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**SUPREME COURT  
FIRST DIVISION**

**ALFONSO UMALI, FOR AND IN  
BEHALF OF 201 MEMBERS OF THE  
INDEPENDENT EMPLOYEES UNION,  
*Petitioner,***

***-versus-***

**G.R. No. L-2771  
April 29, 1950**

**PRIMITIVO LOVINA, IN HIS  
CAPACITY AS SECRETARY OF LABOR  
OF THE PHILIPPINES,  
*Respondent.***

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**DECISION**

**PADILLA, J.:**

***PABLO, M., disidente.:***

This is a Petition for a Writ of Mandamus. It is alleged that on 25 November 1948, two hundred one (201) employees of the Jai Alai Corporation of the Philippines banded and organized themselves into an association or union adopting "Independent Employees Union" as the name of their guild. The objectives, aims, or purposes of the union are as those set forth in section 2 of Commonwealth Act 213. On 29 December, the union filed with the Department of Labor a copy of its

constitution and by-laws (Appendices A and A-1). On 7 January 1949, the President of the Independent Employees Union wrote a letter to the Secretary of Labor requesting immediate and favorable action on the pending application for registration of their labor organization (Appendix B). On the same date, the Secretary of Labor wrote a letter to the President of the Jai Alaistas Union of Employees, a registered and licensed union, granting it an extension of time, or until the 15th of the month, to hold an election under the supervision of the Department of Labor, and warning the President of the union that should the election be not held within the time granted, he would be compelled to register and issue a permit to the Independent Employees Union (Appendix C). In answer to said letter, the President of the Jai Alaistas Union of Employees informed the Secretary of Labor that his union had advanced the date of the general meeting to 23 instead of 30 January and reiterated that if the by-laws be amended and the term of office of the board of directors be shortened, another election would immediately be held for the purpose of electing a new board of directors in accordance with the by-laws (Appendix D). On 15 January, the Secretary of Labor wrote a letter to the President of the Independent Employees Union, advising him that, in connection with the application for registration of the Independent Employees Union, he would not register it, because its registration would be contrary to his policy of allowing one union only in one company, especially if the unions be of the same nature, but that should the Jai Alaistas Union of Employees fail to hold an election on 23 January 1949, in accordance with the amended by-laws, he would register the Independent Employees Union on the following day - 24 January (Appendix E). Despite the failure of the Jai Alaistas Union of Employees to hold a general election and the promise of the Secretary of Labor that should such an election be not held, he would register the Independent Employees Union the following day, the said secretary has refused and still refuses to register the application and to issue a permit to the Independent Employees Union to operate as a legitimate labor organization.

In his amended answer, the respondent justifies his failure to register and to issue the permit applied for upon the following grounds: (1) that there is no formal application filed by the petitioner's union; (2) that up to the time of the filing of his amended answer he has not investigated the activities, real aims, and purposes of the Independent

Employees Union, as required of him by section 3 of Commonwealth Act 213, due to the failure of the petitioner's union or its officials to accomplish and submit to him the mimeographed questionnaire required to be filled out by the labor union applicant; (3) that such failure to register and issue the permit is due to his policy of recognizing one union only in one company, which does not contravene any of the provisions of Commonwealth Act 213; (4) that there is no fixed period provided for in Commonwealth Act 213, within which he as Secretary of Labor must complete his investigation and act upon the application; (5) that he has not denied or turned down the application for registration and the issuance of the permit to operate as a legitimate labor organization, nor has he committed a grave abuse of discretion in not registering the papers filed by the petitioner's union and issuing the permit applied for; and (6) that he is clothed with discretion to issue or not the permit applied for.

Although there is no allegation either in the original or in the amended petition that a formal application for registration and permit was filed, the fact is that the respondent in his letter of 15 January 1949 addressed to the petitioner, as President of the Independent Employees Union, made reference to an application for registration (Appendix E). In the letter of 7 January 1949 of the Independent Employees Union to the respondent, mention was made four times of a pending application or petition for registration. On 3 February 1949 a formal application for registration and permit was filed in behalf of the Independent Employees Union by the National Labor Union (Annex 2 of the answer).

Section 3 of Commonwealth Act 213 provides that after the filing of an application to register and operate as a legitimate labor organization, the Secretary of Labor "shall conduct an investigation of the activities of the applying labor organization and if, on such investigation, it shall appear that the applicant is entitled to registration, he shall issue a permit therefor upon payment of the registration fee of five pesos: \*\*\*." It is claimed that this investigation has not been completed or accomplished because of the union's failure to fill out a questionnaire. An investigation to be conducted by the Secretary of Labor need not take the form of a questionnaire. What is asked in the questionnaire may be secured by other means. He or his representative should conduct and complete that

investigation within a reasonable time. The failure of the officials of the petitioner's union to answer or fill out the questionnaire is no lawful excuse or reason for the respondent to neglect the performance of his duty of conducting and completing the investigation required by section 3 of Commonwealth Act 213. That the objectives, purposes, or aims of the petitioner's union are lawful and in accordance with the provisions of section 2 of Commonwealth Act 213 cannot be successfully gainsaid, for the respondent had written to the President of the Jai Alai Union of Employees that, if an election be not held on or before the 15th of January 1949, he would be compelled to register and issue the permit to the petitioner's union - Independent Employees Union (Exhibit C.) Again, on 15 January 1949, in connection with the application of the petitioner's union for registration, the respondent informed the petitioner, as President of the union, that should the Jai Alai Union of Employees fail to hold an election on the 23rd day of January 1949, he would register the petitioner's union the following day - 24 January 1949. These statements could not have been made by the respondent without his department having conducted an investigation of the activities of the petitioner's union to determine whether it is entitled to registration and without he having found in or as a result of such investigation that the purposes, aims, or objectives of the petitioner's union do not tend "to undermine and destroy the constituted government or to violate any law or laws of the Philippines," which is the only ground or reason for refusing the registration and permission to operate as a legitimate labor organization, as provided for in section 2 of Commonwealth Act 213.

There being no lawful reason for the respondent to refuse the registration of the application for the petitioner's union and permission to operate as a legitimate labor organization; it being the duty of the respondent to register the application and issue the permit upon payment of the required fee, as provided for in section 3 of Commonwealth Act No. 213, the investigation to be conducted by him, as required by law, having been conducted and completed, as may be inferred from his official statements in connection therewith, the conclusion is inescapable that he has neglected the performance of an act which the law specifically enjoins him to perform as a duty resulting from his office, and that such neglect unlawfully excludes the petitioner's union from the use and enjoyment of a right to which

it is entitled. It appearing further that there is no other plain, speedy, and adequate remedy in the ordinary course of law, the writ prayed for should be, as is hereby, granted, without costs.

**Writ granted.**

**Moran, C.J., Ozaeta, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.**

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## **SEPARATE OPINION**

***PABLO, M., disidente.:***

La Ley No. 213 del Commonwealth en su artículo primero dispone que la constitución y reglamento interior de un organismo obrero no deben ser “contrarios o incompatibles con las leyes de Filipinas.” Y el artículo 2 en parte dispone que “no se denegará dicha inscripción y permiso a ningún organismo obrero, a menos que éste tenga por objeto socavar y destruir el Gobierno constituido o infringir cualquiera ley o leyes de Filipinas, caso en que se le denegará la inscripción y el permiso de funcionar como organismo obrero legítimo.” El artículo 3 dispone que la solicitud de inscripción se presentará al Secretario del Trabajo, “y dicho Secretario investigará las actividades del organismo obrero solicitante y, si de dicha investigación resultare que el solicitante tiene derecho a la inscripción, se la expedirá el permiso correspondiente.”

Según la contestación del Secretario, los funcionarios de la unión solicitante no han devuelto aún el cuestionario con las contestaciones correspondientes. A falta del cumplimiento de este requisito, el Secretario del Trabajo no considera terminada su investigación. No consta en qué consiste este cuestionario pero debe ser importante, debe requerir ciertos datos indispensables para que el Departamento del Trabajo tenga perfecto conocimiento de los fines que persigue la unión y los medios de que dispone. El Departamento del Trabajo es el que debe determinar que clase de informaciones necesita para poder

decidir a conciencia si un organismo solicitante está en condiciones o no de llevar a cabo los fines que persigue. No nos consta que las contestaciones no son indispensables; pero cuando el Secretario del Trabajo las requiere es de presumir que no son datos inútiles. Obligar al Departamento del Trabajo que expida el permiso a un solicitante, sin haber éste devuelto aún sus contestaciones al cuestionario es convertirle no en departamento con poderes para gobernar sino convertirle en un simple títere. Eso equivale a ordenar a un juzgado que dicte sentencia en un sentido determinado estando aun pendiente la presentación de ciertas pruebas - en el caso presente, contestaciones al cuestionario - que en su opinión son indispensables para esclarecer la verdad. No creo que fué la intención de la Legislatura crear departamentos-maniquíes. Las partes de los artículos de la ley transcritas demuestran a la legua que el Secretario del Trabajo tiene discreción para conceder o no el permiso. Lo más que este Tribunal puede ordenar, bajo los hechos sobre que descansa la opinión de la mayoría, es ordenar al Secretario que resuelva la petición concediendo el permiso o no.

Voto por que se deniegue la solicitud.

Writ granted.