

PHILIPPINE CONSUMERS FOUNDATION, INC., PETITIONER, VS. THE SECRETARY OF EDUCATION, CULTURE AND SPORTS, RESPONDENT.

G.R. No. 78385. August 31, 1987

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This is an original Petition for prohibition with a prayer for the issuance of a writ of preliminary injunction.

The record of the case discloses that the herein petitioner Philippine Consumers Foundation, Inc. is non-stock, non-profit corporate entity duly organized and existing under the laws of the Philippines. The herein respondent Secretary of Education, Culture and Sports is a ranking cabinet member who heads the Department of Education, Culture and Sports of the Office of the President of the Philippines.

On February 21, 1987, the Task Force on Private Higher Education created by the Department of Education, Culture and Sports (hereinafter referred to as the DECS) submitted a report entitled "Report and Recommendations on a Policy for Tuition and Other School Fees." The report favorably recommended to the DECS the following courses of action with respect to the Government's policy on increases in school fees for the schoolyear 1987 to 1988 --

(1) Private schools may be allowed to increase its total school fees by not more than 15 per cent to 20 per cent, without the need for the prior approval of the DECS. Schools that wish to increase school fees beyond the ceiling would be subject to the discretion of the DECS;

(2) Any private school may increase its total school fees in excess of the ceiling, provided that the total school fees will not exceed P1,000.00 for the schoolyear in the elementary and secondary levels, and P50.00 per academic unit on a semestral basis for the collegiate level.[1]

The DECS took note of the report of the Task Force and on the basis of the same, the DECS, through the respondent Secretary of Education, Culture and Sports (hereinafter referred to as the respondent Secretary), issued an Order authorizing, inter alia, the 15% to 20% increase in school fees as recommended by the Task Force. The petitioner sought a reconsideration of the said Order, apparently on the ground that the increases were too high.[2] Thereafter, the DECS issued Department Order No. 37 dated April 10, 1987 modifying its previous Order and reducing the increases to a lower ceiling of 10% to 15% accordingly.[3] Despite this reduction, the petitioner still opposed the increases. On April 23, 1987, the petitioner, through counsel, sent a telegram to the President of the Philippines urging the suspension of the implementation of Department Order No. 37.[4] No response appears to have been obtained from the Office of the President.

Thus, on May 20, 1987, the petitioner, allegedly on the basis of the public interest, went to this Court and filed the instant Petition for prohibition; seeking that judgment be rendered declaring the questioned Department Order unconstitutional. The thrust of the Petition is that the said Department Order was issued without any legal basis. The petitioner also maintains that the questioned Department Order was issued in violation of the due process

clause of the Constitution inasmuch as the petitioner was not given due notice and hearing before the said Department Order was issued.

In support of the first argument, the petitioner argues that while the DECS is authorized by law to regulate school fees in educational institutions, the power to regulate does not always include the power to increase school fees.[5]

Regarding the second argument, the petitioner maintains that students and parents are interested parties that should be afforded an opportunity for a hearing before school fees are increased. In sum, the petitioner stresses that the questioned Order constitutes a denial of substantive and procedural due process of law.

Complying with the instructions of this Court,[6] the respondent Secretary submitted a Comment on the Petition.[7] The respondent Secretary maintains, inter alia that the increase in tuition and other school fees is urgent and necessary, and that the assailed Department Order is not arbitrary in character. In due time, the petitioner submitted a Reply to the Comment.[8] Thereafter, We considered the case submitted for resolution.

After a careful examination of the entire record of the case, We find the instant Petition devoid of merit.

We are not convinced by the argument that the power to regulate school fees "does not always include the power to increase" such fees. Section 57 (3) of Batas Pambansa Blg. 232, otherwise known as The Education Act of 1982, vests the DECS with the power to regulate the educational system in the country, to wit:

'SEC. 57. Educations and powers of the Minstry. -- The Ministry shall:

"xxx.

"(3) Promulgate rules and regulations necessary for the administration, supervision and regulation of the educational system in accordance with declared policy.

"xxx."[9]

Section 70 of the same Act grants the DECS the power to issue rules which are likewise necessary to discharge its functions and duties under the law, to wit:

SEC. 70. Rule-making Authority.-- The Minister of Education and Culture, charged with the administration and enforcement of this Act, shall promulgate the necessary implementing rules and regulations."

In the absence of a statute stating otherwise, this power includes the power to prescribe school fees. No other government agency has been vested with the authority to fix school fees and as such, the power should be considered lodged with the DECS if it is to properly and effectively discharge its functions and duties under the law.

We find the remaining argument of the petitioner untenable. The petitioner invokes the due process clause of the Constitution against the alleged arbitrariness of the assailed Department Order. The petitioner maintains that the due process clause requires that prior notice and hearing are indispensable for the Department Order to be validly issued.

We disagree.

The function of prescribing rates by an administrative agency may be either a legislative or an adjudicative function. If it were a legislative function, the grant of prior notice and hearing to the affected parties is not a requirement of due process. As regards rates prescribed by an administrative agency in the exercise of its quasi-judicial function, prior notice and hearing are essential to the validity of such rates. When the rules and/or

rates laid down by an administrative agency are meant to apply to all enterprises of a given kind throughout the country, they may partake of a legislative character. Where the rules and the rates imposed apply exclusively to a particular party, based upon a finding of fact, then its function is quasi-judicial in character.^{9a}

Is Department Order No. 37 issued by the DECS in the exercise of its legislative function? We believe so. The assailed Department Order prescribes the maximum school fees that may be charged by all private schools in the country for schoolyear 1987 to 1988. This being so, prior notice and hearing are not essential to the validity of its issuance.

This observation notwithstanding, there is a failure on the part of the petitioner to show clear and convincing evidence of such arbitrariness. As the record of the case discloses, the DECS is not without any justification for the issuance of the questioned Department Order. It would be reasonable to assume that the report of the Task Force created by the DECS, on which it based its decision to allow an increase in school fees, was made judiciously. Moreover, upon the instance of the petitioner, as it so admits in its Petition, the DECS had actually reduced the original rates of 15% to 20% down to 10% to 15%, accordingly. Under the circumstances peculiar to this case, We cannot consider the assailed Department Order arbitrary.

Under the Rules of Court, it is presumed that official duty has been regularly performed.^[10] In the absence of proof to the contrary, that presumption prevails. This being so, the burden of proof is on the party assailing the regularity of official proceedings. In the case at bar, the petitioner has not successfully disputed the presumption.

We commend the petitioner for taking the cudgels for the public, especially the parents and the students of the country. Its zeal in advocating the protection of the consumers in its activities should be lauded rather than discouraged. But a more convincing case should be made out by it if it is to seek relief from the courts some time in the future. Petitioner must establish that respondent acted without or in excess of her jurisdiction; or with grave abuse of discretion, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law before the extraordinary writ of prohibition may issue.^[11]

This Court, however, does not go to the extent of saying that it gives its judicial imprimatur to future increases in school fees. The increases must not be unreasonable and arbitrary so as to amount to an outrageous exercise of government authority and power. In such an eventuality, this Court will not hesitate to exercise the power of judicial review in its capacity as the ultimate guardian of the Constitution.

WHEREFORE, in view of the foregoing, the instant Petition for prohibition is hereby DISMISSED for lack of merit. We make no pronouncement as to costs.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

[1] Annex 'B', Petition; pages 19 to 29, Rollo.

[2] Page 2, Petition.

[3] Annex 'A', Petition; pages 17 to 18, Rollo.

[4] Annex 'C', Petition; page 30, Rollo.

[5] Page 4, Petition.

[6] Page 31, Rollo.

[7] Pages 38 to 45, Rollo. The respondent Secretary was represented by the Office of the Solicitor General.

[8] Pages 48 to 53, Rollo

[9] With the return of the presidential system of government in the country under the 1987 Constitution, the Ministry of Education, Culture and Sports has been renamed the Department of Education, Culture and Sports. The position of Minister is now known as Secretary.

9a Vigan Electric Light Co., Inc. v. Public Service Commission, 10 SCRA 46 (1964).

[10] Section 5(m), Rule 131.

[11] Section 2, Rule 65, Rules of Court.

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