

JOVITO R. SALONGA, PETITIONER, VS. CAPTAIN ROLANDO HERMOSO, TRAVEL PROCESSING CENTER, AND GENERAL FABIAN VER, RESPONDENTS.*G.R. No. 53622. April 25, 1980*

Ponente: FERNANDO, C.J.

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This is not the first time petitioner Jovito R. Salonga came to this Tribunal by way of a mandamus proceeding to compel the issuance to him of a certificate of eligibility to travel. In the first case, *Salonga v. Madella*,^[1] the case became moot and academic as the Office of the Solicitor General, in its answer to the petition, stated that the travel eligibility certificate was not denied and, as a matter of fact, had been granted. Nonetheless, a brief separate opinion was filed, concurring in the resolution, and worded thus: "Clearly this petition had assumed a moot and academic character. Its dismissal is thus indicated. May I just add these few words as my response to the plea of petitioner in his Manifestation and Reply dated October 28, 1978. This is how I would view the matter not only where petitioner is concerned but in all other similar cases. Respondent Travel Processing Center should discharge its function conformably to the mandate of the Universal Declaration of Human Rights on the right to travel. One of the highlights of the keynote address of President Marcos in the Manila World Law Conference in celebration of the World Peace Through Law Day on August 21, 1977 was the lifting of 'the ban on international travel'. There should be fidelity to such a pronouncement. It is the experience of the undersigned in his lectures abroad the last few years, in the United States as well as in Malaysia, Singapore and Australia, that respect accorded constitutional rights under the present emergency regime had elicited the commendation of members of the bench, the bar, and the academe in foreign lands. It is likewise worthy of notice that in his keynote address to the International Law Association, President Marcos made reference to martial law being instituted in accordance with law and that the Constitution had been applied in appropriate cases. As an agency of the executive branch, therefore, the Travel Processing Center should ever be on its guard, lest the impression be created that such declarations amount, to paraphrase Justice Jackson, to no more than munificent bequests in a pauper's will. Petitioner, to my mind, is justified, the more so in the light of the Answer of Acting Solicitor General Vicente Mendoza, to an affirmative response to his prayer in his Manifestation and Reply 'that under the circumstances mentioned in the Petition, Petitioner is entitled to travel abroad, and that it is in recognition of this right that Respondents have issued his Certificate of Eligibility to Travel, as mentioned in the Answer.'"[2]

The present petition is likewise impressed with a moot and academic aspect. In the motion to dismiss of the Solicitor General dated April 21, 1980, it was stated that the certificate of eligibility to travel had been granted petitioner. A xeroxed copy was enclosed. A resolution for dismissal is, therefore, in order.

From the docket of this Court, it appears that other petitions of this character had been filed in the past, namely, *Santos v. The Special Committee on Travel Abroad*,^[3] *Pimentel v. Travel Processing Center*,^[4] and *Gonzales v. Special Committee on Travel*.^[5] In the aforesaid cases, as in this and the earlier *Salonga* petition, there was no occasion to pass on the merits of the controversy as the certificates of eligibility to travel were granted. The

necessity for any ruling was thus obviated. Nonetheless, in view of the likelihood that in the future this Court may be faced again with a situation like the present which takes up its time and energy needlessly, it is desirable that respondent Travel Processing Center should exercise the utmost care to avoid the impression that certain citizens desirous of exercising their constitutional right to travel could be subjected to inconvenience or annoyance. In the address of President and Prime Minister Ferdinand E. Marcos before the American Newspaper Publishers Association last Tuesday, April 22, 1980, he emphasized anew the respect accorded constitutional rights. The freedom to travel is certainly one of the most cherished. He cited with approval the ringing affirmation of Willoughby, who, as he noted was "partial to the claims of liberty." [6] Burdick [7] and Willis, [8] both of whom were equally convinced that there be no erosion to human rights even in times of martial law, likewise received from President Marcos the accolade of his approval. It would appear, therefore, that in case of doubt of the Officer-in-Charge of the Travel Processing Center, the view of General Fabian Ver should immediately be sought. It goes without saying that the petition for such certificate of eligibility to travel be filed at the earliest opportunity to facilitate the granting thereof and preclude any disclaimer as to the person desiring to travel being in any way responsible for any delay.

WHEREFORE, the petition is dismissed for being moot and academic.

Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Teehankee, J., concurs in a separate opinion.

Antonio, J., is on leave.

[1] L-49130.

[2] Resolution of November 2, 1978. The writer of this brief resolution is the author of the opinion. The then Justices Muñoz Palma and Santos, now both retired, as well as Justice Fernandez, concurred.

[3] L-45748.

[4] L-49637.

[5] L-46466.

[6] 3 Willoughby on the Constitution of the United States, 2nd ed., 1591 (1929).

[7] Burdick, The Law of the American Constitution, 261 (1922).

[8] Willis on Constitutional Law, 449 (1936).

SEPARATE OPINION

TEEHANKEE, J.:

In *Salonga vs. Medalla* [*] after the therein public respondents in charge of the Travel Processing Center had issued in 1978 to herein petitioner the corresponding travel permit or certificate, I remarked "that the issuance of the travel certificate necessarily is a recognition of petitioner's right to travel under the present circumstances."

The circumstances have not changed in any manner. Petitioner is the holder of a Philippine passport issued on

March 3, 1980 and valid up to March 1982 and has urgent medical appointments and official engagements as the only Filipino member of the Board of Trustees of the United Board for Higher Christian Education in Asia based in New York. His last trip abroad was from February 21, 1980 - March 15, 1980 without any complaint from any government agency. There seems no valid basis for the delay in the issuance of petitioner's travel permit (which he had long applied for on April 1, 1980) and for his representative to have had to follow up in vain daily from the scheduled release date of April 11, 1980 until he was constrained to file the present petition on April 18th as his scheduled trip on April 23rd was in jeopardy (while all other applications had already been long acted upon favorably).

As the Chief Justice stresses in the Court's resolution "it is desirable that respondent Travel Processing Center should exercise the utmost care to avoid the impression that certain citizens desirous of exercising their constitutional right to travel could be subjected to inconvenience or annoyance." Under the antecedents, with petitioner having previously established his right to travel as sanctioned by the Ministry of Foreign Affairs which duly issued him his passport, petitioner has cause to complain that he should not be placed by respondents on their "watch list", without benefit of previous notice and hearing so as to be afforded the opportunity to rebut whatever adverse information might have been compiled or given in secret against him.

Finally, it is not amiss to call the attention of the public officials concerned to the provisions of Article 27 of the Civil Code that "Any person suffering material or moral loss because a public servant or employee refuses or neglects, without just cause, to perform his official duty may file an action for damages and other relief against the latter, without prejudice to any disciplinary administrative action that may be taken."

[*] L-49130, Resolution of Nov. 2, 1978.

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