very brief, we are in agreement with the conclusion arrived at by him.

19. The principle that the prospectus is binding on all persons concerned has been laid by the Supreme Court in Punjab Engineering College, Chandigarh vs. Sanjay Gulati (AIR 1983 SC 580 = 1983 (96) LW 172 S.N.). Following the same, a Division Bench of this Court has also observed in Rathnaswamy, Dr. A. Vs. Director of Medical Education (1986 WLR 207) that the rules and norms of the prospectus are to be strictly and solemnly adhered to. The same view is also taken by another Division Bench of this Court in Nithiyan P. and S.P. Prasanna vs. State of Tamil Nadu (1994 WLR 624). The same principle is reiterated in the case of Dr. M. Ashiq Nihmathullah vs. The Government of Tamil Nadu and others reported in 2005 WLR 697. It is clear that the prospectus is a piece of information and it is binding on the candidates as well as on the State including the machinery appointed by it for identifying the candidates for selection and admission.

20. Learned Advocate General relied on the following two decisions of the Supreme Court, (i) W.B. State Electricity Board vs. Patel Engineering Co. (2001 (2) SCC 451); and (ii) Rajsekhar Gogoi vs. State of Assam (2001 (6) SCC 46) in support of his stand. It is true that both the decisions relate to Government contracts and submission of tenders. The following observation made in 2001 (2) SCC 451 (cited supra) is relevant.

"23. The mistakes/errors in question, it is stated, are unintentional and occurred due to the fault of computer termed as "a repetitive systematic computer typographical transmission failure". It is difficult to accept this contention. A mistake may be unilateral or mutual but it is always unintentional. If it is intentional it ceases to be a mistake. Here the mistakes may be unintentional but it was not beyond the control of respondents 1 to 4 to correct the same before submission of the bid. Had they been vigilant in checking the bid documents before their submission, the mistakes would have been avoided. Further, correction of such mistakes after one-and-a-half months of opening of the bids will also be violative of clauses 24.1, 24.3 and 29.1 of the ITB."

In para 31 their Lordships have held,

"31. It is equally in public interest to adhere to the rules and conditions subject to which bids are invited."

After laying down the law, though the bid of respondents 1 to 4 therein is the lowest of bids offered, in view of the fact that there is inconsistency between the particulars given in the annexure and the total bid amount, their Lordships refused to issue direction to consider their bid along with the other bids. It is clear that though bid of the respondents 1 to 4 therein is less

by 40 crores and 80 crores than that of respondents 11 and 10 respectively, in view of the defect in complying with the conditions, the Supreme Court refused to issue direction for acceptance of the lowest bid of respondents 1 to 4. In other words, it makes it clear that it is in public interest to adhere to rules and conditions and there cannot be any laxity in compliance of the same.

21. In the second decision, viz., 2001 (6) SCC 46 (cited supra), though it also relates to submission of tenders, the principle laid down is helpful to the stand taken by the Tamil Nadu Public Service Commission. The respondent No.4, in respect of column whether the tenderer is capable of financing his business himself, namely, details of source, cash in hand, bank balance, security, assets etc., has made a bald statement that she would receive financial assistance from her father and also from her sister and sister's husband. No documents or even affidavits or any other particulars were furnished along with the tender which she submitted. There is no indication as to whether she had any cash in hand or bank balance. In the absence of specific materials regarding finance, nature of business, cash in hand, bank balance, security, assets, etc., the Supreme Court has concluded that the need for furnishing particulars in the tender form obviously is to enable the authorities concerned to scrutinize the tender to determine financial capability of the tenderer. Taking note of Clause 10 of the Tender conditions (which is imperative), their Lordships have concluded that,

"10. This clearly shows that it was imperative for a tenderer to furnish full information as required so that the same could be verified by the Deputy Commissioner or any other authorized person "before settlement of shop to the tenderer" (emphasis added). In the present case, such an opportunity was clearly denied to the authorities when respondent 4 had not furnished the requisite particulars along with her tender.

11. We are therefore, of the opinion that as the tender itself of respondent 4 was liable to be rejected because of lack of particulars as stated hereinabove, no further question arises.?"

It is clear from the above decisions that it is imperative for either a candidate or a tenderer or a person concerned to furnish full information as required in order to verify the same by the authority concerned. In the case on hand though particulars have been furnished, as pointed out earlier, in the absence of proper authentication by the persons concerned by affixing their signatures, their applications are liable to be rejected.

22. Learned Advocate General has also placed reliance on the Full Bench decision of Punjab and Haryana High Court in the case of Indu Gupta vs. Director, Sports Punjab, Chandigarh reported in AIR 1999 Punjab and Haryana 319 (FB). In the case before the Full Bench, the petitioner applied for admission to B.Tech. course. She claimed the benefit of reservation under sports category. She could not get the gradation certificate countersigned by the Director of Sports, Punjab, and so she was not considered for admission under reserved category for sports personnel. The argument advanced by the counsel representing the petitioner is that gradation certificate, based on her performance in the sports meet is only evidencing the existence of fact entitling her to the benefit of reservation and so the condition that gradation certificate should be sent along with the application form for admission is only a formality and candidate may produce the gradation certificate at the time of admission. In support of the contention, the petitioner relied on the observation made by a learned single Judge in Civil Writ Petition No.11787 of 1995 decided on September 8, 1995 and the reasons given by the learned single Judge were approved by a Division Bench in L.P.A. filed against that judgment by the Punjabi University, Patiala. However, in Civil Writ Petition Nos.9211 of 1997 decided on August 26, 1997, and 12093 of 1997 decided on August 28, 1997, the other Division Benches took the view that application for admission should have been enclosed with a copy of the gradation certificate and that the candidate who produced the gradation certificate after the submission of the application is not entitled to the benefit of reservation as a sport person. In view of the divergent view, the matter was referred to Full Bench for consideration. It is seen from the factual details presented before the Full Bench that admission in the participating institutions of Punjab Technical University, Jalandhar has to be made as per the terms and conditions contained in the admission brochure/application form issued for the year 1997. In the application form it was specifically stated that all particulars required must be filled in and

attested photo copies of the certificates in support of the claim made by the candidates must be attached with the application form. Clause 3.8 makes it clear that the application complete in all respects should reach the Co-ordinator CET-1997, Punjab Technical University, Jalandhar by 5.00 p.m. on June 25, 1997. It is also specifically stated that the application not submitted in the prescribed application form or not filled by the candidate's own handwriting or not supported by attested photocopies of the documents or incomplete application in any other manner or received after the due date/time will be rejected. The above mentioned terms and conditions contained in the brochure have been issued by Notification of the Punjab Government dated 30th January, 1997. The terms and conditions regarding eligibility, reservation, allocation of seats, gradation certificate, and public declaration are binding on the candidates as well as the party issuing the said brochure for the period in question. In para 9, their Lordships by referring the earlier Full Bench decision in the case of *Raj Singh vs. Maharshi Dayanand University* (1994 (4) Recent Services Judgments, 289), disapproved the liberal construction of the terms and conditions of the brochure and specified the need for their strict adherence to avoid unnecessary prejudice to the candidates or the authority during the course of admission. In the same paragraph, by referring the Division Bench decision in the case of *Madhvika Khurana (minor) vs. M.D. University* in Civil Writ Petition No.15367 of 1991, their Lordships observed that the students seeking admission to the professional courses are even otherwise matured enough and supposed to understand the full implication of filling the admission form and compliance with the instructions contained in the brochure. In paragraph 10 their Lordships noticed another Full Bench decision (*Rahul Prabhakar vs. Punjab Technical University, Jalandhar* (1997 (3) RSJ 475: AIR 1998 Punj & Har. 18), wherein it is stated that,

"A Full Bench of this Court in *Amardeep Singh Sahota vs. State of Punjab* (1993 (4) Serv LR 673) had to consider the scope and binding force of the provisions contained in the prospectus. The Bench took the view that the prospectus issued for admission to a course, has the force of law and it was not open to alteration. In *Raj Singh vs. Maharshi Dayanand University* (1994 (4) R.S.J. 289) another Full Bench of this Court took the view that a candidate will have to be taken to be bound by the information supplied in the admission form and cannot be allowed to take a stand that suits him at a given time. The Full Bench approved the view expressed in earlier Full Bench that eligibility for admission to a course has to be seen according to the prospectus issued before the Entrance Examination and that the admission has to be made on the basis of instructions given in the prospectus, having the force of law. Again Full Bench of this Court in *Sachin Gaur vs. Punjab University* (1996 (1) RSJ 1LAIR 1996 Punj & Har 109) took the view that there has to be a cut off date provided for admission and the same cannot be changed afterwards. These views expressed by earlier Full Benches have been followed in CWP.No.6756 of 1996 by the three of us constituting another Full Bench. Thus, it is settled law that the provisions contained in the information brochure for the Common Entrance Test 1997 have the force of law and have to be strictly complied with. No modification can be made by the court in exercise of powers under Article 226 of the Constitution of India. Whenever a notification calling for applications, fixes date and time within which applications are to be received whether sent through post or by any other mode that time schedule has to be complied with in letter and spirit. If the application has not reached the co-ordinator or the competent authority as the case may be the same cannot be considered as having been filed in terms of the provisions contained in the prospectus or Information Brochure. Applications filed in violation of the terms of the brochure have only to be rejected."

23. Regarding the effect of Information Brochure, the Full Bench has concluded that,

"11. The cumulative effect of the above well enunciated principles of law, is that the terms and conditions of the brochure where they used pre-emptory language cannot be held to be merely declaratory. They have to be and must necessarily to be treated as mandatory. Their compliance would be essential otherwise the basic principle of fairness in such highly competitive entrance examinations would stand frustrated. Vesting of discretion in an individual in such matters, to waive or dilute the stipulated conditions of the brochure would per se introduce the element of discrimination, arbitrariness and unfairness. Such unrestricted discretion in contravention to the terms of the brochure would decimate the very intent behind the terms and conditions of the brochure, more particularly, where the cut off date itself has been provided in the brochure. The brochure has the force of law. Submission of applications complete in all respects

is a sine qua non to the valid acceptance and consideration of an application for allotment of seats in accordance with the terms prescribed in the brochure."

"13. Repeated affirmation of the principle by different Full Benches of this Court while relying upon the judgments of the Hon'ble Apex Court, unambiguously contains the dictum that the brochure declared before the entrance test has the force of law, strict adherence to its terms and conditions is of paramount consideration and terms and conditions including the cut off date cannot be relaxed unless such power is specifically provided to a given authority by use of unambiguous language. ? "

Finally, their Lordships have concluded,

"16. In view of the above discussion the only unassailable and veritable view is that a candidate to such entrance test, in view of the terms and conditions of the brochure, afore-referred, is obliged to submit all the certificates required to annex along with the application and submit the same complete in all respects before the cut off date. In default thereto, no obligation is imposed upon the authorities concerned to entertain such application or to grant seat to that candidate."

24. We have already referred to various terms and conditions mentioned in the application form prescribed by Punjab Technical University, Jalandhar, which are similar to Clause 17 of Instruction to Candidates, etc., and Information Brochure issued by the Tamil Nadu Public Service Commission. It has been repeatedly affirmed by almost all the Full Benches of the Punjab and Haryana High Court that the Information Brochure has the force of law and has to be strictly complied with. We are in respectful agreement with the said view.

25. In the earlier part of our order, we have extracted relevant provision, viz., Instructions, etc. to Candidates as well as the Information Brochure of the Tamil Nadu Public Service Commission, we hold that the terms and conditions of Instructions, etc. to Candidates and Information Brochure have the force of law and have to be strictly complied with. We are also of the view that no modification / relaxation can be made by the Court in exercise of powers under Article 226 of the Constitution of India and application filed in violation of the Instructions, etc. to Candidates and the terms of the Information Brochure is liable to be rejected. We are also of the view that strict adherence to the terms and conditions is paramount consideration and the same cannot be relaxed unless such power is specifically provided to a named authority by the use of clear language. As said at the beginning of our order, since similar violations are happening in the cases relating to admission of students to various courses, we have dealt with the issue exhaustively. We make it clear that the above principles are applicable not only to applications calling for employment, but also to the cases relating to the admission of students to various courses. We are constrained to make this observation to prevent avoidable prejudice to other applicants at large.

26. It is also contended that the respondent has permitted some of the candidates to rectify certain defects and failed to treat the petitioners on par with them. With regard to the said claim, in para 17 of the counter affidavit, the Tamil Nadu Public Service Commission has specifically explained that on receipt of rejection memos and on non-receipt of hall tickets, many representations were sent to the Commission's office, praying to permit the applicants to take up written examinations relating to the recruitment for the posts of Assistant Surgeon. It is further stated that on re-scrutiny of the rejected applications of the candidates, it was found that 725 candidates had not enclosed the format (meant exclusively for Assistant Surgeon) and the Commission decided to reconsider and admit those 725 candidates who failed to enclose such format in a separate sheet, and whose applications were otherwise in order with a direction to produce that format at the time of Oral Test, since the format is meant exclusively for recruitment to the post of Assistant Surgeon. In para 11 of the counter affidavit, it is specifically stated that not even a single candidate who had failed to sign the application form and who had failed to produce the essential documents were admitted to write the examinations held on 16.10.2005 suo motu, except the candidates who had obtained interim orders from the Court. It is further explained that rejection order passed even in respect of 323 candidates whose

applications were rejected initially for want of format referred to above, were not reconsidered for admission as they had either failed to produce Medical Registration Certificate or not paid the fee, or were over aged, etc., besides their failure to send the format in question.

27. Yet, another argument was made to the effect that inasmuch as failure to sign below the column 24 as well as below the declaration is a bona fide mistake and instead of rejecting the applications, the Commission ought to have afforded one more opportunity to the petitioners to rectify the same. While meeting the above contention, learned Advocate General submitted that in the absence of any specific Rule or Rules or provision in the Instructions, etc. to Candidates or clause in Information Brochure, the applicants cannot be permitted to rectify the defect. First of all, as rightly pointed out, if it is permitted, the selection schedule and the process of examinations cannot be adhered to. Hence, the argument that the petitioners ought to have been given an opportunity to rectify the mistake in the application form cannot be accepted.

28. Secondly, if there is an enabling provision for representation for rectification, the petitioners may be justified in making such request. For example, Order IV Rule 9 of Madras High Court Appellate Side Rules enables the Registry to return the papers if the same are not in conformity with the enactment or Rules applicable to it for correction and representation. Sub-clause (1) of Rule 9 makes it clear that every proceeding which is not instituted in conformity with the provisions of the Code (CPC), or of the Appellate Side Rules or any special enactment or of the Rules applicable to it, shall be returned to the party or the practitioner concerned for correction and representation. The Rule further makes it clear that the same shall be represented after compliance with all the defects pointed out within 10 days after the notification of the defect. It is not in dispute that there is no similar statutory Rule or Clause in the Notification or Information Brochure. Accordingly, we reject the said contention also.

Before winding up, it is to be noted that the Notification for calling for applications for the posts of Assistant Surgeon (General & Speciality) Tamil Nadu Medical Services for the year 2003-2004 was notified on 01.07.2005. The last date for receipt of application by the Government was 04.08.2005. It is brought to our notice that number of candidates applied for the post were 7123 out of which 5317 candidates were found eligible to take up the examinations and 1806 candidates were found ineligible and 1182 were found unsigned the applications, the petitioners challenged the same in these writ petitions. Though it is pointed out that some of the persons who wrote the written examinations on the orders of the Court were successful, in view of our discussion and ultimate conclusion, we are not inclined to show any leniency or indulgence to those who unsigned the applications merely because they were permitted to write written examinations. It is not in dispute that the applicants are highly qualified medical practitioners and after successful in their course, they registered their names in the Medical Council of India. We have already referred to various instructions mentioned in the Notification as well as in Information Brochure. In addition to the same, every application form was enclosed with duly filled up specimen form to enable the applicant to fill up all the columns wherever required, which include signature in the places indicated. In such circumstances, we do not find any merit in the contentions raised by the learned counsel for the petitioners or error or infirmity in the impugned order of the respondent. Consequently, all the writ petitions fail and are accordingly dismissed. No costs.