

JISSCOR INDEPENDENT UNION, PETITIONER, VS. HON. RUBEN TORRES AND BIEN-VENIDO E. LAGUESMA, IN THEIR CAPACITY AS SECRETARY AND UNDERSECRETARY OF LABOR, RESPECTIVELY; ASSOCIATED LA...*G.R. No. 97189. May 11, 1993*

Ponente: GRIÑO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-97189/>**GRIÑO-AQUINO, J.:**

On June 27, 1990, petitioner JISSCOR Independent Union (JIU) filed a petition for certification election among the rank-and-file employees of the Jacinto Iron and Steel Sheets Corporation (JISSCOR) before the Med-Arbitration Unit of the Department of Labor and Employment (DOLE), National Capital Region, Manila.

By agreement of the petitioner, JIU, the inter-venor SMJ-ALU and the JISSCOR management, the Med-Arbitrator issued an Order on August 29, 1990, setting the certification election on September 4, 1990.

However, on the appointed date, instead of an election, as previously agreed upon by all the parties, another pre-election conference was held in the Department of Labor and Employment. Another agreement was entered into by JIU, JISSCOR and SMJ-ALU, providing that the election would be conducted on September 6, 1990 from 8:00 A.M. to 3:00 P.M., and that "the mandatory five (5) days posting is hereby waived by agreement of the parties" (p. 172, Rollo),

The results of the certification election held on September 6, 1990 were the following:

"JISSCOR Independent Union 46

"Samahang Manggagawa ng

JISSCOR-ALU 50

"No Union 0

"Spoiled 3

Total Votes Cast 99"

(p. 21, Rollo.)

The JIU, which obtained only the second highest number of votes, registered a protest in the minutes of the election stating that: "we file protest on the following grounds using visor, emblem" (p. 174, Rollo).

On September 11, 1990, the JIU filed a formal protest before the Department of Labor, National Capital Region, on the following grounds:

"I. The election was conducted very disorderly and irregular (sic) as there was no compliance of (sic) mandatory posting of notice of certification election and necessary list of qualified voters in accordance to (sic)

Section 1 of Rule VI of the Implementing Rules and Regulations;

"II. The lack of the required posting had mislead (sic) and/or misinformed the voters/workers of the manner of voting, thus it resulted to some spoiled votes;

"III. Escorting of workers by SMJ-ALU officers and members, especially a certain Rene Tan from their place of work to the election registration;

"IV. Forcing the workers to vote for SMJ-ALU by posting of a very big streamer with print-ed words: Vote! Samahang Manggagawa Ng JISSCOR-ALU at the entrance front door of the chapel where the election was held;

"V. Forcing the workers to vote for SMJ-ALU by wearing of sunvisors and pins with printed words: Vote! SMJ-ALU before and during voting inside the polling place (chapel)." (pp. 45-46, Rollo.)

On November 21, 1990, Med-Arbitr Tomas F. Falcon-itin issued an Order declaring the September 6, 1990 certification election null and void.

On December 12, 1990, the winner, respondent SMJ--ALU appealed to the DOLE Secretary and prayed that it be declared the sole and exclusive bargaining agent of the rank-and-file employees of JISSCOR.

On January 18, 1991, a decision was rendered by the Secretary of Labor and Employment granting the appeal of SMJ-ALU and setting aside the Order dated November 21, 1990 of the Med-Arbitr. A new order was entered certifying SMJ-ALU as the sole and exclusive bargaining agent of all the rank-and-file workers of JISSCOR pursuant to the results of the certification election conducted on September 6, 1990.

In due time, the JIU filed this petition for certiorari alleging that the public respondents committed grave abuse of discretion amounting to excess of jurisdiction in certifying SMJ-ALU as the sole and exclusive bargaining agent of the rank-and-file employees of JISSCOR.

The petition has no merit.

Section 3, Rule VI, Book V of the Omnibus Rules implementing the Labor Code provides that the grounds of a protest may be filed on the spot or in writing with the representation officer and shall be contained in the minutes of the proceedings. Protests not so raised are deemed waived.

The minutes of the certification election show, however, that JIU only protested against the use of emblem, visor, pin. Hence, other "protests [such as the posting in the chapel entrance of a huge streamer with the words: "Vote! Samahang Manggagawa ng JISSCOR-ALU"] not so raised are deemed waived" (Sec. 3, Rule VI, Book V of the Omnibus Rules Implementing the Labor Code).

There is no merit in the petitioner's contention that the non-posting of the notice of the certification election as prescribed by Section 1, Rule VI, Book V of the Omnibus Rules Implementing the Labor Code misled and confused the workers regarding the mechanics of the election. The petitioner is estopped from raising that issue for it signed an agreement with the private respondent to waive the mandatory five (5) days posting of election notices. The doctrine of estoppel is based on grounds of public policy, fair dealing, good faith and justice, and its purpose is to forbid one to speak against his own act, representations, or commitments to the injury of one to whom they were directed and who reasonably relied thereon (PNB vs. Court of Appeals, 94 SCRA 357).

The results of the certification election belie the petitioner's allegation that the workers were misinformed about the election for the records show that out of 104 eligible voters, 99 were able to cast their votes and only 3 were spoiled ballots.

On the alleged use of sunvisors, pins, emblems and the posting of a huge streamer, the Undersecretary found:

"x x x nothing in the records shows that the alleged wearing of sunvisors and pins, the posting of huge streamers, as well as the alleged escorting of voters by SMJ-ALU have unduly pressured, influenced, vitiated, or in any manner affected the choice of the workers of their bargaining agent." (p. 49, Rollo.)

That finding of fact of the head of an administrative agency is conclusive upon the court (Reyes vs. Minister of Labor, 170 SCRA 134).

WHEREFORE, finding no grave abuse of discretion on the part of the public respondents, the Secretary and Undersecretary of Labor and Employment, in rendering the questioned decision, the petition for certiorari is hereby DISMISSED. The questioned decision of the Under-secretary of Labor, by authority of the Secretary of Labor, is hereby AFFIRMED.

SO ORDERED.

Cruz, (Chairman), Bellosillo, and Quason, JJ., concur.

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