UST FACULTY UNION (USTFU), GIL Y. GAMILLA, CORAZON QUI, NORMA CALAGUAS, IRMA POTENCIANO, LUZ DE GUZMAN, REMEDIOS GARCIA, RENE ARNEJO, EDITHA OCAMPO, CESAR REYES, CELSO NIERRA, G...

G.R. No. 131235. November 16, 1999

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

There is a right way to do the right thing at the right time for the right reasons,[1] and in the present case, in the right forum by the right parties. While grievances against union leaders constitute legitimate complaints deserving appropriate redress, action thereon should be made in the proper forum at the proper time and after observance of proper procedures. Similarly, the election of union officers should be conducted in accordance with the provisions of the union's constitution and bylaws, as well as the Philippine Constitution and the Labor Code. Specifically, while all legitimate faculty members of the University of Santo Tomas (UST) belonging to a collective bargaining unit may take part in a duly convened certification election, only bona fide members of the UST Faculty Union (USTFU) may participate and vote in a legally called election for union officers. Mob hysteria, however well-intentioned, is not a substitute for the rule of law.

The Case

The Petition for Certiorari before us assails the August 15, 1997 Resolution[2] of Director Benedicto Ernesto R. Bitonio Jr. of the Bureau of Labor Relations (BLR) in BLR Case No. A-8-49-97, which affirmed the February 11, 1997 Decision of Med-Arbiter Tomas F. Falconitin. The med-arbiter's Decision disposed as follows:

> "WHEREFORE, premises considered, judgment is hereby rendered declaring the election of USTFU officers conducted on October 4, 1996 and its election results as null and void ab initio.
>
> "Accordingly, respondents Gil Gamilla, et al are hereby ordered to cease and desist from acting and performing the duties and functions of the legitimate officers of [the] University of Santo Tomas Faculty Union (USTFU) pursuant to [the] union's constitution and by-laws (CBL).
>
> "The Temporary Restraining Order (TRO) issued by this Office on December 11, 1996 in connection with the instant petition, is hereby made and declared permanent."[3]

Likewise challenged is the October 30, 1997 Resolution[4] of Director Bitonio, which denied petitioners' Motion for Reconsideration.

The Facts

The factual antecedents of the case are summarized in the assailed Resolution as follows:

> "Petitioners-appellees [herein Private Respondents] Marino, et. al. (appellees) are duly elected officers of the UST Faculty Union (USTFU). The union has a subsisting five-year Collective Bargaining Agreement with its

employer, the University of Santo Tomas (UST). The CBA was registered with the Industrial Relations Division, DOLE-NCR, on 20 February 1995. It is set to expire on 31 May 1998.

"On 21 September 1996, appellee Collantes, in her capacity as Secretary General of USTFU, posted a notice addressed to all USTFU members announcing a general assembly to be held on 05 October 1996. Among others, the general assembly was called to elect USTFU's next set of officers. Through the notice, the members were also informed of the constitution of a Committee on Elections (COMELEC) to oversee the elections. (Annex "B", petition)

"On 01 October 1996, some of herein appellants filed a separate petition with the Med-Arbiter, DOLE-NCR, directed against herein appellees and the members of the COMELEC. Docketed as Case No. NCR-OD-M-9610-001, the petition alleged that the COMELEC was not constituted in accordance with USTFU's constitution and by-laws (CBL) and that no rules had been issued to govern the conduct of the 05 October 1996 election.

"On 02 October 1996, the secretary general of UST, upon the request of the various UST faculty club presidents (See paragraph VI, Respondents' Comment and Motion to Dismiss), issued notices allowing all faculty members to hold a convocation on 04 October 1996 (See Annex `C' Petition; Annexes `4' to `10', Appeal). Denominated as [a] general faculty assembly, the convocation was supposed to discuss the `state of the unratified UST-USTFU CBA' and `status and election of USTFU officers' (Annex `11', Appeal)

"On 04 October 1996, the med-arbiter in Case No. NCR-OD-M-9610-001 issued a temporary restraining order against herein appellees enjoining them from conducting the election scheduled on 05 October 1996.

"Also on 04 October 1996, and as earlier announced by the UST secretary general, the general faculty assembly was held as scheduled. The general assembly was attended by members of the USTFU and, as admitted by the appellants, also by 'non-USTFU members [who] are members in good standing of the UST Academic Community Collective Bargaining Unit' (See paragraph XI, Respondents' Comment and Motion to Dismiss). On this occasion, appellants were elected as USTFU's new set of officers by acclamation and clapping of hands (See paragraphs 40 to 50, Annex '12', Appeal).

"The election of the appellants came about upon a motion of one Atty. Lopez, admittedly not a member of USTFU, that the USTFU CBL and 'the rules of the election be suspended and that the election be held [on] that day' (See --paragraph 39, Idem.)

"On 11 October 1996, appellees filed the instant petition seeking injunctive reliefs and the nullification of the results of the 04 October 1996 election. Appellees alleged that the holding of the same violated the temporary restraining order issued in Case No. NCR-OD-M-9610-001. Accusing appellants of usurpation, appellees characterized the election as spurious for being violative of USTFU's CBL, specifically because the general assembly resulting in the election of appellants was not called by the Board of Officers of the USTFU; there was no compliance with the ten-day notice rule required by Section 1, Article VIII of the CBL; the supposed elections were conducted without a COMELEC being constituted by the Board of Officers in accordance with Section 1, Article IX of the CBL; the elections were not by secret balloting as required by Section 1, Article V and Section 6, Article IX of the CBL, and, the general assembly was convened by faculty members some of whom were not members of USTFU, so much so that non-USTFU members were allowed to vote in violation of Section 1, Article V of the CBL.

"On 24 October 1996, appellees filed another urgent ex-parte motion for a temporary restraining order, this time alleging that appellants had served the former a notice to vacate the union office. For their part, appellants moved to dismiss the original petition and the subsequent motion on jurisdictional grounds. Both the petition and the motion were captioned to be for "Prohibition, Injunction with Prayer for Preliminary Injunction and Temporary Restraining Order." According to the appellants, the med-arbiter has no jurisdiction over petitions for prohibition, 'including the ancillary remedies of restraining order and/or preliminary injunction, which are

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> merely incidental to the main petition for PROHIBITION' (Paragraph XVIII3, Respondents' Comment and Motion to Dismiss). Appellants also averred that they now constituted the new set of union officers having been elected in accordance with law after the term of office of appellees had expired. They further maintained that appellees' scheduling of the 5 October 1996 elections was illegal because no rules and regulations governing the elections were promulgated as required by USTFU's CBL and that one of the members of the COMELEC was not a registered member of USTFU. Appellants likewise noted that the elections called by the appellees should have been postponed to allow the promulgation of rules and regulations and to 'insure a free, clean, honest and orderly elections and to afford at the same time the greater majority of the general membership to participate' (See paragraph V, Idem). Finally, appellants contended that the holding of the general faculty assembly on 04 October 1996 was under the control of the Council of College/Faculty Club Presidents in cooperation with the USTFU Reformist Alliance and that they received the Temporary Restraining Order issued in Case No. NCR-OD-M-9610-001 only on 07 October 1996 and were not aware of the same on 04 October 1996.
>
> "On 03 December 1996, appellants and UST allegedly entered into another CBA covering the period from 01 June 1996 to 31 May 2001 (Annex 11, appellants' Rejoinder to the Reply and Opposition).
>
> "Consequently, appellees again moved for the issuance of a temporary restraining order to prevent appellants from making further representations that [they] had entered into a new agreement with UST. Appellees also reiterated their earlier stand that appellants were usurping the former's duties and functions and should be stopped from continuing such acts.
>
> "On 11 December 1996, over appellants' insistence that the issue of jurisdiction should first be resolved, the med-arbiter issued a temporary restraining order directing the respondents to cease and desist from performing any and all acts pertaining to the duties and functions of the officers and directors of USTFU.
>
> "In the meantime, appellants claimed that the new CBA was purportedly ratified by an overwhelming majority of UST's academic community on 12 December 1996 (Annexes 1 to 10, Idem). For this reason, appellants moved for the dismissal of what it denominated as appellees' petition for prohibition on the ground that this had become moot and academic."[5]

Petitioners appealed the med-arbiter's Decision to the labor secretary,[6] who transmitted the records of the case to the Bureau of Labor Relations which, under Department Order No. 9, was authorized to resolve appeals of intra-union cases, consistent with the last paragraph of Article 241 of the Labor Code.[7]

The Assailed Ruling

Agreeing with the med-arbiter that the USTFU officers' purported election held on October 4, 1994 was void for having been conducted in violation of the union's Constitution and Bylaws (CBL), Public Respondent Bitonio rejected petitioners' contention that it was a legitimate exercise of their right to self-organization. He ruled that the CBL, which constituted the covenant between the union and its members, could not be suspended during the October 4, 1996 general assembly of all faculty members, since that assembly had not been convened or authorized by the USTFU.

Director Bitonio likewise held that the October 4, 1996 election could not be legitimized by the recognition of the newly "elected" set of officers by UST or by the alleged ratification of the new CBA by the general membership of the USTFU. Ruled Respondent Bitonio:

> "This submission is flawed. The issue at hand is not collective bargaining representation but union leadership, a matter that should concern only the members of USTFU. As pointed out by the appellees, the privilege of determining who the union officers will be belongs exclusively to the members of the union. Said privilege is exercised in an election proceeding in accordance with the union's CBL and applicable law.

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> "To accept appellants' claim to legitimacy on the foregoing grounds is to invest in appellants the position, duties, responsibilities, rights and privileges of USTFU officers without the benefit of a lawful electoral exercise as defined in USTFU's CBL and Article 241(c) of the Labor Code. Not to mention the fact that labor laws prohibit the employer from interfering with the employees in the latter' exercise of their right to self-organization. To allow appellants to become USTFU officers on the strength of management's recognition of them is to concede to the employer the power of determining who should be USTFU's leaders. This is a clear case of interference in the exercise by USTFU members of their right to self-organization."[8]

Hence, this Petition.[9]

The Issues

The main issue in this case is whether the public respondent committed grave abuse of discretion in refusing to recognize the officers "elected" during the October 4, 1996 general assembly. Specifically, petitioners in their Memorandum urge the Court to resolve the following questions:[10]

> "(1) Whether the Collective Bargaining Unit of all the faculty members in that General Faculty Assembly had the right in that General Faculty Assembly to suspend the provisions of the Constitution and By-Laws of the USTFU regarding the elections of officers of the union[.]
>
> "(2) Whether the suspension of the provisions of the Constitution and By-Laws of the USTFU in that General Faculty Assembly is valid pursuant to the constitutional right of the Collective Bargaining Unit to engage in "peaceful concerted activities" for the purpose of ousting the corrupt regime of the private respondents[.]
>
> "(3) Whether the overwhelming ratification of the Collective Bargaining Agreement executed by the petitioners in behalf of the USTFU with the University of Santo Tomas has rendered moot and academic the issue as to the validity of the suspension of the Constitution and By-Laws and the elections of October 4, 1996 in the General Faculty Assembly[.]"

The Court's Ruling

The petition is not meritorious. Petitioners fail to convince this Court that Director Bitonio gravely abused his discretion in affirming the med-arbiter and in refusing to recognize the binding effect of the October 4, 1996 general assembly called by the UST administration.

First Issue:
Right to Self-Organization and Union Membership

At the outset, the Court stresses that National Federation of Labor (NFL) v. Laguesma[11] has held that challenges against rulings of the labor secretary and those acting on his behalf, like the director of labor relations, shall be acted upon by the Court of Appeals, which has concurrent jurisdiction with this Court over petitions for certiorari. However, inasmuch as the memoranda in the instant case have been filed prior to the promulgation and finality of our Decision in NFL, we deem it proper to resolve the present controversy directly, instead of remanding it to the Court of Appeals. Having disposed of the foregoing procedural matter, we now tackle the issues in the present case seriatim.

Self-organization is a fundamental right guaranteed by the Philippine Constitution and the Labor Code. Employees have the right to form, join or assist labor organizations for the purpose of collective bargaining or for their mutual aid and protection.[12] Whether employed for a definite period or not, any employee shall be considered as such, beginning on his first day of service, for purposes of membership in a labor union.[13]

Corollary to this right is the prerogative not to join, affiliate with or assist a labor union.[14] Therefore, to become a union member, an employee must, as a rule, not only signify the intent to become one, but also take some

positive steps to realize that intent. The procedure for union membership is usually embodied in the union's constitution and bylaws.[15] An employee who becomes a union member acquires the rights and the concomitant obligations that go with this new status and becomes bound by the union's rules and regulations.

> "When a man joins a labor union (or almost any other democratically controlled group), necessarily a portion of his individual freedom is surrendered for the benefit of all members. He accepts the will of the majority of the members in order that he may derive the advantages to be gained from the concerted action of all. Just as the enactments of the legislature bind all of us, to the constitution and by-laws of the union (unless contrary to good morals or public policy, or otherwise illegal), which are duly enacted through democratic processes, bind all of the members. If a member of a union dislikes the provisions of the by-laws, he may seek to have them amended or may withdraw from the union; otherwise, he must abide by them. It is not the function of courts to decide the wisdom or propriety of legitimate by-laws of a trade union.
>
> "On joining a labor union, the constitution and by-laws become a part of the member's contract of membership under which he agrees to become bound by the constitution and governing rules of the union so far as it is not inconsistent with controlling principles of law. The constitution and by-laws of an unincorporated trade union express the terms of a contract, which define the privileges and rights secured to, and duties assumed by, those who have become members. The agreement of a member on joining a union to abide by its laws and comply with the will of the lawfully constituted majority does not require a member to submit to the determination of the union any question involving his personal rights."[16]

Petitioners claim that the numerous anomalies allegedly committed by the private respondents during the latter's incumbency impelled the October 4, 1996 election of the new set of USTFU officers. They assert that such exercise was pursuant to their right to self-organization.

Petitioners' frustration over the performance of private respondents, as well as their fears of a "fraudulent" election to be held under the latter's supervision, could not justify the method they chose to impose their will on the union. Director Bitonio aptly elucidated:[17]

> "The constitutional right to self-organization is better understood in the context of ILO Convention No. 87 (Freedom of Association and Protection of Right to Organize), to which the Philippines is signatory. Article 3 of the Convention provides that workers' organizations shall have the right to draw up their constitution and rules and to elect their representatives in full freedom, free from any interference from public authorities. The freedom conferred by the provision is expansive; the responsibility imposed on union members to respect the constitution and rules they themselves draw up equally so. The point to be stressed is that the union's CBL is the fundamental law that governs the relationship between and among the members of the union. It is where the rights, duties and obligations, powers, functions and authority of the officers as well as the members are defined. It is the organic law that determines the validity of acts done by any officer or member of the union. Without respect for the CBL, a union as a democratic institution degenerates into nothing more than a group of individuals governed by mob rule."

Union Election vs. Certification Election

A union election is held pursuant to the union's constitution and bylaws, and the right to vote in it is enjoyed only by union members. A union election should be distinguished from a certification election, which is the process of determining, through secret ballot, the sole and exclusive bargaining agent of the employees in the appropriate bargaining unit, for purposes of collective bargaining.[18] Specifically, the purpose of a certification election is to ascertain whether or not a majority of the employees wish to be represented by a labor organization and, in the affirmative case, by which particular labor organization.[19]

In a certification election, all employees belonging to the appropriate bargaining unit can vote.[20] Therefore, a

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union member who likewise belongs to the appropriate bargaining unit is entitled to vote in said election. However, the reverse is not always true; an employee belonging to the appropriate bargaining unit but who is not a member of the union cannot vote in the union election, unless otherwise authorized by the constitution and bylaws of the union. Verily, union affairs and elections cannot be decided in a non-union activity.

In both elections, there are procedures to be followed. Thus, the October 4, 1996 election cannot properly be called a union election, because the procedure laid down in the USTFU's CBL for the election of officers was not followed. It could not have been a certification election either, because representation was not the issue, and the proper procedure for such election was not followed. The participation of non-union members in the election aggravated its irregularity.

Second Issue:
USTFU's Constitution and ByLaws Violated

The importance of a union's constitution and bylaws cannot be overemphasized. They embody a covenant between a union and its members and constitute the fundamental law governing the members' rights and obligations.[21] As such, the union's constitution and bylaws should be upheld, as long as they are not contrary to law, good morals or public policy.

We agree with the finding of Director Bitonio and Med-Arbiter Falconitin that the October 4, 1996 election was tainted with irregularities because of the following reasons.

First, the October 4, 1996 assembly was not called by the USTFU. It was merely a convocation of faculty clubs, as indicated in the memorandum sent to all faculty members by Fr. Rodel Aligan, OP, the secretary general of the University of Santo Tomas.[22] It was not convened in accordance with the provision on general membership meetings as found in the USTFU's CBL, which reads:

> "ARTICLE VIII-MEETINGS OF THE UNION
>
> "Section 1. The Union shall hold regular general membership meetings at least once every three (3) months. Notices of the meeting shall be sent out by the Secretary-General at least ten (10) days prior to such meetings by posting in conspicuous places, preferably inside Company premises, said notices. The date, time and place for the meetings shall be determined by the Board of Officers."[23]

Unquestionably, the assembly was not a union meeting. It was in fact a gathering that was called and participated in by management and non-union members. By no legal fiat was such assembly transformed into a union activity by the participation of some union members.

Second, there was no commission on elections to oversee the election, as mandated by Sections 1 and 2 of Article IX of the USTFU's CBL, which provide:

> "ARTICLE IX - UNION ELECTION
>
> Section 1. There shall be a Committee on Election (COMELEC) to be created by the Board of Officers at least thirty (30) days before any regular or special election. The functions of the COMELEC include the following:
>
> a)
>
> Adopt and promulgate rules and regulations that will ensure a free, clean, honest and orderly election, whether regular or special;
>
> b)
>
> Pass upon qualifications of candidates;

c)

Rule on any question or protest regarding the conduct of the election subject to the procedure that may be promulgated by the Board of Officers; and

d)

Proclaim duly elected officers.

Section 2. The COMELEC shall be composed of a chairman and two members all of whom shall be appointed by the Board of Officers.

"xxx xxx xxx"[24]

Third, the purported election was not done by secret balloting, in violation of Section 6, Article IX of the USTFU's CBL, as well as Article 241 (c) of the Labor Code.

The foregoing infirmities considered, we cannot attribute grave abuse of discretion to Director Bitonio's finding and conclusion. In Rodriguez v. Director, Bureau of Labor Relations,[25] we invalidated the local union elections held at the wrong date without prior notice to members and conducted without regard for duly prescribed ground rules. We held that the proceedings were rendered void by the lack of due process -- undue haste, lack of adequate safeguards to ensure integrity of the voting, and the absence of the notice of the dates of balloting.

Third Issue:
Suspension of USTFU's CBL

Petitioners contend that the October 4, 1996 assembly "suspended" the union's CBL. They aver that the suspension and the election that followed were in accordance with their "constituent and residual powers as members of the collective bargaining unit to choose their representatives for purposes of collective bargaining." Again they cite the numerous anomalies allegedly committed by the private respondents as USTFU officers. This argument does not persuade.

First, as has been discussed, the general faculty assembly was not the proper forum to conduct the election of USTFU officers. Not all who attended the assembly were members of the union; some, apparently, were even disqualified from becoming union members, since they represented management. Thus, Director Bitonio correctly observed:

"Further, appellants cannot be heard to say that the CBL was effectively suspended during the 04 October 1996 general assembly. A union CBL is a covenant between the union and its members and among members (Johnson and Johnson Labor Union-FFW, et al. v. Director of Labor Relations, 170 SCRA 469). Where ILO Convention No. 87 speaks of a union's full freedom to draw up its constitution and rules, it includes freedom from interference by persons who are not members of the union. The democratic principle that governance is a matter for the governed to decide upon applies to the labor movement which, by law and constitutional mandate, must be assiduously insulated against intrusions coming from both the employer and complete strangers if the 'protection to labor clause' of the constitution is to be guaranteed. By appellant's own evidence, the general faculty assembly of 04 October 1996 was not a meeting of USTFU. It was attended by members and non-members alike, and therefore was not a forum appropriate for transacting union matters. The person who moved for the suspension of USTFU's CBL was not a member of USTFU. Allowing a non-union member to initiate the suspension of a union's CBL, and non-union members to participate in a union election on the premise that the union's CBL had been suspended in the meantime, is incompatible with the freedom of association and protection of the right to organize.

"If there are members of the so-called `academic community collective bargaining unit' who are not USTFU

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> members but who would nevertheless want to have a hand in USTFU's affairs, the appropriate procedure would have been for them to become members of USTFU first. The procedure for membership is very clearly spelled out in Article IV of USTFU's CBL. Having become members, they could then draw guidance from Ang Malayang Manggagawa Ng Ang Tibay v. Ang Tibay, 103 Phil. 669. Therein the Supreme Court held that `if a member of the union dislikes the provisions of the by-laws he may seek to have them amended or may withdraw from the union; otherwise he must abide by them.' Under Article XVII of USTFU's CBL, there is also a specific provision for constitutional amendments. What is clear therefore is that USTFU's CBL provides for orderly procedures and remedies which appellants could have easily availed [themselves] of instead of resorting to an exercise of their so-called `residual power'."[26]

Second, the grievances of the petitioners could have been brought up and resolved in accordance with the procedure laid down by the union's CBL[27] and by the Labor Code.[28] They contend that their sense of desperation and helplessness led to the October 4, 1996 election. However, we cannot agree with the method they used to rectify years of inaction on their part and thereby ease bottled-up frustrations, as such method was in total disregard of the USTFU's CBL and of due process. The end never justifies the means.

We agree with the solicitor general's observation that "the act of suspending the constitution when the questioned election was held is an implied admission that the election held on that date [October 4, 1996] could not be considered valid under the existing USTFU constitution xxx."[29]

The ratification of the new CBA executed between the petitioners and the University of Santo Tomas management did not validate the void October 4, 1996 election. Ratified were the terms of the new CBA, not the issue of union leadership -- a matter that should be decided only by union members in the proper forum at the proper time and after observance of proper procedures.

Epilogue

In dismissing this Petition, we are not passing upon the merits of the mismanagement allegations imputed by the petitioners to the private respondents; these are not at issue in the present case. Petitioners can bring their grievances and resolve their differences with private respondents in timely and appropriate proceedings. Courts will not tolerate the unfair treatment of union members by their own leaders. When the latter abuse and violate the rights of the former, they shall be dealt with accordingly in the proper forum after the observance of due process.

WHEREFORE, the Petition is hereby DISMISSED and the assailed Resolutions AFFIRMED. Costs against petitioners.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

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[1] See Panganiban, Battles in the Supreme Court, 1998 ed., p. 50.

[2] Rollo, pp. 74-86.

[3] Rollo, pp. 72-73.

[4] Rollo, pp. 87-91.

[5] Rollo, pp. 75-79.

[6] Rollo, pp. 112-141. The petitioners filed their appeal with the Department of Labor and Employment on March 3, 1997.

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[7] Assailed Resolution, p. 2; rollo, p. 75.

[8] Ibid., p. 12; rollo, p. 85.

[9] The case was deemed submitted for resolution upon receipt by the Court of the Memorandum for the private respondents on March 1, 1999. Petitioners' Memorandum was received on January 11, 1999, and public respondents' Memorandum on January 18, 1999.

[10] Rollo, pp. 504-505.

[11] GR No. 123426, March 10, 1999.

[12] See Article 244 of the Labor Code in conjunction with Executive Order No. 180, as well as Article 245 of the same Code.

[13] Art. 277 (c), Labor Code.

[14] Reyes v. Trajano, 209 SCRA 484, June 2, 1992.

[15] For example, the following are pertinent provisions as regards membership in USTFU, as set forth in its CBL:

"ARTICLE IV - MEMBERSHIP

Section 1.

Every faculty member of the University of Santo Tomas, not otherwise disqualified by law and without regard to sex, race, nationality, religious or political belief or affiliation, is eligible for membership in the UNION.

Section 2.

Qualified faculty members of the Company may become members of the UNION by written application approved by the President upon recommendation of the Committee on Membership and after payment in full of the required admission fee.

Section 3.

The following shall not be eligible for membership nor to election or appointment to any position in the UNION:

a)

Subversives or persons who profess subversive ideas;

b)

Persons who have been convicted of a crime involving moral turpitude; and

c)

Persons who are not faculty members of the Company." (Rollo, p.283).

[16] Ang Malayang Manggagawa ng Ang Tibay Enterprises et al. v. Ang Tibay, 102 Phil. 669, December 23, 1957, per Bautista Angelo, J.

[17] August 15, 1997 Resolution, pp. 9-10; rollo, pp. 82-83.

[18] § 1 (x), Rule I, Book V, Rules and Regulations Implementing the Labor Code.

[19] Reyes v. Trajano, supra.

[20] Airtime Specialists v. Ferrer-Calleja, 180 SCRA 749, December 29, 1989.

[21] Johnson and Johnson Labor Union-FFW v. Director of Labor Relations, 170 SCRA 469, February 21, 1989.

[22] See Annex "C" of private respondent's Petition filed with the med-arbiter; rollo, p. 261.

[23] Rollo, p. 288.

[24] Rollo, p. 290.

[25] 165 SCRA 239, August 31, 1988.

[26] Rollo, pp. 83-84.

[27] The USTFU's CBL as regards impeachment and recall reads as follows:

ARTICLE XV- IMPEACHMENT AND RECALL

Section 1. Any of the following shall be grounds for the impeachment or recall of UNION officers:

a) Committing or causing the commission directly or indirectly of acts against the interest and welfare of the UNION.

b) Malicious attack against the UNION, its officers, or against a fellow UNION officer.

c) Failure to comply with the obligation to turn over and return to the UNION Treasurer within three (3) days any unexpended sum or sums of money received from the UNION funds to answer for an authorized UNION purpose.

d) Gross misconduct unbecoming a UNION officer.

e) Misappropriation of UNION funds and property. This is without prejudice to the filing of an appropriate criminal or civil action against the responsible officer or officers by any interested party.

f) Willful violation of any provision of this Constitution and By-Laws or rules, regulations, measures, resolutions or decisions of the UNION.

Section 2. The following procedure shall govern impeachment and recall proceedings:

a) Impeachment or recall proceedings shall be initiated by a formal petition or resolution signed by at least thirty (30) percent of all bonafide members of the UNION and addressed to the Chairman of the Board of Officers.

b) The Board Chairman shall then convene a general membership meeting to consider the impeachment or recall of an officer or a group of officers, whether elective or appointive.

c) UNION officers against whom impeachment or recall charges have been filed shall be given ample opportunity to defend themselves before any impeachment or recall vote is finally taken.

d) A majority of all the members of the UNION shall be required to impeach or recall UNION officers.

e) The UNION officers impeached shall ipso facto be considered resigned or ousted from office and shall no longer be elected or appointed to any position in the UNION.

f) The decision of the general membership on the impeachment or recall charge shall be final and executory.

[28] Art. 241.

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[29] Public respondent's Memorandum, p. 13; rollo, pp. 533.

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