

TERESITA QUINTOS-DELES, GLORIA T. ARAGON (M.D.), LOURDES V. MASTURA, TRINIDAD A. GOMEZ, ADUL DE LEON, JOSEFINA AZARCON-DELA CRUZ, TRINIDAD M. DOMINGO, MARIA MAYET T. LEDANO, LOL...

G.R. No. 83216. September 04, 1989

Ponente: BIDIN, J.

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BIDIN, J.:

This is a special civil action for prohibition and mandamus with injunction seeking to compel respondent Commission on Appointments to allow petitioner Teresita Quintos-Deles to perform and discharge her duties as a member of the House of Representatives representing the Women's Sector and to restrain respondents from subjecting petitioner's appointment to the confirmation process.

The antecedent facts which gave rise to this petition are as follows:

On April 6, 1988, petitioner and three others were appointed Sectoral Representatives by the President pursuant to Article VII, Section 16, paragraph 2 and Article XVIII, Section 7 of the Constitution. Executive Secretary Catalino Macaraig, Jr. transmitted by letter, also dated April 6, 1988 (Annex L) the appointment of the said sectoral representatives to Speaker Ramon Mitra, Jr. as follows:

“April 6, 1988

Hon. Ramon V. Mitra, Jr.

Speaker, House of Representatives

Quezon City

S i r :

Pursuant to Article VII, Section 16, paragraph 2 and Article XVIII, Section 7, of the Constitution, the President has appointed the following persons to the seats reserved for sectoral representatives in paragraph (1), Section 5 of Article VI of the Constitution:

1. Teresita Quintos-Deles - Women
2. Al Ignatius G. Lopez - Youth
3. Bartolome Arteche - Peasant
4. Rey Magno Teves - Urban Poor

Copies of their appointments are enclosed.

With best wishes.

Very truly yours,

(SGD) CATALINO MACARAIG, JR.

Executive Secretary"

On April 18, 1988, the above-mentioned sectoral representatives were scheduled to take their oaths before Speaker Ramon V. Mitra, Jr. at the Session Hall of Congress after the Order of Business. However, petitioner and the three other sectoral representatives-appointees were not able to take their oaths and discharge their duties as members of Congress due to the opposition of some congressmen-members of the Commission on Appointments, who insisted that sectoral representatives must first be confirmed by the respondent Commission before they could take their oaths and/or assume office as members of the House of Representatives. This opposition compelled Speaker Ramon V. Mitra, Jr. to suspend the oathtaking of the four sectoral representatives.

In view of this development, Executive Secretary Catalino Macaraig, Jr. transmitted on April 25, 1988, a letter dated April 11, 1988 of the President addressed to the Commission on Appointments submitting for confirmation the appointments of the four sectoral representatives as follows:

"11 April 1988

The Honorable

Jovito R. Salonga

The Senate President and

The Members of the Commission on Appointments

Congress of the Philippines

M a n i l a

Gentlemen:

Pursuant to Article VII, Section 16, paragraph 2, and Article XVIII, Section 7, of the Constitution. I hereby submit, for con-firmation, the appointments of the following persons as Members of the House of Representa-tives representing the sectors indicated oppo-site their respective names:

TERESITA QUINTOS-DELES - Women

AL IGNATIUS G. LOPEZ - Youth

BARTOLOME ARTECHE - Peasant

REY MAGNO TEVES - Urban Poor

An early confirmation of their appointments will be appreciated.

Very truly yours,

(Sgd) Corazon C. Aquino"

Meanwhile, petitioner in a letter dated April 22, 1988 addressed to Speaker Ramon V. Mitra, Jr. (Annex V) appealed to the House of Representatives alleging, among others, that since "no attempt was made to subject the sectoral representatives* already sitting to the confirmation process, there is no necessity for such confirmation and subjection thereto of the present batch would certainly be discriminatory."

In reply, Speaker Mitra in a letter dated May 2, 1988 (Annex BB) informed petitioner that since "President Corazon C. Aquino has submitted your appointment to the Commission on Appointments for confirmation in a letter dated April 11, 1988, x x x the Commission on Appointments now has sole jurisdiction over the matter."

On May 10, 1988, petitioner Deles received an invitation dated May 6, 1988 to attend a Commission on Appointments Committee Meeting scheduled for May 12, 1988 for the deliberation of her appointment as sectoral representative for women (Annex DD). Petitioner sent a reply dated May 11, 1988 explaining her position and questioning the jurisdiction of the Commission on Appointments over the appointment of sectoral representatives (Annex EE).

In the May 12, 1988 meeting of the Committee of the Constitutional Commissions and Offices of the Commission on Appointments, chaired by Sen. Edgardo J. Angara, the Committee ruled against the position of petitioner Deles.

Hence, this petition for prohibition and mandamus praying that respondent Commission on Appointments be enjoined from subjecting to confirmation process the petitioner's appointment as sectoral representative for the women's sector and as member of Congress.

Petitions in intervention were likewise filed by Estefania Aldaba Lim, et al. (Rollo, p. 147); Ma. Iris Melizza, et al. (Rollo, p. 172); Margarita Gomez, et al. (Rollo, p. 186); Hernani Panganiban, et al. (Rollo, p. 208); Presentacion Castro, et al. (Rollo, p. 215); Sr. Teresa Dagdag, et al. (Rollo, p. 251); and Civil Liberties Union (Rollo, p. 274).

Petitioner Teresita Quintos-Deles contends that her appointment as Sectoral Representative for Women by the President pursuant to Section 7, Article XVIII of the Constitution, does not require confirmation by the Commission on Appointments to qualify her to take her seat in the House of Representatives.

The opposite view is taken by the Solicitor General in his Statement of Position (In lieu of Comment), dated July 15, 1988 (Rollo, p. 206) in this wise: "In view of the President's submission of the four sectoral representatives, the petitioner included, to the Commission on Appointments by letter dated April 11, 1988, then confirmation by the Commission on Appointments is required."

On August 15, 1988, respondent Commission on Appointments, in addition to adopting the Statement of Position (in lieu of Comment) submitted by the Solicitor General, likewise submitted its own Statement of Position (in lieu of Comment) and further manifested that (1) the appointment of petitioner Deles was not acted upon by the Commission on Appointments when Congress went into recess as required by the Constitution; (2) the case of petitioner Deles for appointment as sectoral representative to the House of Representative has become moot and academic not having been finally acted upon at the close of the session of Congress pursuant to Sec. 23 of the Rules of the Commission (Rollo, pp. 233-234) which reads as follows:

"Section 23. Suspension of Consideration of Nomination or Appointments to be Returned to the President. Nominations or appointments submitted by the President of the Philippines which are not finally acted upon at the close of the session of Congress shall be returned to the President, and unless resubmitted, shall not again be considered by the Commission."

On January 31, 1989, the Court after noting the reply filed by the petitioner and the rejoinder filed by respondents, resolved to give due course to the petition and the parties were required to submit their respective memoranda (Rollo, p. 309). By way of manifestation and motion dated March 9, 1989 (Rollo, p. 311), the Office of the Solicitor General adopted its statement of position (in lieu of comment) and rejoinder as its memorandum. Petitioners and intervenor Civil Liberties Union submitted their memoranda on March 22, 1989 and March 30,

1989, respectively. A supplemental statement of position (in lieu of memorandum) dated March 31, 1989 was filed by respondent Commission.

The Constitution provides that the House of Representatives shall be composed of not more than two hundred fifty (250) members, unless otherwise fixed by law, who shall be elected from the legislative districts and those who as provided by law, shall be elected thru a party-list system. The party-list representatives shall constitute 20% of the total number of representatives or fifty (50) seats. One-half or twenty-five (25) of the seats allocated to party-list representatives is reserved for sectoral representatives. The reservation is limited to three consecutive terms after ratification of the 1987 Constitution. Thus, Section 5 (1) and (2), Article VI of the 1987 Constitution provides:

"SEC. 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.

"(2) The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party-list. For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector."

Under Section 7, Article XVIII of the Constitution, the appointment of sectoral representatives is vested upon the President until otherwise provided by law, as follows:

"SEC. 7. Until a law is passed, the President may fill by appointment from a list of nominees by the respective sectors the seats reserved for sectoral representation in paragraph (1), Section 5 of Article VI of this Constitution."

The issue is, whether the Constitution requires the appointment of sectoral representatives to the House of Representatives to be confirmed by the Commission on Appointments.

Section 16, Article VII of the Constitution enumerates, among others, the officers who may be appointed by the President with the consent of the Commission on Appointments, as follows:

"SEC. 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

The President shall have the power to make appointments during the recess of the Congress, whether voluntary or compulsory, but such appointments shall be effective only until disapproval by the Commission on Appointments or until the next adjournment of the Congress."

In *Sarmiento vs. Mison, et al.* (156 SCRA 549 [1987]), we construed Section 16, Article VII of the Constitution to mean that only appointments to offices mentioned in the first sentence of the said Section 16, Article VII require confirmation by the Commission on Appointments, as follows:

"It is readily apparent that under the provisions of the 1987 Constitution, just quoted, there are four (4) groups

of officers whom the President shall appoint. These four (4) groups, to which we will hereafter refer from time to time, are:

First, the heads of the executive departments, ambassadors, other public ministers and consuls, officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution;

Second, all other officers of the Government whose appointments are not otherwise provided for by law;

Third, those whom the President may be authorized by law to appoint;

Fourth, officers lower in rank whose appointments the Congress may by law vest in the President alone.

The first group of officers is clearly appointed with the consent of the Commission on Appointments. Appointments of such officers are initiated by nomination and, if the nomination is confirmed by the Commission on Appointments, the President appoints.

x x x x x

(T)he purposive intention and deliberate judgment of the framers of the 1987 Constitution (is) that, except as to those officers whose appointments require the consent of the Commission on Appointments by express mandate of the first sentence in Sec. 16, Art. VII, appointments of other officers are left to the President without need of confirmation by the Commission on Appointments. This conclusion is inevitable, if we are to presume, as we must, that the framers of the 1987 Constitution were knowledgeable of what they were doing and of the foreseeable effects thereof.

Besides, the power to appoint is fundamentally executive or presidential in character. Limitations on or qualifications of such power should be strictly construed against them. Such limitations or qualifications must be clearly stated in order to be recognized. But, it is only in the first sentence of Sec. 16, Art. VII where it is clearly stated that appointments by the President to the positions therein enumerated require the consent of the Commission on Appointments."

Our ruling in *Mison* was reiterated in the recent case of *Mary Concepcion Bautista vs. Sen. Jovito Salonga, et al.* (G.R. No. 86439, promulgated on April 13, 1989) wherein the Court held:

"The *Mison* case was the first major case under the 1987 Constitution and in construing Sec. 16, Art. VII of the 1987 Constitution, x x x x x this Court, drawing extensively from the proceedings of the 1986 Constitutional Commission and the country's experience under the 1935 and 1973 Constitutions, held that only those appointments expressly mentioned in the first sentence of Sec. 16, Art. VII are to be reviewed by the Commission on Appointments, namely, 'the heads of the executive department, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution.' All other appointments by the President are to be made without the participation of the Commission on Appointments."

Since the seats reserved for sectoral representatives in paragraph 2, Section 5, Art. VI may be filled by appointment by the President by express provision of Section 7, Art. XVIII of the Constitution, it is indubitable that sectoral representatives to the House of Representatives are among the "other officers whose appointments are vested in the President in this Constitution," referred to in the first sentence of Section 16, Art. VII whose appointments are subject to confirmation by the Commission on Appointments (*Sarmiento v. Mison, supra*).

Nevertheless, there are appointments vested in the President in the Constitution which, by express mandate of the Constitution, require no confirmation such as appointments of members of the Supreme Court and judges of lower courts (Sec. 9, Art. VIII) and the Ombudsman and his deputies (Sec. 9, Art. XI). No such exemption from confirmation had been extended to appointments of sectoral representatives in the Constitution.

Petitioner was appointed on April 6, 1988 pursuant to Art. XVIII, Section 7 and Art. VII, Section 16, paragraph 2 of the Constitution, to wit:

"6 April 1988

Madam:

Pursuant to Article VII, Section 16, paragraph 2 and Article XVIII, Section 7, of the Constitution, you are hereby appointed MEMBER OF THE HOUSE OF REPRESENTATIVES.

By virtue hereof, you may qualify to said position furnishing this office with copies of your oath of office.

Very truly yours,

Sgd.) CORAZON C. AQUINO

Hon. TERESITA QUINTOS-DELES"

(Annex "M", Petition, Rollo, p. 108.)

The invocation of Art. XVIII, Section 7 of the Constitution as authority for the appointment of petitioner places said appointment within the ambit of the first sentence of Section 16, Art. VII; hence, subject to confirmation by the Commission on Appointments under the Mison doctrine. Petitioner's appointment was furthermore made pursuant to Art. VII, Section 16, paragraph 2 which provides:

"SEC. 16. x x x

The President shall have the power to make appointments during the recess of the Congress, whether voluntary or compulsory, but such appointments shall be effective only until disapproval by the Commission on Appointments or until the next adjournment of the Congress."

The reference to paragraph 2, Section 16 of Article VII as additional authority for the appointment of petitioner is of vital significance to the case at bar. The records show that petitioner's appointment was made on April 6, 1988 or while Congress was in recess (March 26, 1988 to April 17, 1988); hence, the reference to the said paragraph 2 of Section 16, Art. VII in the appointment extended to her.

Implicit in the invocation of paragraph 2, Section 16, Art. VII as authority for the appointment of petitioner is, the recognition by the President as appointing authority that petitioner's appointment requires confirmation by the Commission on Appointments. Under paragraph 2, Section 16, Art. VII, appointments made by the President pursuant thereto "shall be effective only until disapproval by the Commission on Appointments or until the next adjournment of the Congress." If indeed appointments of sectoral representatives need no confirmation, the President need not make any reference to the constitutional provisions above-quoted in appointing the petitioner. As a matter of fact, the President in a letter dated April 11, 1989 had expressly submitted petitioner's appointment for confirmation by the Commission on Appointments. Considering that Congress had adjourned without respondent Commission on Appointments having acted on petitioner's appointment, said appointment/nomination had become moot and academic pursuant to Section 23 of the Rules of respondent Commission and "unless resubmitted shall not again be considered by the Commission."

Petitioners further contend that nowhere in the Constitution nor in Executive Order No. 198 is mention made of the need for petitioner's appointment to be submitted to the Commission on Appointments for confirmation. Executive Order No. 198 promulgated on June 18, 1987 before the convening of Congress, is denominated: "Providing for the Manner of Nomination and Appointment of Sectoral Representatives to the House of Representatives." We agree with the submission of respondent Commission that the provisions of Executive

Order No. 198 do not deal with the manner of appointment of sectoral representatives. Executive Order No. 198 confines itself to specifying the sectors to be represented, their number, and the nomination of such sectoral representatives.

The power of the President to appoint sectoral representatives remains directly derived from Section 7, Article XVIII of the Constitution which is quoted in the second "Whereas" clause of Executive Order No. 198. Thus, appointments by the President of sectoral representatives require the consent of the Commission on Appointments in accordance with the first sentence of Section 16, Art. VII of the Constitution. More to the point, petitioner Deles' appointment was issued not by virtue of Executive Order No. 198 but pursuant to Art. VII, Section 16, paragraph 2 and Art. XVIII, Section 7 of the Constitution which require submission to the confirmation process.

WHEREFORE, the petition for prohibition and mandamus with preliminary injunction is hereby DISMISSED for lack of merit. Without pronouncement as to costs.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Sarmiento, Cortes, Grino-Aquino, Medialdea, and Regalado, JJ., concur.

* It appears that on August 4, 1987, President Aquino initially appointed four sectoral representatives, namely: Romeo Angeles, Ramon Jabar, Estelita Juco and Dionisio S. Ojeda to represent the Peasants, Labor, Disabled and Women and Veterans and Elders sectors, respectively. Said sectoral representatives, after taking their oaths of office, assumed the functions and duties of their offices without having been required to undergo confirmation process by the Commission on Appointments.

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