

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**LOPEZ SUGAR CORPORATION,
*Petitioner,***

-versus-

**G.R. No. 93117
August 1, 1995**

**HON. SECRETARY OF LABOR AND
EMPLOYMENT, NATIONAL
CONGRESS OF UNIONS IN THE
SUGAR INDUSTRY OF THE
PHILIPPINES (NACUSIP) and
COMMERCIAL AND AGRO-
INDUSTRIAL LABOR ORGANIZATION
(CAILO),**

Respondents.

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DECISION

VITUG, J.:

The Decision of public respondent, assailed in this Petition for *Certiorari*, is anchored on Article 257 of the Labor Code, as amended, which provides:

“ARTICLE 257. Petitions in unorganized establishments. — In any establishment where there is no certified bargaining agent,

a certification election shall automatically be conducted by the Med-Arbiter upon the filing of a petition by a legitimate labor organization.”

The Med-Arbiter, sustained by the Secretary of Labor and Employment, has ruled that the above provision is mandatory and gives him no other choice than to conduct a certification election upon the receipt of the corresponding petition.

On 26 July 1989, private respondent National Congress of Unions in the Sugar Industry of the Philippines-TUCP (“NACUSIP-TUCP”) filed with the Department of Labor and Employment (“DOLE”) Regional Office No. VI, Bacolod City, a petition for direct certification or for certification election to determine the sole and exclusive collective bargaining representative of the supervisory employees of herein petitioner, Lopez Sugar Corporation (“LSC”), at its sugar central in Fabrica, Sagay, Negros Occidental.

In its petition, docketed Case No. RO6-MA-021-89, NACUSIP-TUCP averred that it was a legitimate national labor organization; that LSC was employing 55 supervisory employees, the majority of whom were members of the union; that no other labor organization was claiming membership over the supervisory employees; that there was no existing collective bargaining agreement covering said employees; and that there was no legal impediment either to a direct certification of NACUSIP-TUCP or to the holding of a certification election.^[1]

In its comment and opposition, dated 14 August 1989, LSC contended, among other things, that the petition was bereft of any legal or factual basis; that the petition was nothing more than a useless scrap of paper designed to harass the company; and that its employees above the rank-and-file category were in truth unaware of the petition.^[2]

On 18 August 1989, the Commercial and Agro-Industrial Labor Organization (“CAILO”), a registered labor organization also claiming to count substantial membership among the LSC supervisory employees, moved to intervene.^[3] The motion was granted.^[4]

On 22 August 1989, NACUSIP-TUCP submitted Charter Certificate No. 003-89, dated 20 July 1989, of the NACUSIP-TUCP Lopez Sugar Central Supervisory Chapter.^[5] LSC, on its part, submitted a list of its employees above the rank-and-file status preparatory to the inclusion/exclusion proceedings.^[6]

On 13 September 1989, one Carlos S. Gevero, asserting a right to represent the “supervisors of LSC,” filed a motion to dismiss the petition for lack of interest on the part of the supervisory employees.^[7]

At the hearing of 20 September 1989, both NACUSIP-TUCP and CAILO failed to appear. Hearing was re-set for 29 September 1989^[8] but, again, neither NACUSIP-TUCP nor CAILO appeared. On 16 October 1989, nonetheless, Med-Arbiter Felizardo T. Serapio issued an Order^[9] granting the petition. He ruled that under Article 257 of the Labor Code, as amended, the Med-Arbiter was left with no option but to order the conduct of a certification election immediately upon the filing of the petition, holding that the subsequent disaffiliation or withdrawals of members did not adversely affect the standing of the petition. The dispositive portion of his Order read:

“VIEWED IN THE LIGHT OF THE FOREGOING, the petition or certification election among the supervisory employees of the Lopez Sugar Central, filed by the NACUSIP-TUCP is, as it is hereby GRANTED with the following choices:

- “1) National Congress of Unions in the Sugar Industry of the Phils. (NACUSIP-TUCP);
- “2) Commercial and Agro-Industrial Labor Organization (CAILO); and
- “3) No Union.

“The designated representation officer is hereby directed to call the parties to a pre-election conference to thresh out the mechanics of the certification election, including the inclusion and exclusion of voters and to conduct the election within twenty (20) days from receipt by the parties of this Order. The

list submitted by the Employer (LSC Employees other than rank and file) shall be used to determine the eligible voters.

“SO ORDERED.”^[10]

LSC appealed to the DOLE and asseverated that the order was a patent nullity and that the Med-Arbiter acted with grave abuse of discretion.^[11]

In denying the appeal, the Secretary of Labor, in his Decision of 06 March 1990, has likewise ruled that the holding by the Med-Arbiter of a certification election is mandatory under Article 257 of the Labor Code; that the subsequent withdrawals and disauthorization/disaffiliation of some supervisory personnel in the petition for certification election could not bar its being granted; and that a certification election is still the most appropriate means to finally settle the issue of representation.^[12]

Hence, this petition for *certiorari*; it is argued that —

“Public Respondent Honorable Secretary of Labor and Employment (has) committed grave abuse of discretion amounting to lack of jurisdiction when it refused to dismiss a petition for certification election despite clear lack of legal and factual basis or holding the same.”^[13]

The Solicitor General agrees with public respondent in arguing that the tenor of Article 257 (supra) of the Labor Code is one of command. He cites paragraph 2, Section 6, Rule V, Book V, of the Implementing Rules and Regulations of the Labor Code, to the effect that once “a petition (is) filed by a legitimate organization involving an unorganized establishment, the Med-Arbiter shall immediately order the conduct of a certification election,” which is designed, he continues, to give substance to the workers’ right to self-organization.^[14] Petitioner promptly retorts that it has no quarrel with public respondent on the objectives of the law but it points out that the application of Article 257 clearly must first be occasioned by a genuine petition from a legitimate labor organization.

Not too long ago, the Court already had an opportunity to pass upon this very issue in *Progressive Development Corporation vs. Secretary, Department of Labor and Employment*,^[15] where we said:

“But while Article 257 cited by the Solicitor General directs the automatic conduct of a certification election in an unorganized establishment, it also requires that the petition for certification election must be filed by a legitimate labor organization. Article 242 enumerates the exclusive rights of a legitimate labor organization among which is the right to be certified as the exclusive representative of all the employees in an appropriate collective bargaining unit for purposes of collective bargaining.

“Meanwhile, Article 212(h) defines a legitimate labor organization as ‘any labor organization duly registered with the DOLE and includes any branch or local thereof.’ (Emphasis supplied) Rule 1, Section 1(j), Book V of the Implementing Rules likewise defines a legitimate labor organization as ‘any labor organization duly registered with the DOLE and includes any branch, local or affiliate thereof.’ (Emphasis supplied)”

Indeed, the law did not reduce the Med-Arbiter to an automaton which can instantly be set to impulse by the mere filing of a petition for certification election. He is still tasked to satisfy himself that all the conditions of the law are met, and among the legal requirements is that the petitioning union must be a legitimate labor organization in good standing.

The petition for certification election, in the case at bench, was filed by the NACUSIP-TUCP, a national labor organization duly registered with the DOLE under Registration Certificate No. FED-402-6390-IP. The legitimate status of NACUSIP-TUCP might be conceded; being merely, however, an agent for the local organization (the NACUSIP-TUCP Lopez Sugar Central Supervisory Chapter), the federation’s bona fide status alone would not suffice. The local chapter, as its principal, should also be a legitimate labor organization in good standing. Accordingly, in *Progressive Development*, we elucidated:

“In the case of union affiliation with a federation, the documentary requirements are found in Rule II, Section 3(e),

Book V of the Implementing Rules, which we again quote as follows:

“(c) The local or chapter of a labor federation or national union shall have and maintain a constitution and by laws, set of officers and books of accounts. For reporting purposes, the procedure governing the reporting of independently registered unions, federations or national unions shall be observed.’ (Emphasis supplied)

“Since the ‘procedure governing the reporting independently registered unions’ refers to the certification and attestation requirements contained in Article 235, paragraph 2, it follows that the constitution and by-laws, set of officers and books of accounts submitted by the local an chapter must likewise comply with these requirements. The same rationale for requiring the submission of duly subscribed documents upon union registration exists in the case of union affiliation. Moreover, there is greater reason to exact compliance with the certification and attestation requirements because, as previously mentioned, several requirements applicable to independent union registration are no longer required in the case of the formation a local or chapter. The policy of the law in conferring greater bargaining power upon labor unions must be balanced with the policy of providing preventive measures against the commission of fraud.

“A local or chapter therefore becomes a legitimate labor organization only upon submission of the following to the BLR:

- “1) A charter certificate, within 30 days from its issuance by the labor federation or national union; and
- “2) The constitution and by-laws, a statement on the set of officers, and the books of accounts all of which are certified under oath by the secretary or treasurer, as the case may be, of such local or chapter, and attested to by its president.

“Absent compliance with these mandatory requirements, the local or chapter does not become legitimate labor organization.”^[16]

The only document extant on record to establish the legitimacy of the NACUSIP-TUCP Lopez Sugar Central Supervisory Chapter is a charter certificate and nothing else. The instant petition, at least for now, must thus be **GRANTED**.

WHEREFORE, the assailed Decision of the Secretary of Labor, dated 06 March 1990, affirming that of the Med-Arbiter, is **ANNULLED** and **SET ASIDE**. The petition for certification election is dismissed. No costs.

SO ORDERED.

Feliciano, Romero and Melo, JJ., concur.

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- [1] Annex “A”, Petition, Rollo, pp. 14-15.
[2] Annex “B”, Petition, Rollo, pp. 17-18.
[3] Motion for Intervention, NLRC Records, pp. 14-15.
[4] NLRC Records, pp. 17 and 20.
[5] NLRC Records, p. 1.
[6] Minutes, NLRC Records, p. 23.
[7] Rollo, pp. 19-23.
[8] NLRC Records, p. 33.
[9] NLRC Records, pp. 40-44.
[10] Rollo, pp. 29-30.
[11] Annex “D”, Petition, Rollo, pp. 24-27.
[12] Annex “E”, Petition, Rollo, pp. 33.
[13] Memorandum for Petition, Rollo, p. 127-128
[14] Comment, Rollo, pp. 50-52, citing National Association of Free Trade Unions vs. Bureau of Labor Relations, 164 SCRA 12.
[15] 205 SCRA 802.
[16] 205 SCRA 802, 812-813.