

**TODAY'S KNITTING FREE WORKERS UNION, PETITIONER, VS.
DIRECTOR CARMELO C. NORIEL OF THE BUREAU OF LABOR
RELATIONS, TODAY'S KNITTING COMPANY, INC., PHILIPPINE
NATIONAL UNION COUNCIL...**

G.R. No. L-45057. February 28, 1977

Ponente: FERNANDO, J.

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FERNANDO, J.:

What is assailed in this certiorari and prohibition petition is an order of respondent Director Carmelo C. Noriel requiring the holding of a certification election to determine who shall be the exclusive bargaining representative of the workers in respondent's Today's Knitting Company, Inc. There was the imputation of arbitrariness in its issuance, raising a procedural due process question. Petitioner Union premised its claim on the contention that it has been the duly recognized bargaining agent with an existing collective bargaining contract. Respondents[1] were required to comment. On January 27, 1977, respondent Director did so in a pleading filed by Solicitor General Estelito P. Mendoza and Assistant Solicitor General Reynato S. Puno. Such comment as well as that submitted by respondent Philippine National Union Council were considered as answers, and the petition was deemed submitted for decision. It is quite evident even from a cursory perusal of the responsive pleadings filed by the respondents that the challenged order is precisely in accordance with Article 257 of the Labor Code of the Philippines and is thus free from any infirmity. Much less could the allegation of arbitrariness be taken seriously. There was in addition the minor point raised that a memorandum circular of the Department of Labor was not observed by respondent Director. Outside of the well-settled principle that in certiorari proceedings, only a grave abuse of discretion would call for a reversal of the actuation complained of, a mere error of law not sufficing, it has likewise been pointed out in the comment of the Solicitor General that such memorandum circular, even on the assumption that there was no compliance with it, was issued on September 5, 1974 prior to the effectivity of the present Labor Code[2] which came into force on November 1 of that year. Clearly, the petition lacks merit.

It could be that in its attempt to impart some measure of plausibility, petitioner Union was far from precise in its allegation of facts. Such a deficiency was remedied in the comment filed on behalf of respondent Director. The matter in controversy started with the Philippine National Union Council, on April 1, 1976, filing with the Bureau of Labor Relations a petition for the holding of a certification election. It set forth therein that its ranks comprise a majority of membership at the Today's Knitting Company, Inc. It was also stated that at the hearing of such petition, the signatures of its members authorizing the filing of the petition would be submitted. There was, on May 4, 1976, a petition for intervention on behalf of petitioner Today's Knitting Free Workers Union. It saw no need for a certification election, asserting that it had already been voluntarily recognized by the management as the bargaining representative. The Bureau of Labor Relations received on the same day ten one-page resolutions by the rank-and-file employees of respondent Today's Knitting Company, Inc. authorizing the filing of the petition for certification election with a total of two hundred (200) signatures. Respondent Company apparently looked with favor on the claim of petitioner as shown by a pleading dated June 21, 1976. It affirmed the assertion

that intervenor union, now petitioner, had been recognized by management as representing the majority of the workers. Respondent Union countered with the allegation in a pleading dated June 29, 1976 that there was no legal bar to the petition for certification. On July 19, 1976, the Med-Arbitrator Eusebio M. Jimenez issued an order granting the petition for certification election. The matter was then appealed to the Bureau of Labor Relations. On September 9, 1976, respondent Director issued the challenged order denying the appeal. It ordered a certification election to be conducted by the Bureau within twenty days from receipt of the resolution. Hence this certiorari and prohibition petition with this Court.[3]

As set forth at the outset, the petition cannot prosper.

1. To sustain what on its face appears to be an insubstantial claim of failure to abide by statutory command as set forth in the Labor Code, petitioner would interpret its Article 257 of requiring that it be afforded the right to examine the alleged signatures of the employees comprising at least the 30% of the bargaining unit desirous of holding a certification election. That is a rather strained construction. The statutory provision reads: "Requisites for certification election. — Any petition for certification election filed by any legitimate labor organization shall be supported by the written consent of at least 30% of all the employees in the bargaining unit. Upon receipt and verification of such petition, it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit." [4] It speaks clearly and categorically. There is no element of ambiguity. What is required is that the petition for certification election should have in its favor "the written consent of at least 30% of all the employees in the bargaining unit." The duty then cast on the Director of Labor Relations is to ascertain whether there has been such a compliance. There is no doubt in this case there was evidence that more than a total of two-hundred signatures were obtained by respondent Union in seeking such a certification election. The respondent Director having satisfied himself that the codal requisite had been met, he had no choice but to order such certification. In the language of the above provision, "it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit." There is, therefore, no basis for the contention that a duty is cast on respondent Director to allow a rival labor organization, such as petitioner, to verify the authenticity of such signatures. At any rate, if there is any doubt as to the required number having been met, what better way is there than the holding of a certification election to ascertain which union really commands the allegiance of the rank-and-file employees.

2. The comment of the Solicitor General likewise included this excerpt from this Court's recent decision in *Philippine Association of Free Labor Unions v. Bureau of Labor Relations*: [5] "Petitioner's contention to the effect that the 30% requirement should be satisfied suffers from an ever graver flaw. It fails to distinguish between the right of a labor organization to be able to persuade 30% of the labor force to petition for a certification election, in which case respondent Bureau with no choice but to order it, and the power of such governmental agency precisely entrusted with the implementation of the collective bargaining process to determine, considering the likelihood that there may be several unions within a bargaining unit to order such an election precisely for the purpose of ascertaining which of them shall be the exclusive bargaining representative. The decision of respondent Bureau of April 14, 1975 was intended for that purpose. That was why not only petitioner but also the Philippine Federation of Labor, the National Labor Union, the National Federation of Labor Unions and the Samahan ng mga Manggagawa at Kawani sa AG&P were included in the list of labor unions that could be voted on. To reiterate a thought already expressed, what could be more appropriate than such a procedure if the goal desired is to enable labor to determine which of the competing organizations should represent if for the purpose of a collective bargaining contract? How then can it be seriously asserted that the decision now appealed could be stigmatized as contrary to law?" [6]

3. Such a holding reinforces the correctness of a decision arrived at by respondent Director and negates even

more conclusively the imputation of arbitrariness. It is not amiss to state that petitioner has the same office address as Philippine Association of Free Labor Unions in Tondo, Manila. So with its counsel, Attorney Julius A. Magno. While it is a different member of the bar who appeared for such labor organization in the case abovecited, it thus appears that a more diligent study of pertinent decisions could have avoided the filing of this suit and thus hasten the effective and speedy implementation of the statutory scheme to have a certification election conducted precisely for the purpose of living true to the concept of industrial democracy. For the present, it suffices to call the attention of counsel to the desirability of being acquainted with applicable decisions, especially one that strikes so close to home, even if, or perhaps more precisely when, the ruling is adverse to one's claim. That is to live true to his duty as an officer of the court on whose trustworthiness reliance may be placed.

4. Not much attention need be paid, as pointed out in the comment of the Solicitor General, to the allegation in the petition that a memorandum circular of the Secretary of Labor dated September 5, 1974 was disregarded by respondent Director. It is true there was therein stated that where there is a bona fide union comprising the majority voluntarily recognized and in the process of negotiating a contract, an application for a certification election should not be entertained. In the first place, a memorandum circular certainly cannot prevail as against the very language of the statute. That is merely to state the obvious. In the second place, as pointed out by the Solicitor-General, from and after November 1, 1974 when the present Labor Code became effective, previous circulars of the Secretary of Labor to take care of the transitional stage prior to its coming into force, certainly were deemed superseded. From any standpoint then, it cannot be gainsaid that the petition certainly lacks juridical basis. This Court is not called upon then to exercise its power to grant certiorari and prohibition to correct a grave abuse of discretion. No abuse has been shown, much less one amounting to arbitrariness of sufficient gravity to call for the issuance of the writs prayed for.

WHEREFORE, the petition for certiorari and prohibition is dismissed for lack of merit. This decision is immediately executory.

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

[1] The third respondent named in the petition is the Philippine National Union Council.

[2] Republic Act No. 442 (1974).

[3] Comment, 1-4.

[4] Article 257 of the New Labor Code.

[5] L-42115, January 29, 1976, 69 SCRA 132.

[6] Ibid, 161; Comment of Solicitor General, 6-7.

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