

SAMAHAN NG MANGGAGAWA SA UNION INDUSTRIES, INC., JOSE VALENZUELA, AND TOMAS SENA, PETITIONERS, VS. DIRECTOR CARMELO NORIEL, BUREAU OF LABOR RELATIONS, PHILIPPINE TRANSPORT AND G...*G.R. No. L-50874. October 23, 1981*

Ponente: FERNANDO, C.J.

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It is quite manifest that the reliance of petitioner labor organization and its two officials[1] in this certiorari, prohibition, and mandamus proceeding is on the constitutional right to freedom of association[2] as well as the constitutional mandate of protection to labor, more specifically insofar as it assures unionization and collective bargaining.[3] The Solicitor General[4] on behalf of respondent Director Noriel of the Bureau of Labor Relations would view the matter in a narrower perspective. For him, what is primarily involved is the authority of such official to order the holding of a referendum through secret balloting to ascertain the alleged disaffiliation of the workers from one union to join a new labor organization, that of petitioner, then still in the process of registration. He pointed out that such a power must be conceded. The Court is of the opinion that the inquiry into the alleged failure to respect what is ordained by the Constitution deserves priority. In that context, the petition is impressed with merit. To put on end to a festering labor controversy, the challenged order is set aside, its prohibition enjoined, and mandamus is granted so that a certification election could be forthwith conducted.

According to the petition, on October 12, 1978, petitioner Jose Valenzuela filed an application for a certificate of registration of petitioner union composed of the rank and file employees and workers of the respondent company at its place of business in Oliveros Drive, corner of Epifanio de los Santos Avenue.[5] There was an opposition filed on October 17, 1978 by respondent Philippine Transport and General Workers Organization.[6] On December 22, 1978, a certificate of registration of petitioner union was approved by the Ministry of Labor, hence it was ready for issuance or release.[7] It came as a surprise, therefore, when petitioner Valenzuela learned on December 26, 1978 that such issuance or release was withheld by respondent Director.[8] The first conference was called by respondent Director on January 4, 1979.[9] A conference was scheduled on January 9, 1979.[10] Respondent Director then, on January 25, 1979, issued an order for a referendum.[11] Petitioner union filed a Motion for Reconsideration on February 9, 1979, praying, among others, the release of the certificate of registration.[12] Respondent Director denied the motion on May 8, 1979.[13] A complicating factor was the notice of a commencement of a strike on June 16, 1979, at respondent company's glass division by members of respondent Federation of Free Workers by virtue of a notice of strike filed on May 17, 1979 to compel the negotiation of a collective bargaining agreement for a group of rank-and-file employees at the glass division constituting a minority of the rank-and-file employees of the respondent company, allegedly to the prejudice and detriment of petitioner union.[14]

Private respondent Philippine Transport and General Workers Organization would justify the order as it had a "certified collective bargaining agreement" in existence.[15] As to the facts set forth in the petition, there was the

claim that the solicitation of the signatures for disaffiliation was attended by "deception, force, and intimidation." [16] It asserted, however, that the issuance of a certificate of registration is not an absolute right and is, therefore, not mandatory being subject to regulatory police power of the State. [17] Private respondent Union Industries Workers Association affiliated with the Federation of Free Workers disclaimed interest in the litigation, maintaining that it "should not be drawn into this case. [It should not be included] as party respondent [as it] is the bargaining agent by majority choice of another bargaining unit of the company concerned (Union Industries, Inc.). On the basis of the facts, that the bargaining unit petitioners seek to represent being different, separate and apart from the bargaining unit that private respondent FFW has been representing, we firmly submit that the petition must necessarily fail." [18] Public respondents, in the answer filed by Solicitor General Mendoza, is equally of the view that the issuance of a certification of registration is "not an absolute right but one which is subject to the regulatory power of the State." [19] It argued that there was no abuse of discretion, secret balloting being the "most efficacious and fairest mode of ascertaining the membership of the contending unions." [20]

As set forth at the outset, the petition is impressed with merit.

1. According to U.E. Automotive Employees and Workers Union-Trade Unions of the Philippines v. Noriel: [21] "Nor is the different outcome called for just because at the time of the challenged order, there was as yet no registration of petitioner Union. If at all, that is a circumstance far from flattering as far as the Bureau of Labor Relations is concerned. It must be remembered that as admitted in the comment of respondent Director, the application for registration was filed on July 19, 1974. The challenged order was issued seven months later. There is no allegation that such application suffered from any infirmity. Moreover, if such were the case, the attention of petitioner should have been called so that it could be corrected. Only thus may the right to association be accorded full respect. As far back as *Umali v. Lovina*, a 1950 decision, it was held by this Court that under appropriate circumstances, mandamus lies to compel registration. * * * In the absence of any fatal defect to the application for registration, there is no justification for withholding it from petitioner to enable it to exercise fully its constitutional right to freedom of association. * * * What is decisive is that the members of petitioner Union did exercise their fundamental right to self-organization and did win in a fair and honest election." [22] Such a doctrine calls for application. Moreover, considering the long period that had elapsed, it would not suffice just to compel registration. It is even more essential that there-after a certification election be conducted. This approach dictated by equity no less than by the authoritative doctrines has recommended itself to the Court.

2. Respondent Director of Labor Relations, in the memorandum of authorities submitted by Solicitor General Mendoza, objected to the characterization of his order as constituting a grave abuse of discretion. *Litex Employees Association v. Eduvela* [23] can be cited in support of such a stand. For in that case, under the facts disclosed, this Court held that the competence of respondent Director under Article 226 of the Labor Code to order the holding of a referendum election among the members of a labor union on the question of disaffiliation was conceded. As stated at the beginning of this opinion, however, the right to freedom of association is a preferred right and permits of no further denial where as is so clearly shown, because of the intro-union rivalry, no certification election had been held for some time. To permit further delay could, under the circumstances, defeat two of the prime objectives of the protection to labor mandate, namely the right to self-organization and the right to collective bargaining by the union that would emerge triumphant in a certification election.

WHEREFORE, certiorari is granted declaring without force and effect the challenged order as well as the denial for the motion for reconsideration. Prohibition, therefore, lies against the enforcement thereof. Mandamus is likewise available to compel the registration and thereafter the holding of the certification election in the appropriate bargaining unit of respondent company. This decision is immediately executory.

Barredo, Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

Aquino, J., see concurrence and dissent.

[1] Petitioner Jose Valenzuela is the President and petitioner Tomas Sena is the Vice-President of the said organization.

[2] 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."

[3] According to Article II, Section 9 of the Constitution: "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 rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."

[4] Solicitor General Estelito P. Mendoza was assisted by Assistant Solicitor General Ramon A. Barcelona and Solicitor Dennis M. Taningco.

[5] Petition, 5.

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] Ibid.

[11] Ibid, 6, and Annex A.

[12] Ibid, Annex B.

[13] Ibid, Annex C.

[14] Ibid, Annex D.

[15] Answer of private respondent Philippine Transport and General Workers Organization, par. 1.

[16] Ibid, par. 4.

[17] Ibid, par. 3.

[18] Answer of private respondent Union Industries Workers Association, 1-2.

[19] Answer of public respondents, Special and Affirmative Defenses, par. 12.

[20] Ibid, par. 13.

[21] L-44350, November 25, 1976, 74 SCRA 72.

[22] Ibid, 81-82.

[23] L-41106, September 22, 1977, 79 SCRA 88.

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CONCURRING AND DISSENTING OPINION

AQUINO, J.:

I concur in the ruling that the Director of Labor Relations should issue to the petitioning union its certificate of registration and that no referendum should be held.

I dissent as to the holding of the certification election. The petitioners did not pray for that relief. They withdrew their "petition for direct certification" in a motion dated March 20, 1979 in Case No. R4-LRD--M-12-589-78. The withdrawal was granted by Labor Arbiter Alberto A. Abis, Jr. in his order of August 15, 1979.

Petitioners' opposition to the referendum refers to the plant of Union Industries, Inc. in Barrio Kangkong, Quezon City or its Metal Division Plant at EDSA where the recognized collective bargaining representative was the Union Industries Workers Union (PTGWO).

The other plant of Union Industries, Inc., its Glassware Division, is located at Barrio Ugong, Pasig, Metro Manila where the recognized collective bargaining representative was the Federation of Free Workers or its affiliate, the Union Industries Workers Association.

Union Industries, Inc., in its answer of August 23, 1979 desires that it should deal with only one collective bargaining representative for its two plants. This matter should be passed upon by the Director of Labor Relations. There is as yet no ruling on this matter.

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