

TRADE UNIONS OF THE PHILIPPINES AND ALLIED SERVICES (TUPAS-WFTU) AND NATIONAL FEDERATION OF LABOR UNIONS (NAFLU-KMU) FOR THEMSELVES AND FOR AND IN BEHALF OF THE FOLLOWING OTHER ...

G.R. No. 67573. June 19, 1985

Ponente: FERNANDO, J.

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FERNANDO, J.:

It is one of the innovations of the present Constitution that sectoral representatives are chosen to represent various sectors, "as may be provided by law." [1] In the implementing law, Batas Pambansa Blg. 697, three sectors are to be represented, "(1) youth; (2) agricultural labor; and (3) industrial labor, [the representatives to] be selected by the President from the nominees of their respective sectors, [with each] sector entitled to four representatives two of whom shall come from Luzon, one from Visayas and one from Mindanao." [2]

Petitioners Trade Unions of the Philippines and Allied Services and National Federation of Labor Unions, in this prohibition and mandamus proceeding, for themselves and on behalf of the forty-two affiliates of the Pambansang Koalisyon ng Mga Manggagawa Laban sa Kahirapan, assail the constitutionality of Section 6 of Article III of Batas Pambansa Blg. 697, [3] on the mode of selection of sectoral representatives on two grounds: that (1) there is an unlawful delegation of legislative power and (2) there is, as to them, a denial of equal protection.

It is their submission that their members and affiliates represent "over 1 million workers in the agricultural as well as the industrial labor sectors [and] are entitled to nominate or participate in the choice of nominees to represent their sectors as provided for in Section 5 of Art. III of Batas Pambansa Blg. 697." [4] It is then alleged that in a letter of May 30, 1984 to respondent Minister of Labor and Employment, they pointed out that the matter "of accrediting, nominating, and appointing industrial labor representatives is still hardly known to the members of the industrial labor sector." [5] There is reference to the lack of "meaningful effort on the part of [respondent] to inform the members of the sector." [6] Respondent Minister Ople, according to the petition, was previously informed that they would question before this Court the constitutionality of such Article III, Sections 4 to 6 of Batas Pambansa Blg. 697. [7] They feel aggrieved that respondent Minister ignored them, proceeded to accredit labor organizations, which nominated their own nominees, but refused and failed to accredit them. [8]

Respondent Blas S. Ople of the Ministry of Labor and Employment was required to comment. In such Comment, submitted by Solicitor General Estelito P. Mendoza, it was stated that according to Section 6 of Batas Pambansa Blg. 697, "nominations are submitted in any form, such as in the form of resolutions or by merely writing letters to the President of the Philippines through the Minister of Labor and Employment, where nominations are for the industrial labor sector." [9] It was by virtue of such procedure that thirteen labor organizations submitted their nominees for possible appointment by the President to the Batasang Pambansa. Petitioner on the other hand, "instead of submitting nominations, addressed to respondent a letter dated May 30, 1984, stating among other things that: 'We are questioning before the Supreme Court the constitutionality of Article III, Sections 4 to 6 of

the 1984 Election Law (PD 697) and the legality of the current efforts of the Minister of Labor and Employment to implement it in the absence of duly published rules on accreditation, nomination and appointment of industrial labor representatives." [10]

The Comment was considered as the answer and the case submitted for deliberation. It is the ruling of the Court that the attack on the validity of Article III, Sections 4-6 of Batas Pambansa Blg. 697, while vigorously pressed, fails to justify a finding of unconstitutionality. This petition must be dismissed.

1. The lack of merit of the contention that there is an unlawful delegation of legislative power is quite obvious. What is involved is the power of appointment of the President of the Philippines. As early as *Concepcion v. Paredes*, [11] decided in 1921, this Court has left no doubt about the broad range of authority of the President in such matters. In the categorical language of Justice Malcolm "Appointment to office is intrinsically an executive act involving the exercise of discretion." [12] What is involved then is not a legislative power but the exercise of competence intrinsically executive. What is more the official who could make the recommendation is respondent Minister of Labor, an alter ego of the President. [13] The argument, therefore, that there is an unlawful delegation of legislative power is bereft of any persuasive force.

2. There is this reinforcement to the conclusion that no such claim as unlawful delegation of legislative power would prosper in the now authoritative doctrine that the rigid and inflexible approach in *People v. Vera* [14] has virtually fallen into innocuous desuetude. As pointed out in the recent case of *Free Telephone Workers Union v. Minister of Labor and Employment*: [15] "It would be self-defeating in the extreme if the legislation intended to cope with the grave social and economic problems of the present and foreseeable future would founder on the rock of an unduly restrictive and decidedly unrealistic meaning to be affixed to the doctrine of non-delegation. Fortunately with the retention in the amended Constitution of some features of the 1973 Constitution as originally adopted leading to an appreciable measure of concord and harmony between the policy-making branches of the government, executive and legislative, the objection on the grounds of non-delegation would be even less persuasive. It is worth repeating that the Prime Minister, while the choice of the President, must have the approval of the majority of all members of the Batasang Pambansa. At least a majority of the cabinet members, the Ministers being appointed by the President, if heads of ministries, shall come from its regional representatives. So, also, while the Prime Minister and the Cabinet are responsible to the Batasang Pambansa for the program of the government, it must be one 'approved by the President.' While conceptually, there still exists a distinction between the enactment of legislation and its execution, between formulation and implementation, the fundamental principle of separation of powers of which non-delegation is a logical corollary becomes even more flexible and malleable. Even in the case of the United States with its adherence to the Madisonian concept of separation of powers, President Kennedy could state that its Constitution did not make 'the Presidency and Congress rivals for power but partners for progress [with these two branches] being trustees for the people, custodians of their heritage. With the closer relationship provided for by the amended Constitution in our case, there is likely to be even more promptitude and dispatch in framing the policies and thereafter unity and vigor in their execution. A rigid application of the non-delegation doctrine, therefore, would be an obstacle to national efforts at development and progress. There is accordingly more receptivity to laws leaving to administrative and executive agencies the adoption of such means as may be necessary to effectuate a valid legislative purpose. It is worth noting that a highly-respected legal scholar, Professor Jaffe, as early as 1947, could speak of delegation as the 'dynamo of modern government.' He then went on to state that 'the occasions for delegating power to administrative offices [could be] compassed by a single generation.' Thus: 'Power should be delegated where there is agreement that a task must be performed and it cannot be effectively performed by the legislature without the assistance of a delegate or without an expenditure of time so great as to lead to the neglect of equally important business. Delegation is most commonly indicated where the relations to be regulated are highly technical or where their

regulation requires a course of continuous decision.' His perceptive study could rightfully conclude that even in a strictly pre-sidential system like that of the United States, the doctrine of non-delegation reflects the American 'political philosophy that insofar as possible issues be settled [by legislative bodies], an essentially restrictive approach' may ignore 'deep currents of social force.' In plainer terms, and as applied to the Philippines under the amended Constitution with the close ties that bind the executive and legislative departments, certain features of parliamentarism having been retained, it may be a deterrent factor to much-needed legislation. The spectre of the non-delegation concept need not haunt, therefore, party caucuses, cabinet sessions or legislative chambers.'[16] Such an observation applies to the judiciary as well.

3. Nor is this all. Even under the authoritative construction of such a principle under the 1935 Constitution, the contention that that was such a violation would be an exercise in futility. That is the teaching of *Edu v. Ericta*.^[17] Thus: "What cannot be delegated is the authority under the Constitution to make laws and to alter and repeal them; the test is the completeness of the statute in all its term and provisions when it leaves the hands of the legislature. To determine whether or not there is an undue delegation of legislative power, the inquiry must be directed to the scope and definiteness of the measure enacted. The legislature does not abdicate its functions when it describes what job must be done, who is to do it, and what is the scope of his authority."^[18] Further: "To avoid the taint of unlawful delegation, there must be a standard, which implies at the very least that the legislature itself determines matters of principle and lays down fundamental policy. Otherwise, the charge of complete abdication may be hard to repel. A standard thus defines legislative policy, marks its limits, maps out its boundaries and specifies the public agency to apply it."^[19] The standard "does not even have to be spelled out. It could be implied from the policy and purpose of the act considered as a whole."^[20]

4. Such standard is set forth with clarity in Article III, Section 6 of Batas Pambansa Blg. 697: "In recognizing the most representative and generally recognized organizations or aggroupments, the Ministers of Agrarian Reform and Agriculture, the Minister of Labor and Employment, and the Ministers of Local Government and of Education, Culture and Sports shall consider: a) The extent of membership and activity of the organization or aggroupment which should be national; b) The responsiveness of the organization or aggroupment to the legitimate aspirations of its sector; c) The militancy and consistency of the organization or aggroupment in espousing the cause and promoting the welfare of the sector consistent with that of the whole country; d) The observance by such organization or aggroupment of the rule of law; and e) Other analogous factors."^[21] How then can it be argued even under a more restrictive interpretation than now obtains, considering the much closer tie between the executive and legislative departments, that there is an unlawful delegation of legislative power? The answer is quite obvious.

5. There is in addition the allegation by petitioners that they are denied equal protection. Even the most cursory perusal of Article III, Section 6 of Batas Pambansa Blg. 697 will readily reveal how untenable is such an assertion. The first two sentences of the above section read: "Not later than twenty days after the election of provincial, city or district representatives, the most representative and generally recognized organizations or aggroupments of members of the agricultural labor, industrial labor, and youth sectors, as attested to by the Ministers of Agrarian Reform and Agriculture, the Minister of Labor and Employment and the Ministers of Local Government and of Education, Culture and Sports, respectively, shall, in accordance with the procedures of said organizations or aggroupments of members of the sector, submit to the President their respective nominees for each slot allotted for each sector. The president shall appoint from among the nominees submitted by the aforementioned organizations or aggroupments the representatives of each sector."^[22] Then follow the standards, already quoted, to guide the choice of respondent Minister as well as of the other Ministers in submitting recommendations to the President. How can it be rationally contended then that there is favoritism, which is the hallmark of a denial of equal protection? Conversely put, there is no discrimination, much less hostility, against

any group. What is quite apparent is that respondent Minister is called upon to see to it that all similarly situated should be similarly treated. How then can plausibility be imparted to such an argument? Moreover, petitioners, as pointed out in the Comment of the Solicitor General "do not dispute the statutory classifications, and accordingly, section 6 cannot be faulted as unconstitutional for having made unreasonable or invalid classifications of its subjects. What petitioners contend is that they come within the statutory classifications but are nevertheless discriminated upon or deprived of the privilege to make nominations by the Minister of Labor and Employment. This contention, which raises factual issues, finds no factual basis at all." [23] If petitioners are now in the disadvantageous position they are in, they are responsible for their sad plight. This excerpt from the Comment makes it clear. Thus: "Petitioners were free to submit their nominations to the President by merely writing a letter coursed through respondent, and their nominees should have been submitted to the President. They did not do so. In fact, as of May 30, 1984, which was still within the 20-day period, they wrote a letter to respondent which in effect stated that they were not submitting any nomination and informing him that they were questioning the validity of Sections 4, 5, and 6 of B.P. Blg. 697. Hence, if petitioners were not able to submit any nominee they had no one to blame but themselves. And the law cannot be declared unconstitutional on such ground." [24]

WHEREFORE, the petition is dismissed for lack of merit. No costs.

Makasiar, Melencio-Herrera, Escolin, Relova, Gutierrez, Jr., De la Fuente, Cuevas, and Alampay, JJ., concur.

Aquino, J., I concur. The petitioners have no cause of action for mandamus and prohibition.

Teehankee and Abad Santos, JJ., reserve their vote.

Concepcion, and Plana, JJ., on leave.

[1] Article VIII, Section 2, first paragraph of the Constitution insofar as pertinent reads: "The Batasang Pambansa which shall be composed of not more than 200 members unless otherwise provided by law, shall include representatives elected from the different provinces with their component cities, highly urbanized cities as may be declared by or pursuant to law, and districts in Metropolitan Manila, those elected or selected from the various sectors as may be provided by law, and those chosen by the President from Members of the Cabinet." It is likewise specifically provided in its second paragraph: "The number of representatives from each sector and manner of their election or selections shall be provided by law."

[2] Batas Pambansa Blg. 697, Article III, Section 4 (1984). It is likewise provided that "the youth sector shall be entitled to two additional sectoral representatives." Section 5 of this Article reads: "Scope of the Sectors. — The agricultural labor sector covers all persons who personally and physically till the land as their principal occupation. It includes agricultural tenants and lessees, rural workers and farm employees, owner-cultivators, settlers and small fishermen. The industrial labor sector includes all non-agricultural workers and employees. The youth sector embraces persons not more than twenty-five years of age."

[3] Article III, Section 6 of Batas Pambansa Blg. 697, insofar as pertinent reads as follows: "Selection of Sectoral Representatives. — Not later than twenty after the election of provincial, city or district representatives, the most representative and generally recognized organizations or aggroupments of members of the agricultural labor, industrial labor, and youth sectors, as attested to by the Ministers of Agrarian Reform and of Agriculture, the Minister of Labor and Employment and the Ministers of Local Government and of Education, Culture and Sports, respectively, shall, in accordance with the procedures of said organizations or aggroupments of members of the sector, submit to the President their respective nominees for each slot allotted for each sector. The President shall appoint from among the nominees submitted by the aforementioned organizations or aggroupments the

representatives of each sector. In recognizing the most representative and generally recognized organizations or aggroupments, the Ministers of Agrarian Reform and of Agriculture, the Minister of Labor and Employment, and the Ministers of Local Government and of Education, Culture and Sports shall consider: a) The extent of membership and activity of the organization or aggroupment which should be national; b) The responsiveness of the organization or aggroupment to the legitimate aspirations of its sector; c) The militancy and consistency of the organization or aggroupment in espousing the cause and promoting the welfare of the sector consistent with that of the whole country; d) The observance by such organization or aggroupment of the rule of law; and e) Other analogous factors."

[4] Petition, par. 5.

[5] Ibid.

[6] Ibid,

[7] Ibid.

[8] Ibid, par. 6.

[9] Comment, par. 2.

[10] Ibid, par. 3, citing Annex A of Petition.

[11] 42 Phil. 599

[12] Ibid, 603.

[13] Cf. Villena v. Secretary of Interior, 67 Phil. 451 (1939).

[14] 65 Phil. 56 (1937). It is to be remembered that Justice Laurel, the ponente in Vera, did not feel bound as ponente People v. Rosenthal, 68 Phil. 328 (1939) and Pangasinan Transportation Co. Inc. v. The Public Service Commission, 70 Phil. 221 (1940), to apply the doctrine in all its rigidity.

[15] No. 58184, October 30, 1981, 108 SCRA 757.

[16] Ibid, 771-773.

[17] L-32096, October 24, 1970, 35 SCRA 481.

[18] Ibid, 486.

[19] Ibid, 497.

[20] Ibid.

[21] Article III, Section 6, Batas Pambansa Blg. 697, last sentence.

[22] Ibid, first two sentences.

[23] Comment, 11.

[24] Ibid, 12.

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