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**SUPREME COURT
SECOND DIVISION**

**TRADE UNIONS OF THE PHILIPPINES
AND ALLIED SERVICES WORLD
FEDERATION OF TRADE UNIONS
(TUPAS-WFTU),**

Petitioners,

-versus-

**G.R. No. 102350
June 30, 1994**

**HON. BIENVENIDO E. LAGUESMA, IN
HIS CAPACITY AS UNDERSECRETARY
OF LABOR & EMPLOYMENT AND
NATIONAL FEDERATION OF LABOR
UNIONS (NAFLU),**

Respondents.

X-----X

DECISION

PUNO, J.:

The records reveal that the rank-and-file employees of the Philippine Development and Industrial Corporation (PDIC), represented by petitioner Trade Unions of the Philippines and Allied Services (TUPAS), entered into a collective bargaining agreement with said company. The CBA expired on April 31, 1991.

On March 8, 1991, PDIC received a letter from the president of petitioner's local chapter union. The company was informed that the union had resolved to disaffiliate from petitioner and affiliate with private respondent National Federation of Labor Unions (NAFLU). PDIC entertained reservations about the validity of the disaffiliation. It was not clear whether the union's board resolution to disaffiliate was ratified by the majority of its members. Furthermore, PDIC had received reports that some employees were coerced to support the disaffiliation.

On April 24, 1991, within the 60-day freedom period, PDIC and private respondent NAFLU filed separate petitions for certification election with the Department of Labor and Employment (DOLE), Regional Office No. 3 in San Fernando, Pampanga. Both petitions prayed for the holding of a certification election between NAFLU and petitioner TUPAS, to determine the collective bargaining agent of the rank-and-file employees in PDIC's plant and quarry. The two petitions were consolidated and docketed as Case No. RO33-9104-RU-006, with petitioner TUPAS as compulsory intervenor.

On May 14, 1991, petitioner TUPAS filed an Urgent Motion To Refer Case To LACC Fraternal Relations Committee, citing paragraph 1(b) of the LACC (Labor Advisory Consultative Council) Code of Ethics which provides:

“1. Non-Union raiding

x x x

b. Where company is organized.

All organized local affiliates or unions of any LACC member must be discouraged from disaffiliating from their incumbent labor federations/national union affiliation. However, LACC recognizes the ultimate authority and right of the local unions to decide for themselves during the freedom period. In the event that said local unions intend to disaffiliate from any LACC member and to affiliate with another member, the latter must inform the former about the intention of their said local union and to settle the matter by themselves. If not so settled, the matter will be brought to the

attention of the Fraternal Relations Committee of the LACC for final determination or settlement.”^[1]

Said Code of Ethics was adopted and signed by four base organizations, namely: Kilusang Mayo Uno (KMU), to which private respondent NAFLU is affiliated; Federation of Free Workers (FFW); Lakas ng Manggagawa Labor Center (LMLC); and Philippine World Federation of Trade Unions (WFTU) Affiliates, which includes petitioner TUPAS.^[2] Petitioner urged the DOLE to “give its imprimatur and uphold the binding effect of the Code among the LACC members.”^[3]

Despite the Urgent Motion, Med-Arbiter Antonio R. Cortez, on June 3, 1991, issued an Order with the following dispositive portion:

“ACCORDINGLY, let a certification election be conducted among the regular rank-and-file employees of the Philippine Development and Industrial Corporation, with the following choices, to wit:

1. National Federation of Labor Unions (NAFLU);
2. Trade Unions of the Philippines Allied Services (TUPAS); and
3. No Union.

“The January 1991 payrolls shall be used as the basis to determine the qualified voters in this election.

“A pre-election conference intended to thresh out the mechanics of the aforesaid election will be called by this Office after ten (10) days from receipt hereof.

“SO ORDERED.”

The Order was appealed to the Secretary of Labor and Employment, and the case was docketed as OS-MA-A-7-212-91. On August 15, 1991, the Secretary of Labor and Employment affirmed the Order. Labor Undersecretary Laguesma held, viz:

“This Code of Ethics being invoked by TUPAS is internal to the Labor Advisory and Consultative Council (LACC). In other words, it behooves on the signatories to the Code to comply and respect its provisions. This Office, therefore, can only take cognizance of the Code and recognize its provisions if the parties thereto fully and mutually respect the same. Otherwise, we are left with no other recourse but to dispose of the instant case on the basis of existing and applicable laws and rules.

“It appears that total reliance on the Code of Ethics is misplaced. It must be pointed out that no less than the aforementioned provision of the Code of Ethics recognizes the ‘ultimate authority and right of the local unions to decide for themselves during the freedom period.’ Necessarily, the Code of Ethics itself does not sanction any act that would curtail the right of the workers to institute petitions for certification election during the freedom period, as in the case at bar.

“The emphasis given by the Code of Ethics on the right of the local unions to decide for themselves during the freedom period is in accordance with the provision of the Labor Code which allows another union to question the majority status of the incumbent bargaining agent within the sixty-day freedom period. This is embodied in Article 256 of the Labor Code, as amended by RA 6715, to wit:

‘Art. 256. Representation issue in organized establishments. In organized establishments, when a verified petition questioning the majority status of the incumbent bargaining agent is filed before the Department of Labor and Employment within the sixty-day period before the expiration of a collective bargaining agreement, the Med-Arbitrator shall automatically order an election by secret ballot when the verified petition is supported by the written consent of at least twenty-five per cent (25%) of all the employees in the bargaining unit to ascertain the will of the employees in the appropriate bargaining unit.’

“It being not disputed that the petition of NAFLU is sufficient in form and in substance, a certification election is indeed warranted.”^[4]

On October 7, 1991, respondent undersecretary denied petitioner’s motion for reconsideration.

On October 27, 1991, a certification election was conducted among the rank-and-file workers of PDIC at Iba, Meycauayan, Bulacan. One hundred eighteen (118) of the one hundred thirty-six (136) qualified voters participated in the elections. Petitioner garnered six (6) votes, while private respondent got one hundred twelve (112). On November 5, 1991, Med-Arbiter Antonio R. Cortez issued an Order certifying private respondent as the sole and exclusive bargaining agent of all rank-and-file workers of PDIC.^[5]

Thus, on November 6, 1991, petitioner filed this original action for Certiorari and Mandamus with Prayer for the Issuance of Temporary Restraining Order and/or Preliminary Injunction, “seeking to ANNUL the questioned Resolution dated August 15, 1991, and the Order dated October 7, 1991.”^[6]

On November 18, 1991, we issued a temporary restraining order enjoining respondents from enforcing the impugned Resolution and Order.

We find no merit in the petition.

Public respondent did not act with grave abuse of discretion amounting to lack or excess of jurisdiction in affirming the Med-Arbiter’s Order, dated June 3, 1991. The order for the holding of a certification election among the rank-and-file employees of PDIC finds legal warrant in Art. 256 of the amended Labor Code, as earlier quoted. Under said provision, the Med-Arbiter shall automatically order a certification election by secret ballot in an organized establishment such as PDIC, provided the following requisites are met: (1) that a petition questioning the majority status of the incumbent bargaining agent is filed before the DOLE within the sixty-day freedom period; (2) that such petition is verified; and (3) that the petition is supported by the written consent of at least twenty-five

(25%) per cent of all employees in the bargaining unit. It is undisputed that all these requirements were met by private respondent NAFLU in its petition before the DOLE Regional Office No. 3, in San Fernando, Pampanga. Thus, Med-Arbiter Cortez, acting in accordance with Art. 256 of the Labor Code, as amended, had no recourse but to automatically order the holding of a certification election at PDIC.

It bears stressing that no obstacle must be placed to the holding of certification elections,^[7] for it is a statutory policy that should not be circumvented.^[8] We have held that whenever there is doubt as to whether a particular union represents the majority of the rank-and-file employees, in the absence of a legal impediment, the holding of a certification election is the most democratic method of determining the employees' choice of their bargaining representative. It is the appropriate means whereby controversies and disputes on representation may be laid to rest, by the unequivocal vote of the employees themselves.^[9] Indeed, it is the keystone of industrial democracy.

Art. 256 of the Labor Code cannot be supplanted by the Code of Ethics of the LACC. Said Code cannot amend or repeal a law. And, as correctly observed by the Office of the Solicitor General, it merely provides for a voluntary mechanism to settle intra-union disputes. It only applies when both parties to the dispute seek the mediation of said Committee. However, when one of the parties decides to avail of the remedy provided for under Art. 256 of our Labor Code and files the proper petition with the DOLE, jurisdiction over the dispute is exclusively acquired by and cannot be wrenched away from the Med-Arbiter. It is familiar learning that jurisdiction is vested by law, and not by agreement between or among the parties. Moreover, labor disputes involve public interest, and hence any private agreement on their settlement cannot prevail over what is provided for by our laws.

The court also recognizes the fact that the certification election sought to be stopped by petitioner is now fait accompli, and the rank-and-file employees of PDIC have articulated their choice as to who shall be their collective bargaining agent in no uncertain terms. In the certification election legally held before we issued our temporary restraining order in the case, the PDIC workers voted, 112 to 6 (with

18 qualified voters not participating in the election), to make private respondent their sole and exclusive bargaining agent. This democratic decision deserves utmost respect, especially since it was not attended by any legal infirmity. Again, it bears stressing that labor legislation seeks in the main to protect the interest of the members of the working class. It should never be used to subvert their will.

IN VIEW WHEREOF, the Petition is **DISMISSED** for lack of merit. The Resolution dated August 15, 1991, and the Order dated October 7, 1991 of respondent Department of Labor and Employment Undersecretary Bienvenido E. Laguesma in OS-MA-A-7-212-91 is hereby **AFFIRMED IN TOTO**.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado and Mendoza, JJ., concur.

[1] Annex “J” of the Petition, p. 1; Rollo, p. 42.

[2] Ibid., at p. 2; Rollo, p. 43. See Petition, p. 3; Rollo, p. 4.

[3] Annex “C” of the Petition, p. 2; Rollo, p. 20.

[4] Annex “G” of the Petition, pp. 4-5; Rollo, pp. 33-34.

[5] Rollo, p. 84.

[6] Petition, pp. 1-2; Rollo, pp. 2-3.

[7] See *Warren Manufacturing Workers Union vs. Bureau of Labor Relations*, 159 SCRA 387 (1988); *General Textiles Allied Workers Association vs. Director of Bureau of Labor Relations*, 84 SCRA 430 (1978); *Philippine Association of Free Labor Unions vs. Bureau of Labor Relations*, 69 SCRA 132 (1976).

[8] *Belyca Corporation vs. Ferrer-Calleja*, 168 SCRA 184 (1988); *Philippine Airlines Employees’ Association (PALEA) vs. Ferrer-Calleja*, 162 SCRA 426 (1988); *George and Peter Lines, Inc. vs. Associated Labor Unions (ALU)*, 134 SCRA 82 (1986).

[9] *PALEA vs. Ferrer-Calleja*, supra.