SUPREME COURT
FIRST DIVISION

NOTRE DAME OF GREATER MANILA,
***Petitioner*,**

-versus-

G.R. No. 149833
June 29, 2004

Hon. BIENVENIDO E. LAGUESMA, (Undersecretary of the Department of Labor and Employment); Med-Arbiter TOMAS FALCONITIN; and NOTRE DAME OF GREATER MANILA TEACHERS AND EMPLOYEES UNION,
***Respondents*.**
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D E C I S I O N

PANGANIBAN, *J.*:

Unless it has filed a Petition for a Certification Election pursuant to Article 258 of the Labor Code, an employer has no standing to question such election or to interfere therein. Being the sole concern of the workers, the election must be free from the influence or reach of the company.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, challenging the March 31, 2000 Decision[2] and the August 28, 2001 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 51287. The assailed Decision disposed as follows:

> "In sum, the Court finds that public respondents did not commit any abuse of discretion in issuing the assailed decision and order. There is no capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction and hence there is no room for the issuance of the equitable writ of certiorari.
>
> "WHEREFORE, the instant petition is dismissed."[4]

The challenged Resolution denied petitioner's Motion for Reconsideration.

The Facts

The factual antecedents of the case are summarized by the CA as follows:

> "On October 14, 1991, private respondent Notre Dame of Greater Manila Teachers & Employees Union (NGMTEU for brevity) a legitimate labor organization duly accredited and registered with the Department of Labor & Employment (DOLE) under Registration Certificate No. 9989 filed with the Med-Arbitration Branch, National Capital Region, (DOLE) a petition for direct certification as the sole and exclusive bargaining agent or certification election among the rank and file employees of petitioner NDGM.
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> "On November 18, 1991, Med-Arbiter Tomas F. Falconitin issued an order granting the petition for certification election and directing Adelayda C. Francisco, Representation Officer, to undertake a pre-election conference. The order reads:
>
> > 'Considering the manifestation of petitioner its legal counsel praying that this case be submitted for resolution;

and considering further that the respondent failed to appear on November 13, 1991 scheduled hearing despite knowledge of said hearing; and considering furthermore [that] respondent is an unorganized establishment within the purview of Art. 257 of the Labor Code, as amended, we rule to grant certification election instead of direct certification as prayed for by petitioner, in order to give each employee a fair chance to choose their bargaining agent.

'Accordingly, the Representation Officer is hereby directed to conduct the usual pre-election conference in connection thereof, taking into account the following choices:

1. Notre Dame of Greater Manila Teachers and Employees Union (NDGMTEU); and

2. No Union.

'SO ORDERED.'

"On January 8, 1992, a pre-election conference was conducted wherein the parties agreed, among others, that the certification election shall be conducted on January 18, 1992 from 10:00 o'clock in the morning to 2:00 o'clock in the afternoon and that the eligible voters shall be 'those employees appearing in the list submitted by management as agreed upon by the parties by affixing their signatures on said list.'

"On January 13, 1992, petitioner NDGM registered a motion to include probationary and substitute employees in the list of qualified voters. On the same day, respondent Med-Arbiter Falconitin denied said motion by handwritten notation on the motion itself – '1/13/92 – The Rep. officer allows only regular employees to vote'.

"On January 17, 1992, petitioner NDGM filed an appeal from the said handwritten 'order' dated January 13, 1992 of Med.

Arbiter Falconitin in the form of a notation, in effect excluding probationary and substitute employees from the list of voters.

"On January 18, 1992, public respondent conducted a certification election with the following results:

'YES	-	56
NO	-	23
Number of segregated Ballots	-	4
Number of spoiled Ballots	-	1
Total	-	84'

"On January 18, 1992, petitioner filed a written notice of protest against the conduct and results of the certification of election, which was opposed by private respondent NDGMTEU.

"On January 27, 1992, a motion to certify private respondent NDGMTEU as the exclusive bargaining agent of petitioner was filed.

"On March 16, 1992, Med-Arbiter Tomas Falconitin issued an order which certified private respondent NDGMTEU as the sole and exclusive bargaining agent of all the rank-and-file employees of petitioner and accordingly dismissed petitioner's protest.

"On March 30, 1992, petitioner lodged an appeal from the aforementioned March 16, 1992 Order of Med-Arbiter Falconitin.

"On July 23, 1992, respondent then Undersecretary Laguesma rendered the questioned decision dismissing the appeal for lack of merit.

"Petitioner filed a motion for reconsideration of the Decision which was rejected by public respondent in his order dated October 12, 1992.

"Dissatisfied, petitioner NDGM filed the instant petition asseverating on the following issues, viz:

> 'The issuance of the orders dated July 23, 1992 and October 12, 1992 is flagrantly contrary to and violative of the provisions of the Labor Code of the Philippines.
>
> '1. On ordering the holding of the certification election on January 18, 1992 despite petitioner's perfected appeal on January 17, 1992 with the Office of the Secretary of the Department.
>
> '2. On the arbitrary, whimsical and capricious exclusion from the Qualified Voters List probationary and substitute employees, contrary to law and established jurisprudence.'"[5]

Ruling of the Court of Appeals

Ruling in favor of respondents, the appellate court held that Med-Arbiter Falconitin's notation on petitioner's "Motion to Include Probationary and Substitute Employees in the List of Qualified Voters" was not an order that could be the subject of an appeal to the Secretary of the Department of Labor and Employment. Also, petitioner was deemed to have abandoned its appeal of the notation when it filed another one on March 30, 1992, also with the labor secretary. Thus, the CA held that staying the holding of the certification election was unnecessary.

The appellate court added that complaints regarding the conduct of the certification election should have been raised with the registration officer before the close of the proceedings. Moreover, it held that only complaints relevant to the election could be filed. Be that as it may, the pre-election conference was deemed to have already dispensed with the issue regarding the qualification of the voters.

Lastly, the CA ruled that petitioner had no standing to question the qualification of the workers who should be included in the list of voters because, in the process of choosing their collective bargaining representative, the employer was definitely an intruder.

Hence, this Petition.[6]

The Issues

In its Memorandum, petitioner raises these issues for our consideration:

> "A. Whether or not Hon. Court of Appeals committed grave error in dismissing the petition which petition alleged that Public Respondent Laguesma flagrantly violated the provisions of the Labor Code of the Philippines in the issuance of Orders, dated July 23, 1992 and October 12, 1992.
>
> "B. Whether or not the Hon. Court of Appeals committed errors in fact and law."[7]

Simply put, the main issue is whether the holding of the certification election was stayed by petitioner's appeal of the med-arbiter's notation on the Motion to Include the Probationary and Substitute Employees in the List of Qualified Voters.

This Court's Ruling

The Petition has no merit.

Main Issue:

Appeal of Med-Arbiter's Handwritten Denial of the Motion

The solution to the controversy hinges on the correct interpretation of Article 259 of the Labor Code, which provides:

> "Art 259. Appeal from certification election orders.– Any party to an election may appeal the order or results of the election as

> determined by the Med-Arbiter directly to the Secretary of Labor and Employment on the grounds that the rules and regulations or parts thereof established by the Secretary of Labor and Employment for the conduct of the election have been violated. Such appeal shall be decided within fifteen (15) calendar days."

This provision is supplemented by Section 10 of Rule V of Book Five of the 1992 Omnibus Rules Implementing the Labor Code. Stating that such appeal stays the holding of a certification election, the later provision reads:

> "Sec. 10. Decision of the Secretary final and inappealable.– The Secretary shall have fifteen (15) calendar days within which to decide the appeal from receipt of the records of the case. The filing of the appeal from the decision of the Med-Arbiter stays the holding of any certification election. The decision of the Secretary shall be final and inappealable."

Petitioner argues that the med-arbiter's January 13, 1992 handwritten notation denying its Motion was the order referred to by Article 259. Hence, petitioner insists that its appeal of the denial should have stayed the holding of the certification election.

Petitioner is mistaken. Article 259 clearly speaks of the "order of the election." Hence, the Article pertains, not just to any of the med-arbiter's orders like the subject notation, but to the order granting the petition for certification election -- in the present case, that which was issued on November 18, 1991.[8] This is an unmistakable inference from a reading of Sections 6 and 7 of the implementing rules:

> "SEC. 6. Procedure.– Upon receipt of a petition, the Regional Director shall assign the case to a Med-Arbiter for appropriate action. The Med-Arbiter, upon receipt of the assigned petition, shall have twenty (20) working days from submission of the case for resolution within which to dismiss or grant the petition. In a petition filed by a legitimate organization involving an unorganized establishment, the Med-Arbiter shall immediately order the conduct of a certification election.

> "In a petition involving an organized establishment or enterprise where the majority status of the incumbent collective bargaining union is questioned through a verified petition by a legitimate labor organization, the Med-Arbiter shall immediately order the certification election by secret ballot if the petition is filed x x x.
>
> "x x x." (Italics supplied)
>
> "SEC. 7 . Appeal.– Any aggrieved party may appeal the order of the Med-Arbiter to the Secretary on the ground that the rules and regulations or parts thereof established by the Secretary for the conduct of election have been violated.
>
> "x x x." (Italics supplied)
>
> Not all the orders issued by a med-arbiter are appealable. In fact, "interlocutory orders issued by the med-arbiter prior to the grant or denial of the petition, including orders granting motions for intervention issued after an order calling for a certification election, shall not be appealable. However, any issue arising therefrom may be raised in the appeal on the decision granting or denying the petition."[9]

The intention of the law is to limit the grounds for appeal that may stay the holding of a certification election. This intent is manifested by the issuance of Department Order No. 40.[10] Under the new rules, an appeal of a med-arbiter's order to hold a certification election will not stay the holding thereof where the employer company is an unorganized establishment, and where no union has yet been duly recognized or certified as a bargaining representative.

This new rule, therefore, decreases or limits the appeals that may impede the selection by employees of their bargaining representative. Expediting such selection process advances the primacy of free collective bargaining, in accordance with the State's policy to "promote and emphasize the primacy of free collective bargaining x x x"; and "to ensure the participation of workers in decision and policy-making processes affecting their rights, duties and welfare."[11]

Consequently, the appeal of the med-arbiter's January 13, 1992 handwritten notation -- pertaining to the incidental matter of the list of voters -- should not stay the holding of the certification election.

More important, unless it filed a petition for a certification election pursuant to Article 258 of the Labor Code,[12] the employer has no standing to question the election, which is the sole concern of the workers. The Labor Code states that any party to an election may appeal the decision of the med-arbiter.[13] Petitioner was not such a party to the proceedings, but a stranger which had no right to interfere therein.

In Joya vs. PCGG,[14] this Court explained that "'legal standing' means a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the act that is being challenged. The term 'interest' is material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. Moreover, the interest of the party plaintiff must be personal and not one based on a desire to vindicate the constitutional right of some third and unrelated party."[15]

Clearly, petitioner did not and will not sustain direct injury as a result of the non-inclusion of some of its employees in the certification election. Hence, it does not have any material interest in this case. Only the employees themselves, being the real parties-in-interest,[16] may question their removal from the voters' list.

To buttress its locus standi to question the certification election, petitioner argues that it has the support of all the excluded employees. This support was made known to the representation officer in a letter stating the employees' desire to participate in the certification election.[17] To lend plausibility to its argument, petitioner cites Monark International vs. Noriel,[18] Eastland Manufacturing Company vs. Noriel[19] and Confederation of Citizens Labor Union vs. Noriel.[20] It argues that in the instances therein, management was allowed to interfere in certification elections.

All these cases, though, state precisely the opposite. True, as unequivocally stated in the law,[21] all employees should be given an

opportunity to make known their choice of who shall be their bargaining representative. Such provision, however, does not clothe the employer with the personality to question the certification election. In Monark International,[22] in which it was also the employer who questioned some incidents of one such election, the Court held:

> "There is another infirmity from which the petition suffers. It was filed by the employer, the adversary in the collective bargaining process. Precisely, the institution of collective bargaining is designed to assure that the other party, labor, is free to choose its representative. To resolve any doubt on the matter, certification election, to repeat, is the most appropriate means of ascertaining its will. It is true that there may be circumstances where the interest of the employer calls for its being heard on the matter. An obvious instance is where it invokes the obstacle interposed by the contract-bar rule. This case certainly does not fall within the exception. Sound policy dictates that as much as possible, management is to maintain a strictly hands-off policy. For if it does not, it may lend itself to the legitimate suspicion that it is partial to one of the contending choices in the election."[23]

This Court would be the last agency to support an attempt to interfere with a purely internal affair of labor.[24] The provisions of the Labor Code relating to the conduct of certification elections were enacted precisely for the protection of the right of the employees to determine their own bargaining representative. Employers are strangers to these proceedings. They are forbidden from influencing or hampering the employees' rights under the law. They should not in any way affect, much less stay, the holding of a certification election by the mere convenience of filing an appeal with the labor secretary. To allow them to do so would do violence to the letter and spirit of welfare legislations intended to protect labor and to promote social justice.

WHEREFORE, the Petition is **DENIED**, and the assailed Resolution **AFFIRMED**. Costs against petitioner.

SO ORDERED.

Davide, Jr., *C.J., (Chairman)*, Ynares-Santiago, Carpio, and Azcuna, *JJ.*, concur.

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[1] Rollo, pp. 3-26.
[2] Id., pp. 27-40. First Division. Penned by Justice Presbitero J. Velasco Jr., with the concurrence of Justices Salome A. Montoya (presiding justice and Division chair) and Bernardo Ll. Salas (member).
[3] Id., pp. 41-42. Special Former First Division. Penned by Justice Presbitero J. Velasco Jr., with the concurrence of Justices Buenaventura J. Guerrero (Division chair) and Conrado M. Vasquez Jr.
[4] Assailed CA Decision, p. 13; rollo p. 39.
[5] Id., pp. 2-6 & 28-32.
[6] The case was deemed submitted for decision on December 20, 2002, upon this Court's receipt of the Office of the Solicitor General's Memorandum, signed by Assistant Solicitor General Nestor J. Ballacillo and Associate Solicitor Raymond Joseph G. Javier. Petitioner's Memorandum, signed by Attys. A. B. F. Gaviola Jr. and Marie Josephine C. Suarez, was also received by the Court on December 20, 2002. Private respondent's Memorandum, signed by Atty. Marcos L. Estrada Jr., was received by the Court on the same date.
[7] Petitioner's Memorandum, p. 8; rollo, p. 211. Original in upper case.
[8] Rollo, p. 65.
[9] Section 12, Rule XI, Book Five of the Omnibus Rules Implementing the Labor Code.
[10] The amendatory rules pertaining to Book Five of the Labor Code. Issued on February 17, 2003.
[11] Article 211 A (a) and (g) of the Labor Code.
[12] Philippine Telegraph & Telephone Corp. vs. Laguesma, 223 SCRA 452, June 17, 1993; Philippine Scout Veterans Security and Investigation Agency vs. Torres, 224 SCRA 682, July 21, 1993; R. Transport Corporation vs. Laguesma, 227 SCRA 826, November 16, 1993.
[13] Article 259 of the Labor Code.
[14] 225 SCRA 568, August 24, 1993.
[15] Id., p. 576, per Bellosillo, J. See also Hechanova vs. Hon. Adil, 228 Phil. 425, September 25, 1986; Calderon vs. Solicitor General, 215 SCRA 876, November 25, 1992; St. Luke's Medical Center, Inc. vs. Torres, 223 SCRA 779, June 29, 1993; Ortigas & Company Limited Partnership vs. Velasco, 234 SCRA 455, July 25, 1994 and Velarde vs. Social Justice Society, GR No. 159357, April 28, 2004.
[16] Section 2, Rule 3 of the Rules of Court.
[17] Petitioner's Memorandum, p. 21; rollo, p. 224.
[18] 83 SCRA 114, May 11, 1978.
[19] 197 Phil. 624, February 10, 1982.

[20] 202 Phil. 249, September 21, 1982.
[21] Article 243 of Title V of Book Five of the Labor Code.
[22] Supra.
[23] Id., p. 118-119, per Fernando, J.
[24] Eastland Manufacturing Company, Inc. vs. Noriel, supra.