TONDO MEDICAL CENTER EMPLOYEES ASSOCIATION, RESEARCH INSTITUTE FOR TROPICAL MEDICINE EMPLOYEES ASSOCIATION, NATIONAL ORTHOPEDIC WORKERS UNION, DR. JOSE R. REYES MEMORIAL HOSPITA...

G.R. NO. 167324. July 17, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Review on Certiorari, under Rule 45 of the Rules of Court, assailing the Decision,[1] promulgated by the Court of Appeals on 26 November 2004, denying a petition for the nullification of the Health Sector Reform Agenda (HSRA) Philippines 1999-2004 of the Department of Health (DOH); and Executive Order No. 102, "Redirecting the Functions and Operations of the Department of Health," which was issued by then President Joseph Ejercito Estrada on 24 May 1999.

Prior hereto, petitioners originally filed a Petition for Certiorari, Prohibition and Mandamus under Rule 65 of the 1997 Revised Rules of Civil Procedure before the Supreme Court on 15 August 2001. However, the Supreme Court, in a Resolution dated 29 August 2001, referred the petition to the Court of Appeals for appropriate action.

HEALTH SECTOR REFORM AGENDA (HSRA)

In 1999, the DOH launched the HSRA, a reform agenda developed by the HSRA Technical Working Group after a series of workshops and analyses with inputs from several consultants, program managers and technical staff possessing the adequate expertise and experience in the health sector. It provided for five general areas of reform: (1) to provide fiscal autonomy to government hospitals; (2) secure funding for priority public health programs; (3) promote the development of local health systems and ensure its effective performance; (4) strengthen the capacities of health regulatory agencies; and (5) expand the coverage of the National Health Insurance Program (NHIP).[2]

Petitioners questioned the first reform agenda involving the fiscal autonomy of government hospitals, particularly the collection of socialized user fees and the corporate restructuring of government hospitals. The said provision under the HSRA reads:

> Provide fiscal autonomy to government hospitals. Government hospitals must be allowed to collect socialized user fees so they can reduce the dependence on direct subsidies from the government. Their critical capacities like diagnostic equipment, laboratory facilities and medical staff capability must be upgraded to effectively exercise fiscal autonomy. Such investment must be cognizant of complimentary capacity provided by public-private networks. Moreover such capacities will allow government hospitals to supplement priority public health programs. Appropriate institutional arrangement must be introduced such as allowing them autonomy towards converting them into government corporations without compromising their social responsibilities. As a result, government hospitals are expected to be more competitive and responsive to health needs.

Petitioners also assailed the issuance of a draft administrative order issued by the DOH, dated 5 January 2001, entitled "Guidelines and Procedure in the Implementation of the Corporate Restructuring of Selected DOH Hospitals to Achieve Fiscal Autonomy, and Managerial Flexibility to Start by January 2001;"[3] and Administrative Order No. 172 of the DOH, entitled "Policies and Guidelines on the Private Practice of Medical and Paramedical Professionals in Government Health Facilities,"[4] dated 9 January 2001, for imposing an added burden to indigent Filipinos, who cannot afford to pay for medicine and medical services.[5]

Petitioners alleged that the implementation of the aforementioned reforms had resulted in making free medicine and free medical services inaccessible to economically disadvantaged Filipinos. Thus, they alleged that the HSRA is void for being in violation of the following constitutional provisions:[6]

> ART. III, SEC. 1. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the law.
>
> ART II, SEC. 5. The maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment of all the people of the blessings of democracy.
>
> ART II, SEC. 9. The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living and an improved quality of life for all.
>
> ART II, SEC. 10. The State shall promote social justice in all phases of national development.
>
> ART II, SEC. 11. The State values the dignity of every human person and guarantees full respect for human rights.
>
> ART II, SEC. 13. The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being x x x.
>
> ART II, SEC. 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.
>
> ART XV, SEC. 1. The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development.
>
> ART XV, SEC. 3. The State shall defend:
>
> x x x x
>
> (2) the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development.
>
> x x x x
>
> ART XIII, SEC. 14. The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.
>
> ART II, SEC. 15. The State shall protect and promote the right to health of the people and instill health consciousness among them.
>
> ART XIII, SEC. 11. The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all people at affordable cost. There shall be priority for the needs of the underprivileged sick, elderly, disabled, women, and

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children. The State shall endeavor to provide free medical care to paupers.

EXECUTIVE ORDER NO. 102

On 24 May 1999, then President Joseph Ejercito Estrada issued Executive Order No. 102, entitled "Redirecting the Functions and Operations of the Department of Health," which provided for the changes in the roles, functions, and organizational processes of the DOH. Under the assailed executive order, the DOH refocused its mandate from being the sole provider of health services to being a provider of specific health services and technical assistance, as a result of the devolution of basic services to local government units. The provisions for the streamlining of the DOH and the deployment of DOH personnel to regional offices and hospitals read:

> Sec. 4. Preparation of a Rationalization and Streamlining Plan. In view of the functional and operational redirection in the DOH, and to effect efficiency and effectiveness in its activities, the Department shall prepare a Rationalization and Streamlining Plan (RSP) which shall be the basis of the intended changes. The RSP shall contain the following:
>
> a) the specific shift in policy directions, functions, programs and activities/strategies;
>
> b) the structural and organizational shift, stating the specific functions and activities by organizational unit and the relationship of each units;
>
> c) the staffing shift, highlighting and itemizing the existing filled and unfilled positions; and
>
> d) the resource allocation shift, specifying the effects of the streamline set-up on the agency budgetary allocation and indicating where possible, savings have been generated.
>
> The RSP shall [be] submitted to the Department of Budget and Management for approval before the corresponding shifts shall be affected (sic) by the DOH Secretary.
>
> Sec. 5. Redeployment of Personnel. The redeployment of officials and other personnel on the basis of the approved RSP shall not result in diminution in rank and compensation of existing personnel. It shall take into account all pertinent Civil Service laws and rules.
>
> Section 6. Funding. The financial resources needed to implement the Rationalization and Streamlining Plan shall be taken from funds available in the DOH, provided that the total requirements for the implementation of the revised staffing pattern shall not exceed available funds for Personnel Services.
>
> Section 7. Separation Benefits. Personnel who opt to be separated from the service as a consequence of the implementation of this Executive Order shall be entitled to the benefits under existing laws. In the case of those who are not covered by existing laws, they shall be entitled to separation benefits equivalent to one month basic salary for every year of service or proportionate share thereof in addition to the terminal fee benefits to which he/she is entitled under existing laws.

Executive Order No. 102 was enacted pursuant to Section 17 of the Local Government Code (Republic Act No. 7160), which provided for the devolution to the local government units of basic services and facilities, as well as specific health-related functions and responsibilities.[7]

Petitioners contended that a law, such as Executive Order No. 102, which effects the reorganization of the DOH, should be enacted by Congress in the exercise of its legislative function. They argued that Executive Order No. 102 is void, having been issued in excess of the President's authority.[8]

Moreover, petitioners averred that the implementation of the Rationalization and Streamlining Plan (RSP) was not in accordance with law. The RSP was allegedly implemented even before the Department of Budget and Management (DBM) approved it. They also maintained that the Office of the President should have issued an

administrative order to carry out the streamlining, but that it failed to do so.[9]

Furthermore, petitioners Elsa O. Guevarra, Arcadio B. Gonzales, Jose G. Galang, Domingo P. Manay, Eduardo P. Galope, Remedios M. Ysmael, Alfredo U. Bacuñata and Edgardo J. Damicog, all DOH employees, assailed the validity of Executive Order No. 102 on the ground that they were likely to lose their jobs, and that some of them were suffering from the inconvenience of having to travel a longer distance to get to their new place of work, while other DOH employees had to relocate to far-flung areas.[10]

Petitioners also pointed out several errors in the implementation of the RSP. Certain employees allegedly suffered diminution of compensation,[11] while others were supposedly assigned to positions for which they were neither qualified nor suited.[12] In addition, new employees were purportedly hired by the DOH and appointed to positions for which they were not qualified, despite the fact that the objective of the ongoing streamlining was to cut back on costs.[13] It was also averred that DOH employees were deployed or transferred even during the three-month period before the national and local elections in May 2001,[14] in violation of Section 2 of the Republic Act No. 7305, also known as "Magna Carta for Public Health Workers."[15] Petitioners, however, failed to identify the DOH employees referred to above, much less include them as parties to the petition.

The Court of Appeals denied the petition due to a number of procedural defects, which proved fatal: 1) Petitioners failed to show capacity or authority to sign the certification of non-forum shopping and the verification; 2) Petitioners failed to show any particularized interest for bringing the suit, nor any direct or personal injury sustained or were in the immediate danger of sustaining; 3) the Petition, brought before the Supreme Court on 15 August 1999, was filed out of time, or beyond 60 days from the time the reorganization methods were implemented in 2000; and 4) certiorari, Prohibition and Mandamus will not lie where the President, in issuing the assailed Executive Order, was not acting as a tribunal, board or officer exercising judicial or quasi-judicial functions.

In resolving the substantial issues of the case, the Court of Appeals ruled that the HSRA cannot be declared void for violating Sections 5, 9, 10, 11, 13, 15, 18 of Article II; Section 1 of Article III; Sections 11 and 14 of Article XIII; and Sections 1 and 3(2) of Article XV, all of the 1987 Constitution, which directly or indirectly pertain to the duty of the State to protect and promote the people's right to health and well-being. It reasoned that the aforementioned provisions of the Constitution are not self-executing; they are not judicially enforceable constitutional rights and can only provide guidelines for legislation.

Moreover, the Court of Appeals held that the petitioners' assertion that Executive Order No. 102 is detrimental to the health of the people cannot be made a justiciable issue. The question of whether the HSRA will bring about the development or disintegration of the health sector is within the realm of the political department.

Furthermore, the Court of Appeals decreed that the President was empowered to issue Executive Order No. 102, in accordance with Section 17 Article VII of the 1987 Constitution. It also declared that the DOH did not implement Executive Order No. 102 in bad faith or with grave abuse of discretion, as alleged by the petitioners, as the DOH issued Department Circular No. 275-C, Series of 2000, which created the different committees tasked with the implementation of the RSP, only after both the DBM and Presidential Committee on Effective Governance (PCEG) approved the RSP on 8 July 2000 and 17 July 2000, respectively.

Petitioners filed with the Court of Appeals a Motion for Reconsideration of the Decision rendered on 26 November 2004, but the same was denied in a Resolution dated 7 March 2005.

Hence, the present petition, where the following issues are raised:

I.

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> THE HONORABLE COURT OF APPEALS COMMITTED MANIFEST ERROR IN RULING THAT ANY QUESTION ON THE WISDOM AND EFFICACY OF THE HEALTH SECTOR REFORM AGENDA IS NOT A JUSTICIABLE CONTROVERSY AND THAT THE CONSTITUTIONAL PROVISIONS PROTECTING THE HEALTH OF THE FILIPINO PEOPLE ARE NOT JUDICIALLY ENFORCEABLE;
>
> II.
>
> THE HONORABLE COURT OF APPEALS COMMITTED MANIFEST ERROR IN RULING THAT PETITIONERS' COMPLAINT THAT EXECUTIVE ORDER NO. 102 IS DETRIMENTAL TO THE FILIPINO IS LIKEWISE NOT A JUSTICIABLE CONTROVERSY AND THAT THE PRESIDENT HAS THE AUTHORITY TO ISSUE SAID ORDER; AND
>
> III.
>
> THE HONORABLE COURT OF APPEALS COMMITTED MANIFEST ERROR IN UPHOLDING TECHNICALITIES OVER AND ABOVE THE ISSUES OF TRANSCENDENTAL IMPORTANCE RAISED IN THE PETITION BELOW. [16]

The Court finds the present petition to be without merit.

Petitioners allege that the HSRA should be declared void, since it runs counter to the aspiration and ideals of the Filipino people as embodied in the Constitution.[17] They claim that the HSRA's policies of fiscal autonomy, income generation, and revenue enhancement violate Sections 5, 9, 10, 11, 13, 15 and 18 of Article II, Section 1 of Article III; Sections 11 and 14 of Article XIII; and Sections 1 and 3 of Article XV of the 1987 Constitution. Such policies allegedly resulted in making inaccessible free medicine and free medical services. This contention is unfounded.

As a general rule, the provisions of the Constitution are considered self-executing, and do not require future legislation for their enforcement. For if they are not treated as self-executing, the mandate of the fundamental law can be easily nullified by the inaction of Congress.[18] However, some provisions have already been categorically declared by this Court as non self-executing.

In Tanada v. Angara,[19] the Court specifically set apart the sections found under Article II of the 1987 Constitution as non self-executing and ruled that such broad principles need legislative enactments before they can be implemented:

> By its very title, Article II of the Constitution is a "declaration of principles and state policies." x x x. These principles in Article II are not intended to be self-executing principles ready for enforcement through the courts. They are used by the judiciary as aids or as guides in the exercise of its power of judicial review, and by the legislature in its enactment of laws.

In Basco v. Philippine Amusement and Gaming Corporation,[20] this Court declared that Sections 11, 12, and 13 of Article II; Section 13 of Article XIII; and Section 2 of Article XIV of the 1987 Constitution are not self-executing provisions. In Tolentino v. Secretary of Finance,[21] the Court referred to Section 1 of Article XIII and Section 2 of Article XIV of the Constitution as moral incentives to legislation, not as judicially enforceable rights. These provisions, which merely lay down a general principle, are distinguished from other constitutional provisions as non self-executing and, therefore, cannot give rise to a cause of action in the courts; they do not embody judicially enforceable constitutional rights.[22]

Some of the constitutional provisions invoked in the present case were taken from Article II of the Constitution -- specifically, Sections 5, 9, 10, 11, 13, 15 and 18 -- the provisions of which the Court categorically ruled to be non self-executing in the aforecited case of Tañada v. Angara.[23]

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Moreover, the records are devoid of any explanation of how the HSRA supposedly violated the equal protection and due process clauses that are embodied in Section 1 of Article III of the Constitution. There were no allegations of discrimination or of the lack of due process in connection with the HSRA. Since they failed to substantiate how these constitutional guarantees were breached, petitioners are unsuccessful in establishing the relevance of this provision to the petition, and consequently, in annulling the HSRA.

In the remaining provisions, Sections 11 and 14 of Article XIII and Sections 1 and 3 of Article XV, the State accords recognition to the protection of working women and the provision for safe and healthful working conditions; to the adoption of an integrated and comprehensive approach to health; to the Filipino family; and to the right of children to assistance and special protection, including proper care and nutrition. Like the provisions that were declared as non self-executory in the cases of Basco v. Philippine Amusement and Gaming Corporation[24] and Tolentino v. Secretary of Finance,[25] they are mere statements of principles and policies. As such, they are mere directives addressed to the executive and the legislative departments. If unheeded, the remedy will not lie with the courts; but rather, the electorate's displeasure may be manifested in their votes.

The rationale for this is given by Justice Dante Tinga in his Separate Opinion in the case of Agabon v. National Labor Relations Commission[26]:

> x x x However, to declare that the constitutional provisions are enough to guarantee the full exercise of the rights embodied therein, and the realization of the ideals therein expressed, would be impractical, if not unrealistic. The espousal of such view presents the dangerous tendency of being overbroad and exaggerated. x x x Subsequent legislation is still needed to define the parameters of these guaranteed rights. x x x Without specific and pertinent legislation, judicial bodies will be at a loss, formulating their own conclusion to approximate at least the aims of the Constitution.

The HSRA cannot be nullified based solely on petitioners' bare allegations that it violates the general principles expressed in the non self-executing provisions they cite herein. There are two reasons for denying a cause of action to an alleged infringement of broad constitutional principles: basic considerations of due process and the limitations of judicial power.[27]

Petitioners also claim that Executive Order No. 102 is void on the ground that it was issued by the President in excess of his authority. They maintain that the structural and functional reorganization of the DOH is an exercise of legislative functions, which the President usurped when he issued Executive Order No. 102.[28] This line of argument is without basis.

This Court has already ruled in a number of cases that the President may, by executive or administrative order, direct the reorganization of government entities under the Executive Department.[29] This is also sanctioned under the Constitution, as well as other statutes.

Section 17, Article VII of the 1987 Constitution, clearly states: "[T]he president shall have control of all executive departments, bureaus and offices." Section 31, Book III, Chapter 10 of Executive Order No. 292, also known as the Administrative Code of 1987 reads:

> SEC. 31. Continuing Authority of the President to Reorganize his Office - The President, subject to the policy in the Executive Office and in order to achieve simplicity, economy and efficiency, shall have continuing authority to reorganize the administrative structure of the Office of the President. For this purpose, he may take any of the following actions:
>
> (1) Restructure the internal organization of the Office of the President Proper, including the immediate offices, the Presidential Special Assistants/Advisers System and the Common Staff Support System, by abolishing consolidating or merging units thereof or transferring functions from one unit to another;

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> (2) Transfer any function under the Office of the President to any other Department or Agency as well as transfer functions to the Office of the President from other Departments or Agencies; and
>
> (3) Transfer any agency under the Office of the President to any other department or agency as well as transfer agencies to the Office of the President from other Departments or agencies.

In Domingo v. Zamora,[30] this Court explained the rationale behind the President's continuing authority under the Administrative Code to reorganize the administrative structure of the Office of the President. The law grants the President the power to reorganize the Office of the President in recognition of the recurring need of every President to reorganize his or her office "to achieve simplicity, economy and efficiency." To remain effective and efficient, it must be capable of being shaped and reshaped by the President in the manner the Chief Executive deems fit to carry out presidential directives and policies.

The Administrative Code provides that the Office of the President consists of the Office of the President Proper and the agencies under it.[31] The agencies under the Office of the President are identified in Section 23, Chapter 8, Title II of the Administrative Code:

> Sec. 23. The Agencies under the Office of the President.–The agencies under the Office of the President refer to those offices placed under the chairmanship of the President, those under the supervision and control of the President, those under the administrative supervision of the Office of the President, those attached to it for policy and program coordination, and those that are not placed by law or order creating them under any specific department. (Emphasis provided.)

Section 2(4) of the Introductory Provisions of the Administrative Code defines the term "agency of the government" as follows:

> Agency of the Government refers to any of the various units of the Government, including a department, bureau, office, instrumentality, or government-owned or controlled corporation, or a local government or a distinct unit therein.

Furthermore, the DOH is among the cabinet-level departments enumerated under Book IV of the Administrative Code, mainly tasked with the functional distribution of the work of the President.[32] Indubitably, the DOH is an agency which is under the supervision and control of the President and, thus, part of the Office of the President. Consequently, Section 31, Book III, Chapter 10 of the Administrative Code, granting the President the continued authority to reorganize the Office of the President, extends to the DOH.

The power of the President to reorganize the executive department is likewise recognized in general appropriations laws. As early as 1993, Sections 48 and 62 of Republic Act No. 7645, the "General Appropriations Act for Fiscal Year 1993," already contained a provision stating that:

> Sec. 48. Scaling Down and Phase Out of Activities Within the Executive Branch. The heads of departments, bureaus and offices and agencies are hereby directed to identify their respective activities which are no longer essential in the delivery of public services and which may be scaled down, phased out, or abolished, subject to civil service rules and regulations. x x x. Actual scaling down, phasing out, or abolition of activities shall be effected pursuant to Circulars or Orders issued for the purpose by the Office of the President. (Emphasis provided.)
>
> Sec. 62. Unauthorized Organizational Changes. Unless otherwise created by law or directed by the President of the Philippines, no organizational unit or changes in key positions in any department or agency shall be authorized in their respective organizational structures and be funded form appropriations by this Act.

Again, in the year when Executive Order No. 102 was issued, "The General Appropriations Act of Fiscal Year

1999" (Republic Act No. 8745) conceded to the President the power to make any changes in any of the key positions and organizational units in the executive department thus:

> Sec. 77. Organized Changes. Unless otherwise provided by law or directed by the President of the Philippines, no changes in key positions or organizational units in any department or agency shall be authorized in their respective organizational structures and funded from appropriations provided by this Act.

Clearly, Executive Order No. 102 is well within the constitutional power of the President to issue. The President did not usurp any legislative prerogative in issuing Executive Order No. 102. It is an exercise of the President's constitutional power of control over the executive department, supported by the provisions of the Administrative Code, recognized by other statutes, and consistently affirmed by this Court.

Petitioners also pointed out several flaws in the implementation of Executive Order No. 102, particularly the RSP. However, these contentions are without merit and are insufficient to invalidate the executive order.

The RSP was allegedly implemented even before the DBM approved it. The facts show otherwise. It was only after the DBM approved the Notice of Organization, Staffing and Compensation Action on 8 July 2000,[33] and after the Presidential Committee on Effective Governance (PCEG) issued on 17 July 2000 Memorandum Circular No. 62,[34] approving the RSP, that then DOH Secretary Alberto G. Romualdez issued on 28 July 2000 Department Circular No. 275-C, Series of 2000,[35] creating the different committees to implement the RSP.

Petitioners also maintain that the Office of the President should have issued an administrative order to carry out the streamlining, but that it failed to do so. Such objection cannot be given any weight considering that the acts of the DOH Secretary, as an alter ego of the President, are presumed to be the acts of the President. The members of the Cabinet are subject at all times to the disposition of the President since they are merely his alter egos.[36] Thus, their acts, performed and promulgated in the regular course of business, are, unless disapproved by the President, presumptively acts of the President.[37] Significantly, the acts of the DOH Secretary were clearly authorized by the President, who, thru the PCEG, issued the aforementioned Memorandum Circular No. 62, sanctioning the implementation of the RSP.

Petitioners Elsa Odonzo Guevarra, Arcadio B. Gonzales, Jose G. Galang, Domingo P. Manay, Eduardo P. Galope, Remedios M. Ysmael, Alfredo U. Bacuñata, and Edgardo Damicog, all DOH employees, assailed the validity of Executive Order No. 102 on the ground that they were likely to lose their jobs, and that some of them were suffering from the inconvenience of having to travel a longer distance to get to their new place of work, while other DOH employees had to relocate to far-flung areas.

In several cases, this Court regarded reorganizations of government units or departments as valid, for so long as they are pursued in good faith—that is, for the purpose of economy or to make bureaucracy more efficient.[38] On the other hand, if the reorganization is done for the purpose of defeating security of tenure or for ill-motivated political purposes, any abolition of position would be invalid. None of these circumstances are applicable since none of the petitioners were removed from public service, nor did they identify any action taken by the DOH that would unquestionably result in their dismissal. The reorganization that was pursued in the present case was made in good faith. The RSP was clearly designed to improve the efficiency of the department and to implement the provisions of the Local Government Code on the devolution of health services to local governments. While this Court recognizes the inconvenience suffered by public servants in their deployment to distant areas, the executive department's finding of a need to make health services available to these areas and to make delivery of health services more efficient and more compelling is far from being unreasonable or arbitrary, a determination which is well within its authority. In all, this Court finds petitioners' contentions to be insufficient to invalidate Executive Order No. 102.

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Without identifying the DOH employees concerned, much less including them as parties to the petition, petitioners went on identifying several errors in the implementation of Executive Order No. 102. First, they alleged that unidentified DOH employees suffered from a diminution of compensation by virtue of the provision on Salaries and Benefits found in Department Circular No. 312, Series of 2000, issued on 23 October 2000, which reads:

> - Any employee who was matched to a position with lower salary grade (SG) shall not suffer a reduction in salary except where his/her current salary is higher than the maximum step of the SG of the new position, in which case he/she shall be paid the salary corresponding to the maximum step of the SG of the new position. RATA shall no longer be received, if employee was matched to a Non-Division Chief Position.

Incidentally, the petition shows that none of the petitioners, who are working in the DOH, were entitled to receive RATA at the time the petition was filed. Nor was it alleged that they suffered any diminution of compensation. Secondly, it was claimed that certain unnamed DOH employees were matched with unidentified positions for which they were supposedly neither qualified nor suited. New employees, again unnamed and not included as parties, were hired by the DOH and appointed to unidentified positions for which they were purportedly not qualified, despite the fact that the objective of the ongoing streamlining was to cut back on costs. Lastly, unspecified DOH employees were deployed or transferred during the three-month period before the national and local elections in May 2001, in violation of Section 2 of the Republic Act No. 7305, also known as "Magna Carta for Public Health Workers."

Petitioners' allegations are too general and unsubstantiated by the records for the Court to pass upon. The persons involved are not identified, details of their appointments and transfers — such as position, salary grade, and the date they were appointed - are not given; and the circumstances which attended the alleged violations are not specified.

Even granting that these alleged errors were adequately proven by the petitioners, they would still not invalidate Executive Order No. 102. Any serious legal errors in laying down the compensation of the DOH employees concerned can only invalidate the pertinent provisions of Department Circular No. 312, Series of 2000. Likewise, any questionable appointments or transfers are properly addressed by an appeal process provided under Administrative Order No. 94, series of 2000;[39] and if the appeal is meritorious, such appointment or transfer may be invalidated. The validity of Executive Order No. 102 would, nevertheless, remain unaffected. Settled is the rule that courts are not at liberty to declare statutes invalid, although they may be abused or misabused, and may afford an opportunity for abuse in the manner of application. The validity of a statute or ordinance is to be determined from its general purpose and its efficiency to accomplish the end desired, not from its effects in a particular case.[40]

In a number of cases,[41] the Court upheld the standing of citizens who filed suits, wherein the "transcendental importance" of the constitutional question justified the granting of relief. In spite of these rulings, the Court, in Domingo v. Carague,[42] dismissed the petition when petitioners therein failed to show any present substantial interest. It demonstrated how even in the cases in which the Court declared that the matter of the case was of transcendental importance, the petitioners must be able to assert substantial interest. Present substantial interest, which will enable a party to question the validity of the law, requires that a party sustained or will sustain direct injury as a result of its enforcement.[43] It is distinguished from a mere expectancy or future, contingent, subordinate, or inconsequential interest.[44]

In the same way, the Court, in Telecommunications & Broadcast Attorneys of the Philippines, Inc. v. Comelec,[45] ruled that a citizen is allowed to raise a constitutional question only when he can show that he has personally suffered some actual or threatened injury as a result of the allegedly illegal conduct of the government;

the injury is fairly traceable to the challenged action; and the injury is likely to be redressed by a favorable action. This case likewise stressed that the rule on constitutional questions which are of transcendental importance cannot be invoked where a party's substantive claim is without merit. Thus, a party's standing is determined by the substantive merit of his case or a preliminary estimate thereof. After a careful scrutiny of the petitioners' substantive claims, this Court finds that the petitioners miserably failed to show any merit to their claims.

IN VIEW OF THE FOREGOING, the instant Petition is DENIED. This Court AFFIRMS the assailed Decision of the Court of Appeals, promulgated on 26 November 2004, declaring both the HSRA and Executive Order No. 102 as valid. No costs.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago,Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Garcia, and Velasco, Jr., JJ., concur.
Nachura, J., No part. Signed pleading as Sol Gen.

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[1] Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Andres B. Reyes, Jr. and Lucas P. Bersamin, concurring; rollo, pp. 214-254.

[2] Id. at 294-296.

[3] The rationale for this draft administrative order reads:

In line with the goal of the Health Sector Reform Agenda (HSRA) of providing equitable quality health services, the hospital reforms were initiated to complement the other HSRA components. The objectives of the Hospital Reform component include among others, the following to promote efficiency in hospital operations and management; to enhance the capabilities through facilities and human resource upgrading; and to attain fiscal autonomy and managerial flexibility while maintain the government's social responsibility for the indigent patients.

With this framework, the corporate restructuring of DOH Hospitals into government owned and controlled corporations (GOCC) was identified as the most effective means to attain the above objectives.

[4] The rationale for this administrative order reads:

The Department of Health encourages the employment of physicians and paramedical personnel who are experts in their field of practice in various government hospitals and other government health facilities. It is envisioned to attract the best and the brightest professionals for medical and paramedical positions, in order to 1) provide adequate quality medical care to patients especially the indigent; 2) teach, train and interact with the other medical and paramedical professionals and; 3) Conduct relevant studies and research thereby enhancing the quality of medical and health care delivery systems.

As an incentive and in recognition for their commitment to remain as Members of the hospital staff for a longer period for continuous improvement of the health care delivery service of the facility, private practice is allowed.

[5] Rollo, pp. 96-98.

[6] Id. at 98-102.

[7] SEC. 17. Basic Services and Facilities. - (a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall

also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provision of the basic services and facilities enumerated herein.

(b) Such basic services and facilities include, but are not limited to, the following:

(1) For a Barangay:

x x x x

(ii) Health and social welfare services which include maintenance of barangay health center and day-care center;

x x x x

(2) For a municipality:

x x x x

(iii) Subject to the provisions of Title Five, Book I of this Code, health services which include the implementation of programs and projects on primary health care, maternal and child care, and communicable and non-communicable disease control services; access to secondary and tertiary health services; purchase of medicines, medical supplies, and equipment needed to carry out the services herein enumerated;

x x x x

(3) For a Province:

x x x x

(iv) Subject to the provisions of Title Five, Book I of this Code, health services which include hospitals and other tertiary health services;

x x x x

(4) For a City:

All the services and facilities of the municipality and province, and in addition thereto, the following:

[8] Rollo, pp. 131-151.

[9] Id.

[10] Id. at 114-122.

[11] Id. at 109-110.

[12] Id. at 105.

[13] Id. at 111.

[14] Id. at 125-126.

[15] Section 2 of Republic Act No. 7305 reads:

SEC. 2. No transfer nor reassignment shall be made three months before any local or national elections.

[16] Rollo, p. 78.

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[17] Id. at 98-102.

[18] Manila Prince Hotel v. Government Service Insurance System, G.R. No. 122156, 3 February 1997, 267 SCRA 408, 473; Agabon v. National Labor Relations Commission, G.R. No. 158693, 17 November 2004, 442 SCRA 573, 684.

[19] 338 Phil. 546, 580-581 (1997).

[20] 274 Phil. 323 (1991).

[21] G.R. No. 115455, 25 August 1994, 235 SCRA 630, 685.

[22] Kilosbayan v. Morato, 316 Phil. 652, 697-698 (1995); and Manila Prince Hotel v. Government Service Insurance System, 335 Phil. 82, 102-103 (1997).

[23] Supra note 19.

[24] 274 Phil. 323 (1991).

[25] Supra note 21.

[26] Supra note 18 at 686.

[27] Tanada, v. Angara, supra note 19 at 581.

[28] Rollo, p. 132.

[29] Bagaoisan v. National Tobacco Administration, 455 Phil. 761, 774-775 (2003); Domingo v. Zamora, 445 Phil. 7, 12-13 (2003); Secretary of the Department of Transportation and Communications v. Mabalot, 428 Phil. 154, 164-165 (2002); Buklod ng Kawaning EIIB v. Zamora, 413 Phil. 281, 291 (2001); Larin v. Executive Secretary, G.R. No. 112745, 280 SCRA 713, 729-730.

[30] Id.

[31] Section 21, Chapter 8, Title II of the Administrative Code.

[32] Section 1, Chapter 1, Book IV of the Administrative Code reads:

SECTION 1. Purpose and Number of Departments. - The Executive Branch shall have Departments as are necessary for the functional distribution of the work of the President and for the performance of their functions.

[33] Rollo, pp. 384-388.

[34] Id. at 389-390.

[35] Id. at 384-398.

[36] Secretary of the Department of Transportation and Communications v. Mabalot, supra note 29 at 166-167.

[37] Villena v. Secretary of Interior, 67 Phil. 451, 463-465 (1939).

[38] Secretary of the Department of Transportation and Communications v. Mabalot, supra note 29 at 170; Buklod ng Kawaning EIIB v. Zamora, supra note 29 at 294; and Larin v. Executive Secretary, supra note 29.

[39] The procedure for appeals, as provided under Administrative Order No. 94, series of 2000, reads:

General Guidelines on Appeals

In order to properly and immediately address the appeals, issues and concerns of personnel, the following rules shall apply:

- Appeals, oversights, issues and concerns related to personnel selection and placement shall be handled by an Appeals Committee.

- For proper documentation, all appeals shall be made in writing. An Appeals Form shall be made available for all personnel.

- All personnel concerned shall be given opportunity to present their side to assure utmost objectivity and impartiality. If and when necessary, hearings shall be conducted.

- The Appeals Committee shall be expected to resolve issues, recommend options to the EXECOM or the concerned personnel within 15 working days upon receipt of the said appeal.

[40] David v. Macapagal-Arroyo, G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489, 171424, 3 May 2006, 489 SCRA 160, 258.

[41] Agan, Sr. v. Philippine International Air Terminals Co., Inc., 450 Phil. 744, 803-804 (2003); Chavez v. Public Estates Authority, 433 Phil. 506, 526-528 (2002); and Kilosbayan, Inc. v. Guingona, G.R. 113375, 5 May 1994, 232 SCRA 110, 139.

[42] G.R. No. 161065, 15 April 2005, 456 SCRA 450, 454-456.

[43] National Economic Protectionism Association v. Ongpin, G.R. No. 67752, 10 April 1989, 171 SCRA 657, 665.

[44] Montesclaros v. Commission on Elections, 433 Phil. 620, 635-636 (2002).

[45] 352 Phil. 153, 168-169 (1998).

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