

PHILIPPINE ASSOCIATION OF FREE LABOR UNIONS (SEPTEMBER CONVENTION) PETITIONER, VS. DIRECTOR PURA FERRER CALLEJA OF THE BUREAU OF LABOR RELATIONS, KALIPUNAN NG MANGGAGAWANG PILIP...

G.R. No. 79347. January 26, 1989

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a special civil action for certiorari, questioning the order of respondent Director dated 27 July 1987, which in part states:

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"Without going into the merits of the above-entitled case this office finds that the best forum to determine once and for all whether or not herein appellant-intervenor commands support of the rank--and-file in the unit is through the process of a certification election.

WHEREFORE, in view thereof, Appellant-Intervenor, Kalipunan ng Manggagawang Pilipino is hereby included as one of the contending unions.

Let, therefore, a certification election proceed without any further delay, with the following choices:

1. Malayang Samahan ng mga Manggagawa sa Hundred Island Chemical Corporation;
2. Philippine Association of Free Labor Unions (September Convention); and
3. Kalipunan ng Manggagawang Pilipino.

SO ORDERED." (pp. 26-27, Rollo)

The basic facts of this case are undisputed:

A petition for certification election among the rank-and-file workers of the Hundred Island Chemical Corporation was filed with the Bureau of Labor Relations (BLR) by respondent Malayang Samahan ng mga Manggagawa sa Hundred Island Chemical Corporation (Samahan, for short) and was docketed as BLR Case No. A-6-201-87. A motion to intervene, accompanied by the written consent of twenty percent (20%) of the rank-and-file employees of the said corporation was filed by petitioner Philippine Association of Free Labor Unions (September Convention), or PAFLU, on 27 April 1987. Likewise, the Kalipunan ng Manggagawang Pilipino (KAMAPI, for brevity) filed its motion to intervene on 1 June 1987 but unaccompanied by a similar written consent of the employer's workers. Due to such want of a written consent, PAFLU moved for the striking out of KAMAPI's motion for intervention. Acting on said motion, Med-Arbiter Renato D. Parungo issued an order dated 8 June 1987 denying KAMAPI's motion for intervention and allowing PAFLU's inclusion in the certification election. On 17 June 1987, KAMAPI appealed the said Med-Arbiter's order to the respondent Director of the BLR, who

issued the afore-quoted order. Thus, on 17 August 1987, this petition was filed. And as prayed for in the said petition, We issued a temporary restraining order dated 24 August 1987. Respondent Samahan has contested the issuance of said restraining order and has prayed that it be lifted since the delay of the certification election only defeats the constitutional right of labor to organize.

The main issue in this petition was aptly posited by the Solicitor General in his consolidated comment: Whether or not KAMAPI should be allowed to participate in a certification election thru a motion for intervention without a prior showing that it has the required support expressed in the written consent of at least twenty (20%) percent of all employees in the collective bargaining unit. In taking the negative stance, petitioner cites Section 6, Rule V of the Rules Implementing Executive Order No. 111, which reads:

"SEC. 6. PROCEDURE. - Upon receipt of a petition, the Regional Director shall assign the case to a Med-Arbiter for appropriate action. The Med-Arbiter shall have twenty (20) working days within which to grant or dismiss the petition. In a petition filed by a legitimate organization involving an unorganized establishment, the Med-Arbiter shall grant the petition upon verification that the same is supported by the written consent of at least twenty (20%) of all the employees in the collective bargaining unit, the twenty (20%) support shall be satisfied upon the filing of the petition for certification election, otherwise, the petition shall be dismissed. In either case, he shall cite the ground."

Pertinent to the above rule is Section 7 of E.O. 111 to which the former relates, and which provides:

"SEC. 7. Articles 257 and 258 of the Labor Code of the Philippines are hereby amended to read as follows:

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'Art. 258. Petitions in unorganized establishments. - In any establishment where there is no certified bargaining agent, the petition for certification election filed by a legitimate labor organization shall be supported by the written consent of at least twenty (20%) percent of all the employees in the bargaining unit. Upon receipt of such petition, the Med-Arbiter shall automatically order the conduct of a certification election."

Considering the above provisions of law, We rule to dismiss the instant petition for certiorari. The respondent Director did not abuse her discretion in issuing the contested order. It is crystal clear from the said provisions that the requisite written consent of at least 20% of the workers in the bargaining unit applies to petitions for certification election only, and not to motions for intervention. Nowhere in the aforesaid legal provisions does it appear that a motion for intervention in a certification election must be accompanied by a similar written consent. Not even in the Implementing Rules of the Labor Code (see Rule V, Rules Implementing the Labor Code). Obviously, the percentage requirement pertains only to the petition for certification election, and nothing else.

This leads Us to the question of purpose. The reason behind the 20% requirement is to ensure that the petitioning union has a substantial interest in the representation proceedings[*] and, as correctly pointed out by the Solicitor General, that a considerable number of workers desire their representation by the said petitioning union for collective bargaining purposes. Hence, the mere fact that 20% of the workers in the bargaining unit signify their support to the petition by their written consent, it becomes mandatory on the part of the Med-Arbiter to order the holding of a certification election in an unorganized establishment (*Samahang Manggagawa ng Pacific Mills, Inc. vs. Noriel*, 134 SCRA 152). The 20% requirement, therefor, is peculiar to petitions for certification election.

In the light of the foregoing, KAMAPI must be allowed to participate in the certification election since the essence of such proceeding is to settle once and for all which union is preferred by the workers to represent them (*PAFLU vs. BLR*, 69 SCRA 132; *PAFLU vs. BLR*, 72 SCRA 396). As long as the motion for intervention has been properly and timely filed and the intervention would not cause any injustice to anyone, it should not be denied and this is so even if the eventual purpose of the motion for intervention is to participate in the certification election.

After all the original applicant had already met the 20% requirement.

WHEREFORE, the instant petition is hereby DISMISSED and the Temporary Restraining Order dated 24 August 1987 LIFTED. With costs against petitioner.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

[*]Pascual C. "Labor and Tenancy Relations Law," 4th ed., G. Rangel and Sons, 1975, p.77.

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