

**15C & UP EMPLOYEES ASSOCIATION PETITIONER, V.S.
DEPARTMENT STORE AND BAZAAR FREE WORKERS’ UNION
RESPONDENT.**

G.R. No. L-9168. October 18, 1956

Ponente: LABRADOR, J.

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LABRADOR, J.:

Certiorari against an order of the Court of Industrial Relations certifying the Department Store and Bazaar Free Workers' Union as the exclusive bargaining representative of all the workers and employees of the 15c and Up Department Store, Inc. 438-442 Rizal Avenue, Manila in preference over petitioner 15c and Up employees Association. The petitioner is based on two grounds, first, in that the Court of Industrial Relations illegally excluded the vote of one Mrs. Virginia P. Oblea, permanent employee, whose name appeared in the list submitted by the petitioner, and second, that the said court abused its authority in suspending the election at 11:40 a.m. in violation of the provisions of Section 12(a) of Republic Act No. 875.

The first ground on which the petition is based may not be entertained by this Court as it involves a question of fact and there is no claim that the fact found by the Court of Industrial Relations is not substantiated by evidence. According to the order sought to be annulled, Virginia P. Oblea was not included in the list of those eligibles to vote, and this list, which was prepared by the Court of Industrial Relations, had become final. There is no claim or pretense that the exclusion of said name from the list prepared by the Court was improper or illegal, the only claim of petitioner being that the name was included in its own list. We cannot review the findings that said Virginia P. Oblea was not eligible to vote.

As to the suspension of the election the order states that by mutual agreement of the parties the same was closed at 11:30 a.m. Even if the law provides that certification elections are to continue until 7 o'clock in the evening, there is nothing therein which prohibits the parties in interest from waiving the rule and suspending the election by mutual agreement even before that time. Such in fact was what happened in this case. Beside, the court order states that even if two additional members were allowed to vote after 11:30 their vote would not have change the elections anyway. No substantial injury was done the petitioner, therefore, and no abuse of discretion, was committed.

The petition is denied, with costs.

Paras, C.J. Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

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