

MANUELITO A. ISABELO, JR., PETITIONER, VS. PERPETUAL HELP COLLEGE OF RIZAL, INC., AND DEPARTMENT OF EDUCATION, CULTURE AND SPORTS, RESPONDENTS.

G.R. No. 103142. November 08, 1993

Ponente: VITUG, J.

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VITUG, J.:

A student, Manuelito Isabelo, Jr., filed the instant petition for mandamus with the following prayer:

"WHEREFORE, petitioner prays for a writ of mandamus addressed to the Department of Education, Culture and Sports (DECS) to implement its order to re-admit him as a senior graduating student of respondent Perpetual Help College of Rizal (PHCR), and for the latter to re-admit him as a senior graduating student for March, 1992.

He prays for a temporary mandatory restraining order to compel his re-admission as a senior graduating student for March 1992 while his petition is pending resolution.”[1]

We granted, in our resolution of 23 June 1992, the temporary mandatory relief prayed for.

Manuelito was enrolled at the Perpetual Help College of Rizal ("PHCR") for the degree of Bachelor of Science in Criminology. He was elected Public Relations Officer ("PRO") of the Supreme Student Council some time in August 1990. Until September 1991, he was the hold-over PRO and the acting Secretary of the student council. In this capacity, he was invited to attend a meeting with PHCR officials on 08 May 1991. Prior to said meeting, he was asked by the Vice President for Academic Affairs, Dr. Grace De Leon, to sign Resolution No. 105 that would implement, among other things, a 20% tuition fee increase for the school year 1991-1992.[2] Manuelito refused to sign the resolution; instead, he asked for a 2-week period to take the matter up with his fellow officers.[3]

During the scheduled 08 May 1991 meeting, the student council presented to PHCR a 9-point proposal. With an assurance that the request of the student council would be considered favorably, the petitioner finally signed Resolution No. 105.

On 06 August 1991, PHCR announced that its application for increase in tuition fees and other school charges for SY 1991-1992 for the three levels, namely, the Grade School, High School and College, was approved by the Department of Education, Culture, and Sports ("DECS").[4] The student council filed with the DECS a motion for reconsideration. Acting on the students' motion, the DECS, in its letter of 28 August 1991 addressed to the President of PHCR, advised that the "collection of the increase (should) be held in abeyance pending the resolution of (the) matter.”[5]

In the meantime, the CMT commandant furnished PHCR a memorandum, dated 20 August 1991, containing a list of PHCR CMT students (Manuelito included) who were dropped during the first semester of school year 1991-1992, with a recommendation that appropriate action be taken on said students.[6]

On 04 September 1991, the school administration circulated a memorandum[7] to the effect that Manuelito had been dropped from PHCR's list of students. On even date, a letter[8] from Registrar Necy Buen was received by Manuelito, informing him that PHCR was voiding his enrollment for the first semester of 1991-1992 because of the following deficiencies:

- " * Non compliance of CMT requirement as per DECS Order No. 9, S. 1990 and DECS Memorandum No. 80, S. 1991 and PHCR Internal Memo. No. 891-007;
- * No NCEE during the admission in the BS Criminology course;
- * Official Admission Credential not yet submitted;
- * Void declaration of CMT subjects (MS 11, 12, 21 and 22) which are docketed in the registration card."

Beginning 05 September 1991, Manuelito was no longer allowed to enter the school premises. He forthwith sent a letter to the DECS informing the latter of the matter.

On 15 October 1991, Director Rosas of the DECS issued an order[9] addressed to the President of PHCR, stating, inter alia, that:

"* * * concerning the dropping from the rolls without due process of the students-petitioners * * *, Manuelito Isabelo, Jr., * * *, please be advised that pending resolution thereof, the propriety of allowing the students to continue attending their classes to protect their interest as well as that of the school, is hereby enjoined.

In this connection, it is hereby directed that the above-named students be readmitted to classes and be allowed to take all examinations that they have missed pending final resolution of this case/issue."

PHCR did not comply with the directive.

Hence, this recourse. The petitioner questions PHCR's act of voiding his enrollment.

While this Court, on 23 June 1992, issued a preliminary mandatory injunction ordering and directing PCHR to re-admit the petitioner for enrollment,[10] the same was interdicted by PHCR's motion for clarification[11] that indeed would require factual assessments that have yet to be conclusively passed upon administratively.

The petitioner claims that the real reason why PHCR has voided his enrollment as a senior graduating student had been because of his active participation in opposing PHCR's application for tuition fee increase with the DECS.

The private respondent, on the other hand, invokes "academic freedom" in dropping the petitioner from its roll of students. It argues that the petitioner has only been allowed to enroll "conditionally" during the first semester of school year 1991-92 pending the completion of his remedial classes in CMT, in which he has failed.

The rule in this jurisdiction since *Garcia vs. Loyola School of Theology*,[12] reiterated in *Tangonan vs. Paño*,[13] has been to uphold the rule that admission to an institution of higher learning is discretionary upon the school and that such an admission is a mere privilege, rather than a right, on the part of the student. In *Ateneo de Manila University vs. Capulong*,[14] this Court cited with approval the formulation made by Justice Felix Frankfurter of the essential freedoms subsumed in the term "academic freedom"[15] encompassing not only "the freedom to determine * * * on academic grounds who may teach, what may be taught (and) how it shall be taught," but likewise "who may be admitted to study." We have thus sanctioned its valid invocation by a school in rejecting students who are academically delinquent,[16] or a laywoman seeking admission to a seminary,[17] or students violating "School Rules on Discipline." [18]

Like any other right, however, academic freedom has never been meant to be an unabridged license. It is a privilege that assumes a correlative duty to exercise it responsibly. An equally telling precept is a long recognized

mandate, so well expressed in Article 19 of the Civil Code, that every "person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith."

Another observation. In *Non vs. Dames II*,^[19] we have already abandoned our earlier ruling in *Alcuaz vs. PSBA*^[20] (that enrolment of a student is a semester to-semester contract, and that the school may not be compelled to renew the contract) by recognizing instead the right of a student to be enrolled for the entire period required in order to complete his course. We have also stressed that the contract between the school and the student, imbued, as it is, with public interest, is not an ordinary contract.^[21]

In this instance, it would seem that the principal reason forwarded by the private respondent in dropping the petitioner from its roll of students was his failure to complete some remaining units in the CMT course. He was unceremoniously dropped from the roll when the semester was about to end some time in October. He took a special training during the semestral break (which was the most reasonable time to comply), and he was able to pass it, but PHCR still refused to give him that accreditation, insisting that he by then had ceased to be a student of PHCR.

While we ordinarily would not delve into the exercise of sound judgment, we will not, however, hesitate to act when we perceive taints of arbitrariness in the process. The punishment of expulsion appears to us rather disproportionate to his having had some unit deficiencies in his CMT course. Indeed, the DECS itself is conceding to the grant of the instant petition. The circumstances lend truth to the petitioner's claim that the private respondent has strongly been influenced by his active participation in questioning PHCR's application for tuition fee increase.

There remains, however, an administrative determination, to be yet resolved with finality by the DECS, i.e., whether the petitioner really deserves to be in the senior class, as he claims, or has a number of school deficiencies to overcome, as the respondent school counters. Hence, the issuance of a writ of mandamus at this time would not be warranted. We have repeatedly said that for a writ of mandamus to issue, a petitioner should, on the one hand, have a clear legal right to the thing demanded, and there should be, upon the other hand, an imperative duty of a respondent to perform the act sought to be mandated.^[22] This Court, not being a trier of facts,^[23] must remand this matter to the DECS for its own evaluation and final determination.

WHEREFORE, this case is hereby REMANDED to the Department of Education, Culture and Sports for its expeditious determination on the unresolved administrative issues raised in the instant petition. No costs.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, and Puno, JJ., concur.

Griño-Aquino, J., retired.

[1] Rollo, 18.

[2] Rollo, 174.

[3] Ibid.

[4] Annex "H", Petition, Rollo, 36.

[5] Annex "K", Ibid., *ibid.*, 48.

[6] Annex "C," Comment, Ibid., 92-93.

[7] Annex "L", Petition, *ibid.*, 49.

[8] Annex "D", Comment, *Ibid.*, 94.

[9] Annex "Q", Petition, *Ibid.*, 54.

[10] Rollo, 166-167.

[11] *Ibid.*, 200-202.

[12] 68 SCRA 277/1975/.

[13] 137 SCRA 245/1985/.

[14] G.R. No. 99327, 27 May 1993, penned by Mme. Justice Flerida Ruth P. Romero.

[15] *Sweezy v. New Hampshire*, 354 U.S. 234,263/1957/.

[16] *Tangonan*, *supra*.

[17] *Loyola School of Theology*, *supra*.

[18] *Ateneo De Manila University*, *supra*.

[19] 185 SCRA 523/1990/.

[20] 161 SCRA 7/1988/.

[21] *Ibid.*; see also *Philippine School of Business Administration vs. Court of Appeals*, 205 SCRA 729,733/1992/.

[22] *Canonizado vs. Benitez*, 127 SCRA 610/1984/; *Taboy vs. Court of Appeals*, 105 SCRA 758/1981/ *Province of Pangasinan vs. Reparations Commission*, 80 SCRA 376/1977/; *Ocampo vs. Subido*, 72 SCRA 443/1976/.

[23] *Soriano III vs. Yuzon*, 164 SCRA 226/1988/; *Blue Bar Coconut Phil. vs. Tantuico, Jr.*, 163 SCRA 716/1988/; *Korean Airlines Co., Ltd. vs. CA*, 154 SCRA 211/1987/.

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