

BABELO BERIÑA, MARILOU ELAGDON, ERNESTO ROBERTO AND JESUS SORIAO, PETITIONERS, VS. PHILIPPINE MARITIME INSTITUTE, TOMAS CLOMA AND JAIME CLOMA, RESPONDENTS.*G.R. No. 58610. September 30, 1982*

Ponente: ABAD SANTOS, J.

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Babelo Beriña, Marilou Elagdon, Ernesto Roberto and Jesus Soriao are students of the Philippine Maritime Institute, PMI for short. In their petition which is styled FOR EXTRAORDINARY AND EQUITABLE REMEDY WITH PRELIMINARY INJUNCTION, they claim that PMI, five weeks after school had started, posted sometime in August, 1981, a notice that there would be a 15% increase in tuition fees retroactive to the start of the current semester; that the students met and took positive steps in respect of the problem; that their representatives held dialogues with the school administration; "that, in reaction to these legitimate student activities and without compliance with due process respondents commencing on October 15, 1981 issued expulsion orders against Jesus Soriao, Ernesto Roberto, and Babelo Beriña and an indefinite suspension against Marilou Elagdon;" that the penalties were imposed without due process and had the effect of negating the petitioners' right to free speech, peaceful assembly and petition for redress of grievances. The petitioners pray that the expulsion and suspension orders be annulled and that while the case is pending resolution they be restored to their status as students of the PMI.

On November 10, 1981, We required PMI and its officers who were included as respondents to comment on the petition. We also issued a temporary restraining order commanding the respondents to refrain from carrying out the expulsion and suspension orders.

PMI filed its comment as required where it said that the 15% increase in tuition fee had been authorized by the Ministry of Education and Culture; and denied that the action taken against the petitioners was in response to their activities in connection with the tuition fee increase. The comment also advances the arguments that this Court lacks jurisdiction to entertain the petition because it involves "matters that are well within the competence and jurisdiction of the lower courts to pass upon, as even more serious matters and cases of greater consequences are normally brought before them at the first instance prior to any appeal to the Supreme Court, and there are no valid and impelling excuses to warrant a direct recourse to the Highest Tribunal in the judicial hierarchy."

We are not called upon to determine the validity or propriety of the tuition fee increase of 15% five weeks after the classes for the current semester had started. The issue in this case is limited to the question as to whether or not the petitioners were denied by the respondents their constitutional rights to due process, free speech, peaceful assembly and petition to redress of grievances. Treating the petition as having been filed under Rule 65 of the Rules of Court as the petitioners assert, We have no doubt that there is no absence of jurisdiction.

Typical of the expulsion orders is that which was issued to petitioner Jesus Soriao on October 15, 1981, which has been marked as Annex A of the petition and which reads as follows:

"For conduct unbecoming as a Cadet, you are hereby dropped from the roll of students of the School.

"That your actuations and behavior as reported and seen leave no other recourse hence this action.

"That on September 9th, you with another student was (SIC) caught inside the STC Building, distributing leaflets, enticing and coercing other students to join the slated demonstration.

"In the subsequent days, you were caught again by the undersigned campaigning and distributing leaflets, enjoining other students to join the boycott.

"That all these actions are contrary to MEC regulations and directives that appropriate action had to be taken.

"For your guidance."

The suspension order which was issued for Marilou Elagdon on October 20, 1981, which has been marked Annex C of the petition reads:

"Please be informed that C/miss ELAGDON, Marilou is hereby suspended from her classes for conduct unbecoming of a Cadetee as against the rules and regulation of the School.

"Let the above-named student see the undersigned and in the meantime she remained suspended until clearance is given by this office.

"For your guidance."

The comment does not positively assert that in imposing the expulsion and suspension orders there was observance of due process which simply means that the petitioners should have been given an opportunity to defend themselves. It was only after the petitioners had said in their reply that the respondents failed to traverse the denial of due process that the latter invoked the legal presumption "'that the ordinary course of business has been followed' (Sec. 5(q), Rule 131, Rules of Court)."

It is obvious from the expulsion and suspension orders that the petitioners were denied due process, *res ipsa loquitur*. For the orders are bereft of the sides of the petitioners. Hence the legal presumption of regularity cannot be availed in the instant case.

WHEREFORE, the petition is granted; the expulsion and suspension orders are hereby set aside but without prejudice to the power of the respondents to formally charge the petitioners for violation(s) of reasonable school rules and regulations and after due notice to hear and decide the charge. No special pronouncement as to costs.

SO ORDERED.

Teehankee, Barredo, Makasiar, Concepcion, Jr., Guerrero, De Castro, Melencio-Herrera, Plana, Escolin, Vasquez, Relova, and Gutierrez, Jr., JJ., concur.

Fernando, C.J. and Aquino, JJ., no part.

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