SUPREME COURT
SECOND DIVISION

VASSAR INDUSTRIES EMPLOYEES UNION (VIEU),
***Petitioner*,**

-versus-

G.R. No. L-46562
March 31, 1978

HON. FRANCISCO L. ESTRELLA; as Acting Director of the Bureau of Labor Relations, ASSOCIATED LABOR UNIONS (ALU), and VASSAR INDUSTRIES, INC.,
***Respondents*.**
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D E C I S I O N

FERNANDO, *J.*:

There appears to be as yet a failure to grasp the scope and amplitude of the constitutional right to freedom of association.[1] That seems to be the only explanation, but certainly not the justification, for the refusal of respondent Francisco L. Estrella, then the Acting Director of the Bureau of Labor Relations, to register petitioner Vassar Industries Employees Union.[2] His communication to that effect is worded thus: "We are hereby returning the application for registration of the [Vassar Industries Employees Union] together with

all the accompanying documents with the information that the application is denied on the ground that there is already a registered collective bargaining agent in the company."[3] Petitioners prayed that a restraining order be issued, and, after hearing, that its application for registration be given due course. Accordingly, in a resolution dated August 29, 1977, this Court issued such restraining order and required comment from the respondents. The comment of the then Acting Solicitor General Vicente V. Mendoza,[4] after setting forth the pertinent facts, submitted this conclusion; "From the aforestated undisputed facts, it is the considered opinion of this representation that the actuation of the then Acting [Bureau of Labor Relations] Director cannot be sustained for the following reasons: a) the ground for the denial of the registration of petitioner union is the existence of a registered collective bargaining agent, but this is erroneous since the CBA expired on May 15, 1977, and the records do not show that [the Associated Labor Union] has been certified anew. b) Besides, the registration of a labor union is not solely for the purpose of qualifying the union as the exclusive collective bargaining agent since it is entitled to other rights and prerogatives as enumerated in Art. 243 of the Labor Code. c) As long as an applicant union complies with all of the legal requirements for registration, it becomes the BIR's ministerial duty to so register the union. d) No hearing, whatsoever, was conducted to ascertain the existence of a collective bargaining agent, thus depriving petitioner union of its day in court."[5] His recommendation is "that the case be ordered remanded to the BLR for the registration of the petitioner union."[6] The other private respondents also submitted their comments but failed to meet squarely the issue of the failure to comply with the constitutional mandate of freedom of association. It is thus obvious that the petition is impressed with merit.

There is no dispute on the facts. There was in existence a collective bargaining agreement between private respondents Associated Labor Unions and Vassar Industries, Inc. which expired on May 15, 1977. Prior to such date, 111 of a total number of 150 employees of such firm disaffiliated from the former labor organization and formed their own union. Thereafter, they filed an application for registration of their union with the Bureau of Labor Relations, complying with all the requirements of both the Labor Code and its implementing regulations. While such application was pending, petitioner Union

filed a petition for certification as bargaining agent for the rank-and-file employees of the company. The Med-Arbiter, on May 24, 1977, denied their plea on the ground that the union was not duly registered with the Department of Labor. Then came a motion for reconsideration praying that the dismissal be set aside until action be taken on its pending application for registration. On July 5, 1977, respondent Estrella, then Acting Director of the Bureau of Labor Relations, denied, as previously noted, the application for registration "on the ground that there is a registered collective bargaining agent in the company." Hence this petition. It should also be noted that there is this submission in the comment of the then Acting Solicitor General Vicente V. Mendoza: "It may not be amiss to mention herein that before filing the instant comment, prior consultation was made with Director Carmelo C. Noriel of the Bureau of Labor Relations, and he shares our view on the matter leaving it to the undersigned to make the appropriate recommendation in the premises to this Honorable Court."[7]

The petition, to repeat, is impressed with merit. *Certiorari* lies.

1. In U.E. Automotive Employees and Workers Union vs. Noriel,[8] reference was made to the fact that a notable feature of our Constitution is that "freedom of association is explicitly ordained; it is not merely derivative, peripheral or penumbral, as is the case in the United States. It can trace its origin to the Malolos Constitution."[9] An earlier decision, Federacion Obrera vs. Noriel,[10] sets forth the scope and amplitude of such right: "Clearly, what is at stake is the constitutional right to freedom of association on the part of employees. Petitioner labor union was in the past apparently able to enlist the allegiance of the working force in the Anglo-American Tobacco Corporation. Thereafter, a number of such individuals joined private respondent labor union. That is a matter clearly left to their sole uncontrolled judgment. There is this excerpt from Pan American World Airways, Inc. vs. Pan American Employees Association 'There is both a constitutional and statutory recognition that laborers have the right to form unions to take care of their interests *viz-a-viz* their employees. Their freedom to form organizations would be rendered nugatory if they could not choose their

own leaders to speak on their behalf and to bargain for them.' It cannot be otherwise, for the freedom to choose which labor organization to join is an aspect of the constitutional mandate of protection to labor. Prior to the Industrial Peace Act, there was a statute setting for the guidelines for the registration of labor unions. As implied in Manila Hotel Co. vs. Court of Industrial Relations, it was enacted pursuant to what is ordained in the Constitution. Thus, in Umali vs. Lovina, it was held that mandamus lies to compel the registration of a labor organization. There is this apt summary of what is signified in Philippine Land-Air-Sea Labor Union vs. Court of Industrial Relations, 'to allow a labor union to organize itself and acquire a personality distinct and separate from its members and to serve as an instrumentality to conclude collective bargaining agreements.' It is no coincidence that in the first decision of this Court citing the Industrial Peace Act, Pambujan United Mine Workers vs. Samar Mining Company, the role of a labor union as the agency for the expression of the collective will affecting its members both present and prospective, was stressed. That statute certainly was much more emphatic as to the vital aspect of such a right as expressly set forth in the policy of the law. What is more, there is in such enactment this categorical provision on the right of employees to self-organization: 'Employees shall have the right to self-organization and to form, join or assist labor organizations of their own choosing for the purpose of collective bargaining through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection.' The new Labor Code is equally explicit on the matter. Thus: 'The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure and just and humane conditions of work.'"[11]

2. Equally so, whatever question may arise from the disaffiliation was set at rest by a recent decision of this Court in Philippine Labor Alliance Council vs. Bureau of Labor Relations.[12] Thus: "It is indisputable that the present controversy would not have arisen if there were no mass

disaffiliation from petitioning union. Such a phenomenon is nothing new in the Philippine labor movement. Nor is it open to any legal objection. It is implicit in the freedom of association explicitly ordained by the Constitution. There is then the incontrovertible right of any individual to join an organization of his choice. That option belongs to him. A workingman is not to be denied that liberty. He may be, as a matter of fact, more in need of it the institution of collective bargaining as an aspect of industrial democracy is to succeed. No obstacle that may possibly thwart the desirable objective of militancy in labor's struggle for better terms and conditions is then to be placed on his way. Once the fact of disaffiliation has been demonstrated beyond doubt, as in this case, a certification election is the most expeditious way of determining which labor organization is to be the exclusive bargaining representative. It is as simple as that."[13]

3. The only novel feature of this case then is the fact that, as noted in the comment of private respondent Associated Labor Unions, there was subsequently entered into a collective bargaining agreement with the other private respondent Vassar Industries, Inc. on September 26, 1977, allegedly containing "substantial benefits for the employees, which contract (CBA) was approved and ratified by the majority of the general membership or employees of the Vassar Industries, Inc."[14] It is on that basis that a dismissal of the petition is sought. It may be stated at the outset that while such collective bargaining agreement was entered into during the pendency of a restraining order issued by this Court as far back as August 29, 1977, it may be argued that there is no technical violation as the restraining order sought by petitioner labor union was limited to preventing the two private respondents "from continuing to check-off the petitioner's members who disaffiliated from the ALU of union dues and other assessments, until further orders from this Honorable Court.[15] Nonetheless, it is quite obvious that when the two parties entered into such a collective bargaining agreement, such a move was motivated by the desire to impart a moot and academic aspect to this petition. It should not therefore elicit the approval of this Court,

especially so as upon the expiration of the collective contract, it is made "the duty of both parties to keep the status quo and to continue in full force and effect the terms and conditions of the existing agreement during the sixty-day period and/or until a new agreement is reached by the parties."[16] With a pending petition for certification, any such agreement entered into by management with a labor organization is fraught with the risk that such a labor union may not be chosen thereafter as the collective bargaining representative. That is the situation that is confronted by private respondents. Any other view would render nugatory the clear statutory policy to favor certification election as the means of ascertaining a true expression of the will of the workers as to which labor organization would represent them.[17]

4. Now for the appropriate remedy. The prayer in the petition is limited to ordering respondent official to give due course to petitioner's application for registration.[18] As this is a *certiorari* proceeding, equitable in character, this Court is empowered to grant the relief adequate and suitable under the circumstances so that justice in all its fullness could be achieved. There is this affirmation in the comment of the then Acting Solicitor General Vicente V. Mendoza as counsel for respondent Estrella: "As long as an applicant union complies with all of the legal requirements for registration, it becomes the BLR's ministerial duty to so register the union."[19] It suffices then to order that petitioner Union be registered, there being no legal obstacle to such a step and the duty of the Bureau of Labor Relations being clear. Then there is this ruling in Philippine Labor Alliance Council vs. Bureau of Labor Relations[20] that calls for application that "once the fact of disaffiliation has been demonstrated beyond doubt, as in this case, a certification election is the most expeditious way of determining which labor organization is to be the exclusive bargaining representative."[21] In the meanwhile, if as contended by private respondent labor union the interim collective bargaining agreement, which it engineered and entered into on September 26, 1977, has much more favorable terms for the workers of private

respondent Vassar Industries, then it should continue in full force and effect until the appropriate bargaining representative is chosen and negotiations for a new collective bargaining agreement thereafter concluded. This is one way of assuring that both the social justice.[22] And the protection to labor provisions[23] would be effectively implemented without sanctioning an attempt to frustrate the exercise of this Court's jurisdiction in a pending case.

WHEREFORE, the writ of *certiorari* is granted and the Bureau of Labor Relations ordered to conduct at the earliest practicable date of a certification election with petitioner labor union, Vassar Industries Labor Union, and private respondent labor union, Associated Labor Unions, participating therein to determine the exclusive bargaining representative of the workers employed in Vassar Industries, Inc. This decision is immediately executory.

Barredo Antonio, Aquino, Concepcion Jr., and Santos, *JJ.*, concur.

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[1] According to Article IV, Section 7 of the Constitution: "The right to form associations or societies for purposes not contrary to law shall not be abridged."
[2] The private respondents are the Associated Labor Unions and the Vassar Industries, Inc.
[3] Petition, paragraph 6.
[4] He was assisted by Assistant Solicitor General Reynato S. Puno and Solicitor Ramon A. Barcelona.
[5] Comment, 2 and 3.
[6] Ibid, 4.
[7] Ibid, 3.
[8] L-44350, November 25, 1976, 74 SCRA 1963).
[9] Ibid, 75. Three American cases were cited: National Association for the Advancement of Colored People vs. Alabama, 357 US 449 (1958); Bates vs. City of Little Rock, 361 US 516 (1960); National Association for the Advancement of Colored People vs. Alabama, 371 US 415 (1963).
[10] L-41937, July 6, 1976, 72 SCRA 24.
[11] Ibid, 30-32. The Pan American World Airways decision, L-26094, April 29, 1969, is reported in 27 SCRA 1202; the Manila Hotel decision, in 80 Phil. 145 (1948); the Umali decision, in 86 Phil. 313 (1950); the Philippine Land-Air-Sea Labor Union decision, in 93 Phil. 747 (1953); and the Pambujan United Mine Workers decision, in 94 Phil. 932 (1954).

[12] L-41288, January 31, 1977, 75 SCRA 162.
[13] Ibid 167-168. The following cases were cited: Binalbagan-Isabela Sugar Co., Inc. vs. Philippine Association of Free Labor Unions, L-18782, Aug. 29, 1963, 8 SCRA 700; Itogon-Suyoc Mines Inc. vs. Baldo, L-17739, Dec. 24, 1964, 12 SCRA 699; Citizens Labor Union-CCLU vs. Court of Industrial Relations, L-24320, Nov. 12, 1966, 18 SCRA 624; Lakas ng Manggagawang Makabayan vs. Court of Industrial Relations, L-32178, Dec. 28, 1970, 36 SCRA 600; Philippine Association of Free Labor Unions (PAFLU) vs. Court of Industrial Relations, L-33781, Oct. 31, 1972, 47 SCRA 390; Federation of Free Workers vs. Paredes, L-36466, Nov. 26, 1973, 54 SCRA 75; Liberty Cotton Mills Workers Union vs. Liberty Cotton Mills, Inc., L-33987, Sept. 4, 1975, 66 SCRA 512. The latest case in point is Elisco-Elirol Labor Union vs. Noriel, L-41955, Dec. 29, 1977.
[14] Comment, 2.
[15] Petition, Prayer, 8.
[16] Article 254 of the Labor Code of the Philippines (1974).
[17] Cf. Philippine Association of Free Labor Unions vs. Bureau of Labor Relations, L-42115, Jan. 27, 1976, 69 SCRA 132; Federacion Obrera vs. Noriel L-41937, July 6, 1976, 72 SCRA 24; UE Automotive Employees and Workers Union-Trade Unions of the Philippines and Allied Services vs. Noriel, L-44350, Nov. 25, 1976, 74 SCRA 72; Philippine Labor Alliance Council vs. Bureau of Labor Relations, L-41288, Jan. 31, 1977, 75 SCRA 162; Today's Knitting Free Workers Union vs. Noriel, L-45057, Feb. 28, 1977, 75 SCRA 450; Benguet Exploration Miner's Union vs. Noriel, L-44110, March 29, 1977, 76 SCRA 107; Kapisanan vs. Noriel, L-45475, June 20, 1977, 77 SCRA 414; Rowell Labor Union-Trade Unions of the Philippines vs. Ople, L-42270, July 29, 1977, 78 SCRA 166.
[18] Petition, 8.
[19] Comment, 3.
[20] L-41288, January 31, 1977, 75 SCRA 162.
[21] Ibid, 168.
[22] According to Article II, Section 6 of the Constitution; "The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits."
[23] Section 9 reads: "The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the right of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."