

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
EN BANC**

**AUTOMOTIVE INDUSTRY WORKERS ALLIANCE (AIWA) and its Affiliated Unions: Mitsubishi Motors Workers Phils. Union; Mitsubishi Motors Phils. Supervisors Union, Nissan Motors Phils., Inc. Workers Union, Toyota Motors Phils. Workers Union, DURASTEEL WORKERS UNION, FILSHUTTERS EMPLOYEES & WORKERS UNION, NATIONAL LABOR UNION, PEPSI-COLA SUPERVISORS AND EMPLOYEES UNION, PSBA FACULTY ASSOCIATION, PLDT SECURITY PERSONNEL UNION, PUREFOODS UNIFIED LABOR ORGANIZATION, SAMAHANG MANGGAGAWA NG BICUTAN CONTAINERS CORP., SAMAHANG MANGGAGAWA NG CINDERELLA, SAMAHANG MANGGAGAWA NG LAURA'S FOOD PRODUCTS,**

*Petitioners,*

*-versus-*

**G.R. No. 157509  
January 18, 2005**

**HON. ALBERTO ROMULO, in his capacity as Executive Secretary, and HON. PATRICIA STO. TOMAS, in her**

**capacity as Secretary of Labor and  
Employment,**

***Respondents.***

X-----X

## **DECISION**

**CHICO-NAZARIO, J.:**

Petitioners, composed of ten (10) labor unions, call upon this Court to exercise its power of judicial review to declare as unconstitutional an executive order assailed to be in derogation of the constitutional doctrine of separation of powers.

In an original action for certiorari, petitioners invoke their status as labor unions and as taxpayers whose rights and interests are allegedly violated and prejudiced by Executive Order No. 185 dated 10 March 2003 whereby administrative supervision over the National Labor Relations Commission (NLRC), its regional branches and all its personnel including the executive labor arbiters and labor arbiters was transferred from the NLRC Chairperson to the Secretary of Labor and Employment. In support of their position,<sup>[1]</sup> petitioners argue that the NLRC -- created by Presidential Decree No. 442, otherwise known as the Labor Code, during Martial Law -- was an integral part of the Department (then Ministry) of Labor and Employment (DOLE) under the administrative supervision of the Secretary of Justice. During the time of President Corazon C. Aquino, and while she was endowed with legislative functions after EDSA I, Executive Order No. 292<sup>[2]</sup> was issued whereby the NLRC became an agency attached to the DOLE for policy and program coordination and for administrative supervision. On 02 March 1989, Article 213 of the Labor Code was expressly amended by Republic Act No. 6715 declaring that the NLRC was to be attached to the DOLE for program and policy coordination only while the administrative supervision over the NLRC, its regional branches and personnel, was turned over to the NLRC Chairman. The subject E.O. No. 185, in authorizing the Secretary of Labor to exercise administrative supervision over the NLRC, its regional

branches and personnel, allegedly reverted to the pre-Rep. Act No. 6715 set-up, amending the latter law which only Congress can do.

The respondents herein, as represented by the Office of the Solicitor General, opposed the petition on procedural<sup>[3]</sup> and substantive<sup>[4]</sup> grounds. Procedurally, it is alleged that the petition does not pose an actual case or controversy upon which judicial review may be exercised as petitioners have not specifically cited how E.O. No. 185 has prejudiced or threatened to prejudice their rights and existence as labor unions and as taxpayers. Closely intertwined therewith, respondents further argue that petitioners have no *locus standi* to assail the validity of E.O. No. 185, not even in their capacity as taxpayers, considering that labor unions are exempt from paying taxes, citing Sec. 30 of the Tax Reform Act of 1997. Even assuming that their individual members are taxpayers, respondents maintain that a taxpayer suit will not prosper as E.O. No. 185 does not require additional appropriation for its implementation. As the petition can be decided without passing on the validity of the subject executive order, respondents conclude that the same should be forthwith dismissed.

Even on the merits, respondents advance the view that the petition must fail as the administrative supervision granted by the Labor Code to the NLRC Chairman over the NLRC, its regional branches and personnel, does not place them beyond the President's broader power of control and supervision, a power conferred no less than by the Constitution in Section 17, Article VII thereof. Thus, in the exercise of the President's power of control and supervision, he can generally oversee the operations of the NLRC, its regional branches and personnel thru his alter ego, the Secretary of Labor, pursuant to the doctrine of qualified political agency.

In their Reply,<sup>[5]</sup> petitioners affirm their *locus standi* contending that they are suing for and in behalf of their members – estimated to be more or less fifty thousand (50,000) workers – who are the real parties to be affected by the resolution of this Court. They likewise maintain that they are suing in behalf of the employees of the NLRC who have pending cases for dismissal. Thus, possessed of the necessary standing, petitioners theorize that the issue before this

Court must necessarily be decided as it involves an act of the Chief Executive amending a provision of law.

For clarity, E.O. No. 185 is hereby quoted:

**EXECUTIVE ORDER NO. 185**

***AUTHORIZING THE SECRETARY OF  
LABOR AND EMPLOYMENT TO EXERCISE  
ADMINISTRATIVE SUPERVISION OVER  
THE NATIONAL LABOR RELATIONS  
COMMISSION***

WHEREAS, Section 17, Article VII of the Constitution provides that the President shall have control of all executive departments, bureaus and offices and shall ensure that the laws be faithfully executed;

WHEREAS, the National Labor Relations Commission (NLRC) which was created by virtue of Presidential Decree No. 442, otherwise known as the "Labor Code of the Philippines," is an agency under the Executive Department and was originally envisaged as being an integral part of the Department (then Ministry) of Labor and Employment (DOLE) under the administrative supervision of the Secretary of Labor and Employment ("Secretary of Labor");

WHEREAS, upon the issuance of Executive Order No. 292, otherwise known as the "Revised Administrative Code of 1987" (the "Administrative Code"), the NLRC, by virtue of Section 25, Chapter 6, Title VII, Book IV thereof, became an agency attached to the DOLE for policy and program coordination and administrative supervision;

WHEREAS, Article 213 of the Labor Code and Section 25, Chapter 6, Title VII, Book IV of the Administrative Code were amended by Republic Act. No. 6715 approved on March 2, 1989, which provides that the NLRC shall be attached to the DOLE for program and policy coordination only and transferred

administrative supervision over the NLRC, all its regional branches and personnel to the NLRC Chairman;

WHEREAS, Section 16, Article III of the Constitution guarantees the right of all persons to a speedy disposition of their cases before all judicial, quasi-judicial and administrative bodies;

WHEREAS, the Secretary of Labor, after evaluating the NLRC's performance record in the last five (5) years, including the rate of disposition of pending cases before it, has informed the President that there is a need to expedite the disposition of labor cases pending before the NLRC and all its regional and sub-regional branches or provincial extension units and initiate potent measures to prevent graft and corruption therein so as to reform its systems and personnel, as well as infuse the organization with a sense of public service in consonance with the imperative of change for the greater interest of the people;

WHEREAS, after consultations with the relevant sectors, the Secretary of Labor has recommended that the President, pursuant to her powers under the Constitution and existing laws, authorize the Secretary of Labor to exercise administrative supervision over the NLRC and all its regional and sub-regional branches or provincial extension units with the objective of improving the rate of disposition of pending cases and institute adequate measures for the prevention of graft and corruption within the said agency;

NOW, THEREFORE, I, GLORIA MACAPAGAL ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

SECTION 1. Authority To Exercise Administrative Supervision. – The Secretary of Labor is hereby authorized to exercise administrative supervision over the NLRC, its regional branches and all its personnel, including the Executive Labor Arbiters and Labor Arbiters, with the objective of improving the rate of

disposition of cases pending before it and its regional and sub-regional branches or provincial extension units and to institute adequate measures for the prevention of graft and corruption within the said agency.

For this purpose, the Secretary of Labor shall, among others:

- a. Generally oversee the operations of the NLRC and its regional and sub-regional branches or provincial extension units for the purpose of ensuring that cases pending before them are decided or resolved expeditiously;
- b. Require the submission of reports as the Secretary of Labor may deem necessary;
- c. Initiate measures within the agency to prevent graft and corruption, including but not limited to, the conduct of management audits, performance evaluations and inspections to determine compliance with established policies, standards and guidelines;
- d. To take such action as may be necessary for the proper performance of official functions, including rectification of violations, abuses and other forms of mal-administration; and
- e. Investigate, on its own or upon complaint, matters involving disciplinary action against any of the NLRC's personnel, including Presidential appointees, in accordance with existing laws, rules and regulations. After completing his/her investigation, the Secretary of Labor shall submit a report to the President on the investigation conducted with a recommendation as to the penalty to be imposed or other action to be taken, including referral to the Presidential Anti-Graft Commission (PAGC), the Office of the

Ombudsman or any other office, committee, commission, agency, department, instrumentality or branch of the government for appropriate action.

The authority conferred herein upon the Secretary of Labor shall not extend to the power to review, reverse, revise, or modify the decisions of the NLRC in the exercise of its quasi-judicial functions (cf. Section 38(2) (b), Chapter 7, Book IV, Administrative Code).

**SECTION 2. Report to the Secretary of Labor.** – The NLRC, through its Chairman, shall submit a report to the Secretary of Labor within thirty (30) days from issuance of this Executive Order, on the following matters:

- a. Performance Report/Audit for the last five (5) years, including list of pending cases and cases disposed of within the said period by the NLRC en banc, by Division and by the Labor Arbiters in each of its regional and sub-regional branches or provincial extension units;
- b. Detailed Master Plan on how to liquidate its backlog of cases with clear timetables to clean up its dockets within six (6) months from the issuance hereof;
- c. Complete inventory of its assets and list of personnel indicating their present positions and stations; and
- d. Such other matters as may be required by the Secretary of Labor.

**SECTION 3. Rules and Regulations.** – The Secretary of Labor, in consultation with the Chairman of the NLRC, is hereby authorized to issue rules and regulations for the

effective implementation of the provisions of this Executive Order.

SECTION 4. Repealing Clause. All laws, executive issuances, rules and regulations or parts thereof which are inconsistent with the provisions of this Executive Order are hereby repealed, amended, or modified accordingly.

SECTION 5. Effectivity. – This Executive Order shall take effect immediately upon the completion of its publication in the Official Gazette or in a newspaper of general circulation in the country.

City of Manila, March 10, 2003.<sup>[6]</sup>

The constitutionality of a governmental act having been challenged, it comes as no surprise that the first line of defense is to question the standing of petitioners and the justiciability of herein case.

It is hornbook doctrine that the exercise of the power of judicial review requires the concurrence of the following requisites, namely: (1) the existence of an appropriate case; (2) an interest personal and substantial by the party raising the constitutional question; (3) the plea that the function be exercised at the earliest opportunity; and (4) the necessity that the constitutional question be passed upon in order to decide the case.<sup>[7]</sup>

As correctly pointed out by respondents, judicial review cannot be exercised in *vacuo*. The function of the courts is to determine controversies between litigants and not to give advisory opinions.<sup>[8]</sup> The power of judicial review can only be exercised in connection with a bona fide case or controversy which involves the statute sought to be reviewed.<sup>[9]</sup>

Even with the presence of an actual case or controversy, the Court may refuse to exercise judicial review unless the constitutional question is brought before it by a party having the requisite standing to challenge it.<sup>[10]</sup> Legal standing or *locus standi* is defined as a “personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental

act that is being challenged.”<sup>[11]</sup> For a citizen to have standing, he must establish that he has suffered some actual or threatened injury as a result of the allegedly illegal conduct of the government; the injury is fairly traceable to the challenged action; and the injury is likely to be redressed by a favorable action.<sup>[12]</sup>

Petitioners have not shown that they have sustained or are in danger of sustaining any personal injury attributable to the enactment of E.O. No. 185. As labor unions representing their members, it cannot be said that E.O. No. 185 will prejudice their rights and interests considering that the scope of the authority conferred upon the Secretary of Labor does not extend to the power to review, reverse, revise or modify the decisions of the NLRC in the exercise of its quasi-judicial functions.<sup>[13]</sup> Thus, only NLRC personnel who may find themselves the subject of the Secretary of Labor’s disciplinary authority, conferred by Section 1(d) of the subject executive order, may be said to have a direct and specific interest in raising the substantive issue herein. Moreover, and if at all, only Congress, and not petitioners, can claim any injury<sup>[14]</sup> from the alleged executive encroachment of the legislative function to amend, modify and/or repeal laws.

Neither can standing be conferred on petitioners as taxpayers since petitioners have not established disbursement of public funds in contravention of law or the Constitution.<sup>[15]</sup> A taxpayer’s suit is properly brought only when there is an exercise of the spending or taxing power of Congress.<sup>[16]</sup> As correctly pointed out by respondents, E.O. No. 185 does not even require for its implementation additional appropriation.

All told, if we were to follow the strict rule on *locus standi*, this petition should be forthwith dismissed on that score. The rule on standing, however, is a matter of procedure, hence, can be relaxed for nontraditional plaintiffs like ordinary citizens, taxpayers and legislators when the public interest so requires, such as when the matter is of transcendental importance, of overarching significance to society, or of paramount public interest.<sup>[17]</sup>

The question is, does the issue posed in this petition meet the exacting standard required for this Court to take the liberal approach and recognize the standing of herein petitioners?

The instant petition fails to persuade us.

The subject matter of E.O. No. 185 is the grant of authority by the President to the Secretary of Labor to exercise administrative supervision over the NLRC, its regional branches and all its personnel, including the Executive Labor Arbiters and Labor Arbiters. Its impact, sans the challenge to its constitutionality, is thereby limited to the departments to which it is addressed. Taking our cue from the early case of *Olsen vs. Herstein and Rafferty*,<sup>[18]</sup> the subject executive order can be considered as nothing more or less than a command from a superior to an inferior. It creates no relation except between the official who issued it and the officials who received it. It has for its object simply the efficient and economical administration of the affairs of the department to which it is issued in accordance with the law governing the subject matter. Administrative in its nature, the subject order does not pass beyond the limits of the departments to which it is directed, hence, it has not created any rights in third persons, not even in the fifty thousand or so union members being represented by petitioners who may or may not have pending cases before the labor arbiters or the NLRC.

In fine, considering that the governmental act being questioned has a limited reach, its impact confined to corridors of the executive department, this is not one of those exceptional occasions where the Court is justified in sweeping aside a critical procedural requirement, rooted as it is in the constitutionally enshrined principle of separation of powers. As succinctly put by Mr. Justice Reynato S. Puno in his dissenting opinion in the first *Kilosbayan* case:<sup>[19]</sup>

Courts are neither free to decide all kinds of cases dumped into their laps nor are they free to open their doors to all parties or entities claiming a grievance. The rationale for this constitutional requirement of *locus standi* is by no means trifle. It is intended “to assure a vigorous adversary presentation of the case, and, perhaps more importantly to warrant the judiciary’s overruling the determination of a coordinate,

democratically elected organ of government.”<sup>[20]</sup> It thus goes to the very essence of representative democracies.

A lesser but not insignificant reason for screening the standing of persons who desire to litigate constitutional issues is economic in character. Given the sparseness of our resources, the capacity of courts to render efficient judicial service to our people is severely limited. For courts to indiscriminately open their doors to all types of suits and suitors is for them to unduly overburden their dockets, and ultimately render themselves ineffective dispensers of justice. To be sure, this is an evil that clearly confronts our judiciary today.

All things considered, whether or not E.O. No. 185 is indeed unconstitutional will have to await the proper party in a proper case to assail its validity.

**WHEREFORE**, premises considered, the instant petition dated 27 March 2003 is hereby **DISMISSED** for lack of merit. No costs.

**SO ORDERED.**

**DAVIDE, JR., C.J., PUNO, PANGANIBAN, QUISUMBING, YNARES-SANTIAGO, SANDOVAL-GUTIERREZ, CARPIO, AUSTRIA-MARTINEZ, CORONA, CARPIO-MORALES, CALLEJO, SR., AZCUNA, TINGA, and GARCIA JJ., concur.**

---

[1] Rollo, pp. 7-8.

[2] Otherwise known as the Administrative Code of 1987. Signed into law on 25 July 1987.

[3] Rollo, pp. 2-10.

[4] Id. at 11-20.

[5] Id. at 69-76.

[6] Rollo, pp. 15-18.

[7] *People vs. Vera*, 65 Phil. 56 [1937], as cited in *Dumlao vs. Comelec*, G.R. No. L-52245, 22 January 1980, 95 SCRA 392, 400.

[8] *Allied Broadcasting Center, Inc. vs. Republic*, G.R. No. 91500, 18 October 1990, 190 SCRA 782.

[9] *Ibid.*

[10] Bernas, SJ, *The 1987 Constitution of the Republic of the Philippines A Commentary*, 2003 Edition, p. 939.

- [11] Integrated Bar of the Philippines, G.R. No. 141284, 15 August 2000, 338 SCRA, 81, 100.
- [12] Gonzales vs. Narvasa, G.R. No. 140835, 14 August 2000, 337 SCRA 733, 740 citing Telecommunications and Broadcast Attorneys of the Philippines, Inc. vs. Commission on Elections, G.R. No. 132922, 21 April 1998, 289 SCRA 337, 343.
- [13] Executive Order No. 185, Section 1 (last paragraph).
- [14] Gonzales vs. Narvasa, Aug. 14, 2000, G.R. No. 140835, 14 August 2000, 337 SCRA 733, 741.
- [15] Ibid.
- [16] Ibid.
- [17] Araneta vs. Dinglasan 84 Phil. 368 (1949); Dumlao vs. COMELEC, G.R. No. L-52245, 22 January 1980, 95 SCRA 392, 404; De Guia vs. COMELEC, G.R. No. 104712, 06 May 1992, 208 SCRA 420,422; Tatad vs. Secretary of the Department of Energy, G.R. Nos. 124360 and 127867, 05 November 1997, 281 SCRA 330, 349; Osmeña vs. COMELEC, G.R. Nos. 100318, 100417 and 100420, 30 July 1991, 199 SCRA 750, 757; Basco vs. Pagcor, G.R. No. 91649, 14 May 1991, 197 SCRA 52, 60; Kilosbayan vs. Guingona, Jr., G.R. No. 113375, 05 May 1994, 232 SCRA 110, 139; Agan, Jr. vs. Philippine International Air Terminals Co., Inc., G.R. Nos. 15001, 155547 & 155661, 05 May 2003, 402 SCRA 612, 645-646; Fariñas, et al. vs. Executive Secretary, et al., G.R. Nos. 147387 & 152161, 10 December 2003, 417 SCRA 503, 515-517.
- [18] G.R. No. 11138, 15 December 1915. This was a case for mandamus filed by an exporter of cigars to compel the Insular Collector of Customs or the Collector of Internal Revenue – ostensibly pursuant to E.O. No. 41 dated 7 May 1909 – to issue a certificate of origin of cigars about to be exported to the United States. The Court held that E.O. No. 41 conferred no legal right on anyone as its “very nature, as determined by the relationship which produced [it], demonstrates clearly the impossibility of any other person enforcing [it] except the one who created [it].” (32 Phil. 520, 532).
- [19] Kilosbayan, Incorporated vs. Guingona, Jr., G.R. No. 113375, 05 May 1994, 232 SCRA 110, 169-171.
- [20] Citing Dorsen, Bender, Neuborne, Political and Civil Rights in the United States, Vol. I, 4th ed., p. 1200.