

**ILDEFONSO D. YAP AND PHILIPPINE HARVADIAN COLLEGE,
PETITIONERS AND APPELLANTS VS. DANIEL M. M. SALCEDO, IN HIS
PRIVATE CAPACITY AND AS DIRECTOR OF THE BUREAU OF
PRIVATE SCHOOLS,...**

G. R. No. 13920. December 24, 1959

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal from a judgment of the Court of First Instance of Manila, denying' a petition of petitioner-appellant for the issuance of a writ of mandamus against respondent-appellee, in his capacity as Director of the Bureau of Private Schools, to compel him to furnish petitioner-appellant with true copies of the transcript of records of four students of the defunct Mindanao Academy, Oroquieta, Misamis Occidental. Petitioner-appellant acquired the Mindanao Academy on May 10, 1954. On December 19, 1956, he sent a letter to the respondent-appellee requesting that he be furnished true copies of the records of each of four students. In answer respondent suggested that said records be secured from the former owners of the academy. Upon receipt of this denial petitioner insisted upon his request, explaining that the records of the former school were in a disordered topsy-turvy condition, threatening to file charges against respondent if he fails to furnish the records requested within 96 hours, etc. This second letter was coursed through the Secretary of Public Education. The respondent did not heed the demand and threat, explaining that it is not the policy of his Bureau to issue copies of its records to schools, unless the latter have suffered a calamity that has caused loss of its records; that his office, upon orders of the Secretary, is checking records of public school teachers who are claiming adjustment of their salaries, and the issuance of copies might nullify the work of investigation; and that until his office has completed the investigation of the records in question and is convinced that they are authentic, no true copies could be used.

Thereupon, petitioner brought the action in the Court of First Instance of Manila. This court denied the petition on three grounds: (1) that no appeal has been made by petitioner-appellant to the Secretary of Education, which is a more speedy and adequate remedy; (2) that there is no specific legal duty on the part of respondent to issue the copies demanded; and (3) no evidence was submitted that the records in question can not be obtained.

We hold that the court below correctly denied the petition for failure of petitioner-appellant to exhaust the administrative remedy, most speedy and adequate, of appealing the refusal of the respondent-appellant to his immediate superior, the Secretary of Education, in accordance with the principle of exhaustion of administrative remedies enunciated by this Court in a great number of cases. (*Lamb vs. Phipps*, 22 Phil., 456; *Miguel vs. Vda. de Reyes*, 93 Phil., 542; *Wee Poco vs. Posadas*, 64 Phil., 640; *Lucas vs. Durian*, G. R. No. 1-7886, September 23, 1957; *Harry Lyons, Inc., vs. U.S.A.*, 104 Phil., 594).

The applicability of the principle above mentioned becomes imperative if we take into account that the petitioner-appellant had been expressly advised by letter of respondent-appellee that the Secretary of Education had given instructions for the checking of the records of public school teachers who are claiming adjustment of

their salaries in accordance with the provisions of Republic Act No. 842, which instructions might fail of enforcement if records of teachers in respondent's office are divulged. (Petitioner-appellant's brief, pp. 7-8). Under these circumstances, it is evident that the remedy most appropriate and speedy available to petitioner was an appeal to the Secretary of Education in whose discretion the enforcement or non-enforcement of the instructions being carried out by respondent-appellee clearly lies. In passing, it may be illuminating to recall the fact, of which we may take judicial notice, that upon enactment of Republic Act No. 842, which standardized the salaries of public school teachers according to their degrees, a mad scramble for degrees ensued among teachers, giving rise to the indiscriminate issuance of diplomas by private schools, which in turn resulted in the "diploma mill" scandals then subject of investigation.

Without considering the other grounds given by the court a quo for denying the petition, we hold that under the particular circumstances of the present case said denial is fully justified. Coursing of the communication or request through the Secretary of Education can not be considered as an appeal to this official.

The decision subject of appeal is hereby affirmed, with costs against petitioner-appellant. So ordered.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Endencia, Barrera, and Gutierrez David, JJ., concur.

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