

**VENECIO VILLAR, INOCENCIO F. RECITIS, NOVERTO BARRETO,
RUFINO G. SALCON, JR., EDGARDO DE LEON, JR., REGLOBEN
LAXAMANA, AND ROMEO GUILATCO, JR., PETITIONERS, VS.
TECHNOLOGICAL IN...**

G.R. No. 69198. April 17, 1985

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The crucial question in this petition, inappropriately entitled "extraordinary legal and equitable remedies with prayer for preliminary mandatory injunction," which this Court considered as a special civil action for certiorari and prohibition, is whether or not the exercise of the freedom of assembly on the part of certain students of respondent Technological Institute of the Philippines could be a basis for their being barred from enrollment. The answer is supplied by our decision in *Malabanan v. Ramento*,^[1] where it was held that respect for the constitutional rights of peaceable assembly and free speech calls for a negative answer. If that were all then, the petitioners^[2] are entitled to the remedy prayed for. There is, however, this other circumstance to be taken into consideration. In the opposition to the petition for preliminary mandatory injunction, reference was made to the academic records of petitioners. Two of the petitioners, Rufino G. Salcon, Jr.,^[3] and Romeo L. Guilatco, Jr.,^[4] had only one failing grade each, with the first having failed in only one subject in either semester of 1984-1985 schoolyear and the second having failed in only one subject, having passed in eight other subjects in the 1984-1985 schoolyear. Petitioner Venecio Villar failed in two subjects but passed in four subjects in the first semester of the academic year, 1983-1984.^[5] Petitioner Inocencio F. Recitis^[6] passed all his subjects in the first semester, of 1983-1984 school year and had one failing grade during its second semester. He had two failing grades during the first semester of 1984-1985 schoolyear. Petitioner Noverta Barreto,^[7] had five failing grades in the first semester of schoolyear 1983-1984, six failing grades in the second semester of the same schoolyear, and six failing grades in the first semester of 1984-1985 schoolyear. Petitioner Edgardo de Leon, Jr.,^[8] had three failing grades, one passing grade and one subject dropped in the first semester of schoolyear 1984-1985. Petitioner Regloben Laxamana^[9] had five failing grades with no passing grade in the first semester of 1984-1985 school-year. Petitioners Barreto, de Leon, Jr. and Laxamana could be denied enrollment in view of such failing grades. Respondent educational institution is under no obligation to admit them this coming academic year. The constitutional provision on academic freedom enjoyed by institutions of higher learning justifies such refusal.^[10]

Petitioners Venecio Villar, Rufino G. Salcon, Jr., Romeo L. Guilatco, Jr. and Inocencio F. Recitis are entitled to the writs of certiorari and prohibition.

1. In the aforementioned *Malabanan v. Ramento* decision, this Court held: "As is quite clear from the opinion in *Reyes v. Bagatsing*, the invocation of the right to freedom of peaceable assembly carries with it the implication that the right to free speech has likewise been disregarded. Both are embraced in the concept of freedom of expression, which is identified with the liberty to discuss publicly and truthfully, any matter of public interest without censorship or punishment and which 'is not to be limited, much less denied, except on a showing * * * of

a clear and present danger of a substantive evil that the state has a right to prevent.' "[11] An equally relevant excerpt from the opinion therein follows: "Petitioners invoke their rights to peaceable assembly and free speech, they are entitled to do so. They enjoy like the rest of the citizens the freedom to express their views and communicate their thoughts to those disposed to listen in gatherings such as was held in this case. They do not, to borrow from the opinion of Justice Fortas in *Tinker v. Des Moines Community School District*, 'shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.' "[12] Petitioners, therefore, have a valid cause for complaint if the exercise of the constitutional rights to free speech and peaceable assembly was visited by their expulsion from respondent College.

2. What cannot be stressed too sufficiently is that among the most important social, economic, and cultural rights is the right to education not only in the elementary and high school grades but also on the college level. The constitutional provision as to the State maintaining "a system of free public elementary education and, in areas where finances permit, establish and maintain a system of free public education"[13] up to the high school level does not per se exclude the exercise of that right in colleges and universities. It is only at the most a reflection of the lack of sufficient funds for such a duty to be obligatory in the case of students in the colleges and universities. As far as the right itself is concerned, not the effectiveness of the exercise of such right because of the lack of funds, Article 26 of the Universal Declaration of Human Rights provides: "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit." [14]

3. It is quite clear that while the right to college education is included in the social, economic, and cultural rights, it is equally manifest that the obligation imposed on the State is not categorical, the phrase used being "generally available" and higher education, while being "equally accessible to all should be on the basis of merit." To that extent, therefore, there is justification for excluding three of the aforementioned petitioners because of their marked academic deficiency.

4. The academic freedom enjoyed by "institutions of higher learning" includes the right to set academic standards to determine under what circumstances failing grades suffice for the expulsion of students. Once it has done so, however, that standard should be followed meticulously. It cannot be utilized to discriminate against those students who exercise their constitutional rights to peaceable assembly and free speech. If it does so, then there is a legitimate grievance by the students thus prejudiced, their right to the equal protection clause [15] being disregarded.

5. While the dispositive portion refers only to petitioners of record, the doctrine announced in this case should apply to all other students similarly situated. That way, there should not be any need for a party to apply to this Court for the necessary redress.

WHEREFORE, the writ of certiorari is granted to petitioners Venecio Villar, Inocencio F. Recitis, Rufino G. Salcon, Jr. and Romeo Guilatco, Jr. to nullify the action taken by respondents in violation of their constitutional rights. The writ of prohibition is likewise granted to such petitioners to enjoin respondents from acts of surveillance, blacklisting, suspension and refusal to allow them to enroll in the coming academic year 1985-1986, if so minded. The petition is dismissed as to Noverto Barreto, Edgardo de Leon, Jr. and Regloben Laxamana. No costs.

Teehankee, Makasiar, Aquino, Abad Santos, Melencio-Herrera, Relova, Gutierrez, Jr., De la Fuente, Cuevas, and Alampay, JJ., concur.

Plana, J., no part.

Concepcion, Jr., and Escolin, JJ., on leave.

[1] G.R. No. 62270, May 21, 1984, 129 SCRA 359.

[2] The petitioners are Venecio Villar, Inocencio F. Recitis, Noverto Barreto, Rufino G. Salcon, Jr., Edgardo de Leon, Jr., Regloben Laxamana and Romeo Guilatco, Jr.

[3] Annex 7.

[4] Annex 10.

[5] Annex 4.

[6] Annex 5.

[7] Annex 6.

[8] Annex 8.

[9] Annex 9.

[10] According to Article XIV, Sec. 8(3) of the Constitution: "All institutions of higher learning shall enjoy academic freedom."

[11] 129 SCRA 359, 366. Reyes v. Bagatsing, G.R. No. 65366, November 9, 1983, is reported in 125 SCRA 366.

[12] Ibid, 367-368. The Tinker decision is reported in 393 US 503 (1969).

[13] Article XV, Section 6, par. (5) of the Constitution.

[14] Article 26, par. (1), Universal Declaration of Human Rights.

[15] According to Article IV, Section 1 of the Constitution: "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 laws."

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