

**SAN MIGUEL FOODS, INC.-CEBU B-MEG FEED PLANT, PETITIONER,
VS. HON. BIENVENIDO E. LAGUESMA, UNDERSECRETARY OF DOLE
AND ILAW AT BUKLOD NG MANGGAGAWA (IBM), RESPONDENTS.**

G.R. No. 116172. October 10, 1996

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

This is a petition for certiorari under Rule 65 to review and set aside two Resolutions of Mediator-Arbiter Achilles V. Manit, dated January 5, 1994 and April 6, 1994, and the affirmation Order on appeal of the public respondent, Undersecretary Bienvenido E. Laguesma of the Department of Labor and Employment. The petition below was entitled: "In Re: Petition for Direct Certification as the Sole and Exclusive Bargaining Agent of All Monthly Paid Employees of SMFI-Cebu B-Meg Feeds Plant," docketed as OS-MA-A-3-51-94 (RO700-9309-RU-036).

The essential facts are not disputed.

On September 24, 1993, a petition for certification election among the monthly-paid employees of the San Miguel Foods, Inc.-Cebu B-Meg Feeds Plant was filed by private respondent labor federation Ilaw at Buklod ng Manggagawa (IBM, for brevity) before Med-Arbiter Achilles V. Manit, alleging, inter alia, that it is a legitimate labor organization duly registered with the Department of Labor and Employment (DOLE) under the Registration Certificate No. 5369-IP. SMFI-Cebu B-Meg Feeds Plant (SMFI, for brevity), herein petitioner, is a business entity duly organized and existing under the laws of the Philippines which employs roughly seventy-five (75) monthly paid employees, almost all of whom support the present petition. It was submitted in said petition that there has been no certification election conducted in SMFI to determine the sole and exclusive bargaining agent thereat for the past two years and that the proposed bargaining unit, which is SMFI's monthly paid employees, is an unorganized one. It was also stated therein that petitioner IBM (herein private respondent) has already complied with the mandatory requirements for the creation of its local or affiliate in SMFI's establishment.

On October 25, 1993, herein petitioner SMFI filed a Motion to Dismiss the aforementioned petition dated September 24, 1993 on the ground that a similar petition remains pending between the same parties for the same cause of action before Med-Arbiter Achilles V. Manit.

SMFI was referring to an evidently earlier petition, docketed as CE CASE NO R0700-9304-RU-016, filed on April 28, 1993 before the office of Med-Arbiter Manit. Indeed, both petitions involved the same parties, cause of action and relief being prayed for, which is the issuance of an order by the Med-Arbiter allowing the conduct of a certification election in SMFI's establishment. The contention is that the judgment that may be rendered in the first petition would be determinative of the outcome of the second petition, dated September 24, 1993.

On December 2, 1993, private respondent IBM filed its Opposition to SMFI's Motion to Dismiss contending, among others, that the case referred to by SMFI had already been resolved by Med-Arbiter Manit in his Resolution and Order date July 26, 1993[1] and September 2, 1993,[2] respectively, wherein IBM's first petition for certification election was denied mainly due to IBM's failure to comply with certain mandatory requirements

of the law. This denial was affirmed by the Med-Arbiter in another Order dated November 12, 1993[3] wherein the Resolutions dated July 26, 1993 and September 2, 1993 were made to stand. Thus, IBM argues that there having been no similar petition pending before Med-Arbiter Manit, another petition for certification election may be refiled as soon as the said requirements are met. These requirements were finally satisfied before the second petition for certification election was brought on September 24, 1993.

On January 5, 1994, Med-Arbiter Manit, this time, granted the second petition for certification election of private respondent IBM in this wise:

"Let, therefore, a certification election be conducted among the monthly paid rank and file employees of SMFI-CEBU B-MEG FEEDS PLANT at Lo-oc, Mandaue City. The choices shall be: YES-for IBM AT SMFI-CEBU B-MEG; and NO-for No Union.

The parties are hereby notified of the pre-election conference which will take place on January 17, 1994 at 3:00 o'clock in the afternoon to set the date and time of the election and to thresh out the mechanics thereof. On said date and time the respondent is directed to submit the payroll of its monthly paid rank and file employees for the month of June 1993 which shall be the basis for the list of the eligible voters. The petitioner is directed to be ready to submit a list of the monthly paid rank and file employees of SMFI-CEBU B-MEG FEEDS PLANT when the respondent fails to submit the required payroll.

SO ORDERED."[4]

Petitioner SMFI appealed the foregoing Order to the Secretary of Labor and Employment alleging that the Med-Arbiter erred in directing the conduct of certification election considering that the local or chapter of IBM at SMFI is still not a legitimate labor organization with a right to be certified as the exclusive bargaining agent in petitioner's establishment based on two grounds: (1) the authenticity and due execution of the Charter Certificate submitted by IBM in favor of its local at SMFI cannot yet be ascertained as it is still now known who is the legitimate and authorized representative of the IBM Federation who may validly issue said Charter Certificate; and (2) a group of workers or a local union shall acquire legal personality only upon the issuance of a Certificate of Registration by the Bureau of Labor Relations under Article 234 of the Labor Code, which IBM at SMFI did not possess.

In a resolution dated April 6, 1994, public respondent Undersecretary Bienvenido Laguesma, by authority of the Secretary of Labor and Employment, denied petitioner's appeal, viz.:

"WHEREFORE, the appeal is hereby denied for lack of merit and the Order of the Med-Arbiter is hereby affirmed.

Let the records of this case be forwarded to the Regional Office of origin for the immediate conduct of certification election subject to the usual pre-election conference.

SO RESOLVED."[5]

Thereafter, a Motion for Reconsideration was filed which was also denied by the public respondent in his Order dated May 24, 1994.[6]

Hence, the instant petition interposing the following justifications:

"1) THE HONORABLE UNDERSECRETARY BIENVENIDO E. LAGUESMA GRAVELY ABUSED HIS DISCRETION WHEN HE ARBITRARILY RULED THAT 'A LOCAL OR CHAPTER OF A LABOR FEDERATION, LIKE RESPONDENT IBM, NEED NOT OBTAIN A CERTIFICATE OF REGISTRATION FROM THE BUREAU OF LABOR RELATIONS TO ACQUIRE LEGAL PERSONALITY,' WHEN ARTICLE 234 OF THE LABOR CODE OF THE PHILIPPINES AND SECTION 3 OF RULE II OF BOOK

V OF THE RULES IMPLEMENTING THE LABOR CODE, AS AMENDED, CLEARLY PROVIDES THAT A GROUP OF WORKERS OR A LOCAL UNION SHALL ACQUIRE LEGAL PERSONALITY ONLY UPON THE ISSUANCE OF THE CERTIFICATE OF REGISTRATION BY THE BUREAU OF LABOR RELATIONS. AND,

2) THE HONORABLE UNDERSECRETARY BIENVENIDO E. LAGUESMA GRAVELY ABUSED HIS DISCRETION WHEN HE PREMATURELY AND ARBITRARILY RULED THAT RESPONDENT IBM IS A LEGITIMATE LABOR ORGANIZATION WHEN THE AUTHENTICITY AND DUE EXECUTION OF THE CHARTER CERTIFICATE SUBMITTED BY RESPONDENT IBM CANNOT YET BE ASCERTAINED BECAUSE IT IS STILL NOT KNOWN WHO ARE THE LEGITIMATE OFFICERS OF THE IBM FEDERATION WHO MAY VALIDLY ISSUE SAID CHARTER CERTIFICATE AS THE CASE FILED TO RESOLVE THE ISSUE ON WHO ARE THE LEGITIMATE OFFICERS OF THE IBM FEDERATION IS STILL PENDING RESOLUTION BEFORE THIS HONORABLE SUPREME COURT."[7]

The petition has no merit.

Petitioner asserts that IBM at SMFI is not a legitimate labor organization notwithstanding the fact that it is a local or chapter of the IBM Federation. This is so because under Article 234 of the Labor Code, any labor organization shall acquire legal personality upon the issuance of the Certificate of Registration by the Bureau of Labor Relations.

We do not agree.

I

Article 212(h) of the Labor Code defines a legitimate labor organization as "any labor organization duly registered with the Department of Labor and Employment, and includes any branch or local thereof."

It is important to determine whether or not a particular labor organization is legitimate since legitimate labor organizations have exclusive rights under the law which cannot be exercised by non-legitimate unions, one of which is the right to be certified as the exclusive representative of all the employees in an appropriate collective bargaining unit for purposes of collective bargaining. These rights are found under Article 242 of the Labor Code, to wit:

"ART. 242. Rights of legitimate organizations.--A legitimate labor organization shall have the right:

- (a) To act as the representative of its members for the purpose of collective bargaining;
- (b) To be certified as the exclusive representative of all the employees in an appropriate collective bargaining unit for purposes of collective bargaining;
- (c) To be furnished by the employer, upon written request, with his annual audited financial statements, including the balance sheet and the profit and loss statement, within thirty (30) calendar days from the date of receipt of the request, after the union has been duly recognized by the employer or certified as the sole and exclusive bargaining representative of the employees in the bargaining unit, or within sixty (60) calendar days before the expiration of the existing collective bargaining agreement, or during the collective bargaining negotiation;
- (d) To own property, real or personal, for the use and benefit of the labor organization and its members;
- (e) To sue and be sued in its registered name; and
- (f) To undertake all other activities designed to benefit the organization and its members, including cooperative, housing welfare and other projects not contrary to law.

x x x x x x x x."

The pertinent question, therefore, must be asked: When does a labor organization acquire legitimacy?

Ordinarily, a labor organization attains the status of legitimacy only upon the issuance in its name of a Certificate of Registration by the Bureau of Labor Relations pursuant to Articles 234 and 235 of the Labor Code, viz.:

"ART. 234. Requirements of registration.--Any applicant labor organization, association or group of unions or workers shall acquire legal personality and shall be entitled to the rights and privileges granted by law to legitimate labor organizations upon issuance of the certificate of registration based on the following requirements:

- (a) Fifty pesos (P50.00) registration fee;
- (b) The names of its officers, their addresses, the principal address of the labor organization, the minutes of the organizational meetings and the list of the workers who participated in such meetings;
- (c) The names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate;
- (d) If the applicant union has been in existence for one or more years, copies of its annual financial reports; and
- (e) Four (4) copies of the constitution and by-laws of the applicant union, minutes of its adoption or ratification, and the list of the members who participated in it.

ART. 235. Action on application. -- The Bureau shall act on all applications for registration within thirty (30) days from filing.

All requisite documents and papers shall be certified under oath by the secretary or the treasurer of the organization, as the case may be, and attested to by its president."

The foregoing procedure is not the only way by which a labor union may become legitimate, however. When an unregistered union becomes a branch, local or chapter of a federation, some of the aforementioned requirements for registration are no longer required.[8] Section 3, Rule II, Book V of the Implementing Rules of the Labor Code governs the procedure for union affiliation, the relevant portions of which provide:

"Sec. 3. Union Affiliation: Direct Membership with National Union. -- An affiliate of a labor federation or national union may be a local or chapter thereof or an independently registered union.

- (a) The labor federation or national union concerned shall issue a chapter certificate indicating the creation or establishment of a local or chapter, copy of which shall be submitted to the Bureau of Labor Relations within thirty (30) days from issuance of such charter certificate.
- (b) An independently registered union shall be considered an affiliate of a labor federation or national union after submission to the Bureau of the contract or agreement of affiliation within thirty (30) days after its execution.

x x x x x x x x

- (e) The local or chapter of a labor federation or national union shall have and maintain a constitution and by-laws, set of officers and book of accounts. For reporting purposes, the procedure governing the reporting of independently registered unions, federations or national unions shall be observed."

Paragraph (a) refers to a local or chapter of a federation which did not undergo the rudiments of registration while paragraph (b) refers to an independently registered union which affiliated with a federation. Implicit in the foregoing differentiation is the fact that a local or chapter need not be independently registered. By force of law

(in this case, Article 212 [h]), such local or chapter becomes a legitimate labor organization upon compliance with the aforementioned provisions of Section 3[9] (a) and (e), without having to be issued a Certificate of Registration in its favor by the BLR.

The cases of *Lopez Sugar Corporation v. Secretary of Labor and Employment*,^[10] *Phoenix Iron and Steel Corporation v. Secretary of Labor and Employment*,^[11] and *Protection Technology, Inc. v. Secretary, Department of Labor and Employment*,^[12] all going back to our landmark holding in *Progressive Development Corporation v. Secretary, Department of Labor and Employment*,^[13] unequivocally laid down the rule, thus:

"A local or chapter therefore becomes a legitimate labor organization only upon submission of the following to the BLR:

- 1) A charter certificate, within 30 days from its issuance by the labor federation or national union, and
- 2) The constitution and by-laws, a statement on the set of officers, and the books of accounts all of which are certified under oath by the secretary or treasurer, as the case may be, of such local or chapter, and attested to by its president.

Absent compliance with these mandatory requirements, the local or chapter does not become a legitimate labor organization."

Corollarily, the satisfaction of all these requirements by the local or chapter shall vest upon it the status of legitimacy with all its concomitant statutory privileges, one of which is the right to be certified as the exclusive representative of all the employees in an appropriate bargaining unit.

In the case at bench, public respondent *Bienvenido E. Laguesma*, in affirming the finding of the Med-Arbiter that IBM at SMFI is a legitimate labor organization,^[14] made the following material pronouncements amply supported by the records:

"[t]he resolution of the issue raised by the respondent on whether or not petitioner is a legitimate labor organization will depend on the documents submitted by the petitioner in the second petition.

A close scrutiny of the records shows that at the time of the filing of the subject petition on 24 September 1993 by the petitioner Ilaw at Buklod ng Manggagawa, for and in behalf of its local affiliate IBM at SMFI-CEBU B-MEG, the latter has been clothed with the status and/or character of a legitimate labor organization. This is so, because on 19 July 1993, petitioner submitted to the Bureau of Labor Relations (BLR), this Department, the following documents: charter certificate, constitution and by-laws, names and addresses of the union officers and a certification of the union's secretary on the non-availability of the union's Books of Accounts. Said documents (except the charter certificate) are certified under oath and attested to by the local union's secretary and President, respectively."^[15]

Petitioner SMFI does not dispute the fact that IBM at SMFI has complied with the second set of requirements, i.e., constitution, by-laws, et. al. What is controverted is the non-compliance with the requirement as to the charter certificate which must be submitted to the BLR within thirty (30) days from its issuance by the labor federation. While the presence of a charter certificate is conceded, petitioner maintains that the validity and authenticity of the same cannot yet be ascertained as it is still not known who is the legitimate and authorized representative of the IBM Federation who may validly issue said charter certificate in favor of its local, IBM at SMFI. According to petitioner, there are two (2) contending sets of officers of the IBM Federation at the time the charter certificate was issued in favor of IBM at SMFI, the faction of Mr. Severino O. Meron and that of Mr. Edilberto B. Galvez.

On this point, public respondent, in upholding the legitimate status of IBM at SMFI, backed up by the Solicitor General, had this to say:

"The contention of the respondent that unless and until the issue on who is the legitimate national president, of the Ilaw at Buklod ng Manggagawa is resolved, the petitioner cannot claim that it has a valid charter certificate necessary for it to acquire legal personality is untenable. We wish to stress that the resolution of the said issue will not in any way affect the validity of the charter certificate issued by the IBM in favor of the local union. It must be borne in mind that the said charter certificate was issued by the IBM in its capacity as a labor organization, a juridical entity which has a separate and distinct legal personality from its members. When as in this case, there is no showing that the Federation acting as a separate entity is questioning the legality of the issuance of the said charter certificate, the legality of the issuance of the same in favor of the local union is presumed. This, notwithstanding the alleged controversy on the leadership of the federation." [16]

We agree with this position of the public respondent and the Solicitor General. In addition, private respondent's Comment to this petition indicates that in the election of officers held to determine the representatives of IBM, the faction of Mr. Meron lost to the group of Mr. Edilberto Galvez, and the latter was acknowledged as the duly elected IBM National President.[17] Thus, the authority of Mr. Galvez to sign the charter certificate of IBM at SMFI, as President of the IBM Federation,[18] can no longer be successfully questioned. A punctilious examination of the records presents no evidence to the contrary and petitioner, instead of squarely refuting this point, skirted the issue by insisting that the mere presence of two contending factions in the IBM prevents the issuance of a valid and authentic charter certificate in favor of IBM at SMFI. This averment of petitioner simply does not deserve any merit.

II

In any case, this Court notes that it is petitioner, the employer, which has offered the most tenacious resistance to the holding of a certification election among its monthly-paid rank-and-file employees. This must not be so, for the choice of a collective bargaining agent is the sole concern of the employees.[19] The only exception to this rule is where the employer has to file the petition for certification election pursuant to Article 258[20] of the Labor Code because it was requested to bargain collectively,[21] which exception finds no application in the case before us. Its role in a certification election has aptly been described in *Trade Unions of the Philippines and Allied Services (TUPAS) v. Trajano*,[22] as that of a mere by-stander. It has no legal standing in a certification election as it cannot oppose the petition or appeal the Med-Arbiter's orders related thereto. An employer that involves itself in a certification election lends suspicion to the fact that it wants to create a company union.[23] This Court should be the last agency to lend support to such an attempt at interference with a purely internal affair of labor.[24]

While employers may rightfully be notified or informed of petitions of such nature, they should not, however, be considered parties thereto with the concomitant right to oppose it. Sound policy dictates that they should maintain a strictly hands-off policy.[25]

It bears stressing that no obstacle must be placed to the holding of certification elections,[26] for it is a statutory policy that should not be circumvented.[27] The certification election is the most democratic and expeditious method by which the laborers can freely determine the union that shall act as their representative in their dealings with the establishment where they are working.[28] It is the appropriate means whereby controversies and disputes on representation may be laid to rest, by the unequivocal vote of the employees themselves.[29] Indeed, it is the keystone of industrial democracy.[30]

III

Petitioner next asseverates that the Charter Certificate submitted by the private respondent was defective in that it was not certified under oath and attested to by the organization's secretary and President.

Petitioner is grasping at straws. Under our ruling in the *Progressive Development Corporation*[31] case, what is

required to be certified under oath by the secretary or treasurer and attested to by the local's president are the "constitution and by-laws, a statement on the set of officers, and the books of accounts" of the organization. The charter certificate issued by the mother union need not be certified under oath by the secretary or treasurer and attested to by the local's president.

IV

Petitioner, in its Reply to public respondent's Comment, nevertheless calls the attention of this court to the fact that, contrary to the assertion of private respondent IBM that it is a legitimate labor federation and therefore has the capacity and authority to create a local or chapter at SMFI, the Chief of the Labor Organizations Division of the Bureau of Labor Relations -- Manila had allegedly issued a certification last January 17, 1995 to the effect that private respondent is not a legitimate labor federation.[32]

This is a factual issue which petitioner should have raised before the Med-Arbiter so as to allow the private respondent ample opportunity to present evidence to the contrary. This Court is definitely not the proper venue to consider this matter for it is not a trier of facts. It is noteworthy that petitioner did not challenge the legal personality of the federation in the proceedings before the Med-Arbiter. Nor was this issue raised in petitioner's appeal to the Office of the Secretary of Labor and Employment. This matter is being raised for the first time in this petition. An issue which was neither alleged in the pleadings nor raised during the proceedings below cannot be ventilated for the first time before this Court. It would be offensive to the basic rule of fair play, justice and due process.[33] Certiorari is a remedy narrow in its scope and inflexible in character. It is not a general utility tool in the legal workshop.[34] Factual issues are not a proper subject for certiorari, as the power of the Supreme Court to review labor cases is limited to the issue of jurisdiction and grave abuse of discretion.[35] It is simply unthinkable for the public respondent Undersecretary of Labor to have committed grave abuse of discretion in this regard when the issue as to the legal personality of the private respondent IBM Federation was never interposed in the appeal before said forum.

V

Finally, the certification election sought to be stopped by petitioner is, as of now, *fait accompli*. The monthly paid rank-and-file employees of SMFI have already articulated their choice as to who their collective bargaining agent should be. In the certification election held on August 20, 1994,[36] the SMFI workers chose IBM at SMFI to be their sole and exclusive bargaining agent. This democratic decision deserves utmost respect. Again, it bears stressing that labor legislation seeks in the main to protect the interest of the members of the working class. It should never be used to subvert their will.[37]

WHEREFORE, the petition is DENIED. Costs against petitioner.

SO ORDERED.

Bellosillo, Vitug, and Kapunan, JJ., concur.

Padilla (Chairman), J., no part, on account of interests in San Miguel Group of companies.

[1] Rollo, pp. 52-53.

[2] Rollo, pp. 67-69.

[3] Rollo, p. 83.

[4] Rollo, pp. 31-32.

[5] Rollo, p. 40.

[6] Rollo, p. 42.

[7] Rollo, p. 20.

[8] Progressive Development Corporation v. Secretary, Department of Labor and Employment, 205 SCRA 802, 810 [1992].

[9] Ibid.

[10] 247 SCRA 1, 8 [1995].

[11] 244 SCRA 173, 177 [1995].

[12] 242 SCRA 99, 106 [1995].

[13] Supra.

[14] Rollo, p. 31.

[15] Rollo, pp. 37-38.

[16] Rollo, pp. 38-39.

[17] Rollo, p. 118.

[18] Rollo, p. 78.

[19] R. Transport Corporation v. Laguesma, 227 SCRA 826, 833 [1993].

[20] ART. 258. -- When an employer may file petition. -- When requested to bargain collectively, an employer may petition the Bureau for an election. If there is no existing certified collective bargaining agreement in the unit, the Bureau shall, after hearing, order a certification election.

All certification cases shall be decided within twenty (20) working days.

The Bureau shall conduct a certification election within twenty (20) days in accordance with the rules and regulations prescribed by the Secretary of Labor and Employment.

[21] Phil. Telegraph and Telephone Corp. v. Laguesma, 223 SCRA 452, 456-457 [1993].

[22] 120 SCRA 64, 66 [1983].

[23] Philippine Scout Veterans Security and Investigation Agency v. Torres, 224 SCRA 682, 690 [1993].

[24] Consolidated Farms, Inc. v. Noriel, 84 SCRA 469, 473 [1978].

[25] Philippine Scout Veterans Security and Investigation Agency, supra.

[26] Trade Unions of the Philippines v. Laguesma, 233 SCRA 565, 571 [1994], citing Warren Manufacturing Workers Union v. Bureau of Labor Relations, 159 SCRA 387 [1988]; General Textiles Allied Workers Association, v. Director of Bureau of Labor Relations, 84 SCRA 430 [1978]; Philippine Association of Free Labor Unions v. Bureau of Labor Relations, 69 SCRA 132 [1976].

[27] Ibid., citing Belyca Corporation v. Ferrer-Calleja, 168 SCRA 184 [1988]; Philippine Airlines Employees' Association (PALEA) v. Ferrer-Calleja, 162 SCRA 426 [1988]; George and Peter Lines, Inc. v. Associated Labor Unions (ALU) , 134 SCRA 82 [1986].

[28] Port workers Union of the Phils. (PWUP) v. Laguesma, 207 SCRA 329, 333 [1992], citing National Association of Free Trade Unions v. Bureau of Labor Relations, 164 SCRA 12 [1988].

[29] Trade Unions of the Philippines, *supra*. at 572, citing PALEA v. Ferrer-Calleja, 162 SCRA 426, 431 [1988].

[30] *Ibid*.

[31] *Supra*, at 813.

[32] Rollo, p. 162.

[33] C. Alcantara & Sons, Inc. v. NLRC, 229 SCRA 109, 115 [1994], citing Medida v. C.A., 208 SCRA 887 [1992]).

[34] Herrera, Oscar M., Remedial Law, Volume III, 1996 ed., p. 164.

[35] Oscar Ledesma and Company v. National Labor Relations Commission, 246 SCRA 47, 51 [1995].

[36] Rollo, p. 127.

[37] Trade Unions of the Philippines, *supra*.

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