

**ANNIE SAND, LYDIA VALDES, LUZ SABAS, JOSEFINA A. MENDOZA
AND ROSARIO A. ORDIZ, IN THEIR CAPACITY AS CHAIRMAN AND
MEMBERS OF THE BOARD OF EXAMINERS FOR NURSES,
PETITIONERS, VS. A...**

G.R. No. L-30918. July 18, 1974

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court reverses respondent court's judgment in declaratory relief declaring "void, illegal and of no effect" against respondent nursing school and its graduates the challenged regulation of petitioner board providing for periodic inspection of nursing schools and barring from admission to the nurses' examination the graduates of schools that are duly found to be sub-standard during the period of the deficiency, and in lieu thereof renders judgment declaring the said regulation valid and applicable to all existing schools of nursing.

In an action for declaratory relief filed on September 18, 1968 by respondent Abad Santos School of Nursing against petitioners chairman and members of the Board of Examiners for Nurses seeking a declaration that "Article VIII, Rule 69, section 5 of the rules and regulations [of petitioner board] adopted on July 27, 1967 (is) void, illegal and ineffective and without force of law and that [respondent school] is not required to comply with the terms and provisions thereof," respondent court after hearing rendered its decision of June 24, 1969 holding that while petitioner board has "the full authority under section 9, Republic Act No. 877, as amended to promulgate said rules and regulations," particularly the cited regulation providing for periodic inspection of nursing schools, the board "may apply only the same to new schools or colleges established or opened after the promulgation of said rules and regulations" and "conversely" may not be given "retroactive effect" and "cannot be enforced on schools and colleges already duly accredited by the Bureau of Private Schools" prior to the promulgation by the board of the 1967 rules and regulations.

Respondent court thus rendered judgment declaring that "paragraph 5, Rule 69, Art. VIII of the Rules and Regulations promulgated by the respondents members of the Board of Examiners for Nurses is void, illegal and of no effect against herein petitioner and its graduates."

Hence, the present petition seeking a reversal of respondent court's judgment and for a declaration of validity of the disputed rule.

The petition is meritorious and should be granted.

1. The disputed regulation provides for periodic inspection of nursing schools and bars graduates of such schools that do not comply "with the minimum requirements and standards" from admission to the nurses' examination or registration as a registered nurse, as follows:

"(5) Periodic inspection. - Colleges, institutes or schools of nursing shall be inspected periodically. Whenever a college, institute or school of nursing is not being conducted in accordance with the minimum requirements

and standards contemplated in these regulations, no graduate of such college, institute or school attending courses therein during the period of the deficiency shall be eligible for admission to the nurses' examination or be entitled to a certificate of registration as a registered nurse. Findings of such inspection will be sent to the authorities of the school and the suggestions therein regarding required improvements should be carried out within one year."^[1]

Respondent school's challenge against the authority of petitioner board to promulgate the disputed regulation for periodic inspection by the board and for non-admission to the nurses' examination conducted by the board of graduates of sub-standard nursing schools is manifestly untenable.

The Philippine Nursing Act,^[2] Republic Act No. 877 as amended by Republic Act No. 4704 (approved June 18, 1966)^[3] expressly empowers in section 9 thereof the petitioner board "subject to the approval of the President of the Philippines [to] promulgate such rules and regulations as may be necessary to carry out the provisions of this Act."

Section 3 of the cited Act specifically empowers petitioner board to inspect nursing colleges and schools and vests it with authority^[4] "to issue suspend, revoke or reissue certificates of registration for practice of nursing. The Board shall study the conditions affecting nursing education and the practice of the nursing profession in the Philippines, and shall exercise the powers conferred upon it by this Act with a view to the maintenance of an efficient ethical, technical, moral and professional standard in the practice of nursing. The Board shall likewise study and examine the facilities of hospitals or universities seeking permission to open new schools or colleges of nursing or departments of nursing education so as to see if the essential requirements therefor including qualified faculty and adequate budget are properly complied with. The authorization to open schools or colleges of nursing shall be based upon the written recommendation of the Board and the representative of the Government entity concerned with the granting of school permits or authorization." It further provides that "(T)he Board shall have the power to investigate violations of this Act. x x x The Board shall from time to time look into the conditions affecting the practice of nursing in the Philippines and whenever necessary, recommend or adopt such measures as may be deemed proper for the advancement of the profession and for the vigorous enforcement of this Act."

As regards the petitioner board's power to deny admission to the nurses' examination and registration as registered nurses to the graduates of schools that are found to be sub-standard, i.e. "not being conducted in accordance with the minimum requirements and standards contemplated in (the) regulations," section 20 of the Act expressly provides that " 'In order to be admitted to the nurse examination, an applicant must, at the time of filing his or her application therefor, establish to the satisfaction of the Board that' he has all the requisite qualifications provided for by law." Sections 11 to 15 of the same Act ordain in connection therewith inter alia that schools and colleges of nursing should be established for the preparation of qualified applicants for the profession of nursing, and should be operated as educational institutions (section 11); that adequate budget for the operation of said schools or colleges and their libraries, classrooms, teaching equipment and supplies should be provided (section 12); that clinical and public health nursing facilities should be established by said colleges or schools and provisions for required experience of students be made (section 13); and that the prescribed qualifications for faculty members and instructors in nursing be observed by all colleges, schools or institutes of nursing (section 14) and the general entrance requirements of students to said colleges or schools be followed (section 15).^[5]

2. Since statutory authority plainly exists for petitioner board to conduct periodic inspections of nursing schools in order to discharge its supervisory and regulatory functions vested in it under the Philippine Nursing Act, it next remains to be determined whether there was arbitrariness or oppression in the board's exercise of its powers as to amount to denial of substantive due process.

Respondents' petition with the lower court alleging that periodic inspection of duly accredited nursing schools "is

under the responsibility and authority of the Bureau of Private Education," that it has "invested a considerable amount of money in facilities and is duty bound to its students to continue giving them proper nursing education" and that petitioner board's "threat to enforce" the periodic inspection rule will cause "irreparable injury and loss" to respondent school and its students - prospective graduates alleges bare conclusions that are untenable in law and are purely speculative and conjectural in fact.

Respondent's contention is untenable in law in that its argument that "to contend that the Board of Examiners for Nurses has the same visitorial power over already existing schools of nursing as that conferred by law on the Bureau of Private Education[6] might result in the highly anomalous situation that said Board and the Bureau of Private Education might have different and conflicting findings on the conditions and standards of these schools, and a resultant power struggle between these two agencies of the government, to the prejudice of the schools concerned and their students and graduates,"[7] manifestly addresses itself to the wisdom of the provisions of the Act granting similar visitorial powers to the petitioner board as a specialized board composed of highly competent technical persons, viz, "registered nurses of recognized standing in the Philippines"[8] whom the Congress deemed could be relied upon to maintain high standards for nursing education and the nursing profession. It is well settled that it is beyond the domain of the courts to inquire into the wisdom of the Act[9] vesting the petitioner board with similar powers to that likewise entrusted to the Bureau of Private Education.

Respondent's speculation that petitioner board and the Bureau of Private Education might have "conflicting findings on the conditions and standards of these schools (with) a resultant power struggle between these two agencies" is of course pure speculation. While nursing schools were placed under the general supervision of the Secretary of Education, the Congress likewise realized in line with progressive trends that a specialized agency such as petitioner board of examiners for nurses should likewise exercise close supervision directly over nursing schools since "the maintenance of an efficient ethical, technical, moral and professional standard in the practice of nursing"[10] has to begin in the school where the nursing education is given. Respondent does not claim and indeed nothing in the record indicates that the two agencies will not act responsibly and coordinate their efforts for the maintenance of high standards for nursing schools and in the remote event of any serious disagreement, clear the same through the office of the President under whose control and supervision they pertain.

3. There exists no justification in law and in fact, therefore, for respondent court's judgment declaring the cited regulation for periodic inspection "void, illegal and of no effect" against respondent school and its graduates. Respondent court's view that petitioner board's power of periodic inspection would apply only to new nursing schools opened after the promulgation of the rule and not to existing schools already accredited by the Bureau of Private Schools would lead to the absurd result whereby petitioner board would be utterly helpless with reference to existing schools (which would constitute a special class) and powerless to require them to maintain the minimum standards under pain of disqualifying their deficient graduates from the nurses' examination.

Prescinding from the fact asserted by the Solicitor General (and unrefuted by respondent) that the cited rule (Rule 69, section 5, Article VIII of the rules and regulations promulgated on July 27, 1967 by petitioner board) is the same provision found in Rule 70, section 5, Article VIII of the original rules and regulations promulgated on June 1, 1954 (thirteen years earlier) by the same board and which was never challenged by respondent school nor has it been the object of any complaint from any of the other nursing schools, it cannot be gainsaid that the cited regulation is one of the many forms of a proper exercise of police power by the State which is called upon to see to it and assure in the interest of public health and welfare that colleges and schools of nursing are properly conducted and maintained in accordance with the standards fixed; that they do not become sub-standard or fall below the standards; and that only qualified graduates are allowed to take the State examination and thereafter licensed to practice the noble profession of nursing.

The Court has taken note of respondent court's rationale that "if the respondents will be allowed to enforce paragraph 5, Rule 69 of the Rules and Regulations on the school of the herein petitioner, it will prejudice the graduates of the school and the hundreds of students who have started their study of nursing long before the promulgation of these Rules and Regulations in question and those who are scheduled to graduate from the said school before the petitioner could comply with the inspection and other requirements of the said new Rules and Regulations. It is but reasonable, therefore, that those students who have commenced schooling or their studies of nursing under the old curriculum which has been approved by the Bureau of Private Schools, and which petitioner has been following up to the present time be allowed to graduate and to take the examinations." While the Court has held in *Marquez vs. Board of Medical Examiners*[11] that "no one who has commenced preparation in a particular institution has any inchoate right on account of that fact. If the law were otherwise upon this point, it would be impossible for the Board of Medical Examiners to give effect to the knowledge which they from time to time acquire as to the standing of medical schools; and an intending physician, upon matriculating in a particular college, takes upon himself the risk of changes that may be made in the standing of the institution by the board," nothing exists in the record to remotely indicate that petitioner board was poised in the discharge of its periodic inspection in 1967 to impose new requirements and changes in the curriculum that would be enforced upon the current graduates and prevent them from taking the examination that year.

In this regard, the presumption is that petitioner board would discharge its task justly and reasonably in accordance with established norms. Where it would impose new substantive requirements in the curricula or the facilities to upgrade the standards beyond the minimum requirements, such requirements would be prospectively imposed in the same manner cited by respondent court that this Court in requiring a four-year's bachelor's degree (in lieu of the previous 2-year pre-law course) for admission to the study of law applied the new requirement prospectively and allowed those already admitted to the study of law (from 1st to 4th year with a 2-year pre-law course) to continue with their studies and upon graduation to take the bar examination.

But where the board finds in the course of its periodic inspection that a nursing school does not meet the standing minimum requirements and standards then it is the board's duty, as provided in the rule, to require the deficient school to make the required improvements as would enable it to meet the minimum standards which must be carried out within one year and meanwhile to bar the would-be graduates of such deficient school from the nurses' examination until its deficiency and that of its would-be graduates shall have been removed.

ACCORDINGLY, the judgment under review of respondent court is hereby reversed and set aside, and in lieu thereof judgment is hereby rendered declaring the validity of Article VIII, Rule 69, section 5 of the Rules and Regulations adopted by petitioner board on July 27, 1967 and its applicability to all existing colleges, institutes or schools of nursing.

Makalintal, C.J., Castro, Esguerra, and Munoz Palma, JJ., concur.

Makasiar, J., took no part.

[1] Emphasis supplied.

[2] Section 1 provides that "(T)his Act shall be known as the "Philippine Nursing Law."

[3] Rep. Act 6136 (approved August 31, 1970) is the latest amendatory Act amending sub-par. 7 of sec. 17 of the Law referring to the application of hypodermic and intramuscular injections by nurses. It has no bearing to the case at bar and is cited merely for the record.

[4] Emphasis supplied.

[5] *Idem*.

[6] The power conferred under Act 2706, sec. 1 provides:

"It shall be the duty of the Secretary of Public Instruction from time to time to inspect, either himself or through his duly authorized agent, all schools or colleges to which he has granted permits to open, and to see that the same are properly maintained and kept to the standards hereinafter provided in this Act."

[7] Respondent's brief, pp. 8-9.

[8] Sec. 2, Rep. Act 877, as amended.

[9] See *Malkinson vs. Agrava*, 54 SCRA 66 (1973).

[10] Sec. 3 of the Act, quoted in full, *supra*.

[11] 47 Phil 761, 764; See also *Coloso vs. Board of Accountancy*, 92 Phil. 938, 940.

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