SUPREME COURT
SECOND DIVISION

MONARK INTERNATIONAL, INC.,
***Petitioner*,**

-versus-

G.R. No. L-47570-71
May 11, 1978

DIRECTOR CARMELO C. NORIEL (Bureau of Labor Relations), DEPARTMENT OF LABOR, and PHILIPPINE TECHNICAL CLERICAL COMMERCIAL EMPLOYEES ASSOCIATION (PTCCEA),
***Respondents*.**
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D E C I S I O N

FERNANDO, *J.*:

United Employees Union of Gelmart Industries Philippines vs. Noriel[1] has left no doubt that both under the Industrial Peace Act[2] and the present Labor Code,[3] this Court is committed to the view that a certification election is "crucial"[4] to the institution of collective bargaining, for it gives "substance to the principle of majority rule, one of the basic concepts of a democratic polity."[5] In a subsequent case, Philippine Association of Free Labor Unions vs. Bureau of Labor Relations,[6] it was held that even conceding that the statutory

requirement of 30% of the labor force asking for a certification election had not been strictly complied with, a respondent Director is still empowered to order that it be held "precisely for the purpose of ascertaining which [of the contending labor organizations] shall be the exclusive collective bargaining representative."[7] Such requirement then, to quote from Kapisanan Ng Mga Manggagawa vs. Noriel,[8] "is relevant only when it becomes mandatory for respondent Noriel to conduct a certification election."[9] There could be, of course, an abuse of such discretion of sufficient gravity as to call for the exercise of our *certiorari* jurisdiction. So it was made clear by Justice Aquino, speaking for this Court, in San Miguel Corporation vs. Secretary of Labor.[10] That principle is relied upon by petitioner corporation in assailing an order of respondent Director of the Bureau of Labor Relations calling for a certification election with the other respondent, Philippine Technical Clerical Commercial Employees Association, which moved for its being conducted, as one of the participants. It was intimated that the former, in overruling the finding of the Med-Arbiter that respondent Union failed to satisfy the 30% requirement for the holding of a certification election, acted arbitrarily. It is therefore contended that this is an occasion calling for the exercise of the corrective powers of this Tribunal, a procedural due process question having arisen. Respondents were required to comment on the petition, but no restraining order was issued.

The comment submitted by Assistant Solicitor General Vicente V. Mendoza[11] demonstrated the weakness of the petition. Thus: "The contention of petitioner company that respondent union PTCCEA failed to obtain the written consent of at least 30% of the employees in the bargaining unit is untenable. In its application for clearance [for the termination of employment] filed on June 29, 1977, duly subscribed and sworn to by no less than its Personnel Manager, petitioner company alleged that it has approximately 400 employees, although in its payroll of June 1977 submitted to the Department of Labor, it appears that there are 780 rank-and-file employees. Such discrepancy was left unexplained by it. Hence, if the total number of employees in the company is 400, then the 147 signatures supporting the petition for certification election is sufficient compliance with the 30% subscription requirement of the law. And even granting that there are 780 rank-and-file employees, respondent union herein was able to secure the additional signatures of 306 employees supporting

its petition. Be that as it may, this Honorable Court, in the recent case of Today's Knitting Free Workers Union vs. Director Carmelo C. Noriel, et al., February 28, 1977, held that 'if there is any doubt as to the required number having been met, what better way is there than the holding of a certification election to ascertain which union really commands the allegiance of the rank-and-file employees.'"[12]

The petition clearly lacks merit and must be dismissed.

1. The Office of the Solicitor General did not even have to make manifest that there could be no valid objection to the finding of respondent Director that there was full compliance with the 30% requirement. The four decisions cited stand for the proposition that lacking the requisite number of employees, it is still discretionary for such official to order a certification election as the most efficacious way of arriving at the indisputable choice of which union should be the exclusive bargaining representative. That discretion, again as noted, is not to be interfered with except on a showing of improvident exercise, in which case a procedural due process question may arise.[13] Moreover, there is this other obstacle to the plea of petitioner being granted. On a question of fact, the determination of respondent Noriel is of decisive character.[14]

2. There is another infirmity from which the petition suffers. It was filed by the employer, the adversary in the collective bargaining process. Precisely, the institution of collective bargaining is designed to assure that the other party, labor, is free to choose its representative. To resolve any doubt on the matter, certification election, to repeat, is the most appropriate means of ascertaining its will. It is true that there may be circumstances where the interest of the employer calls for its being heard on the matter. An obvious instance is where it invokes the obstacle interposed by the contract-bar rule.[15] This case certainly does not fall within the exception. Sound policy dictates that as much as possible, management is to maintain a strictly hands-off policy. For it does not, it may lend itself to the legitimate suspicion that it is partial to one of the contending unions.

That is repugnant to the concept of collective bargaining. That is against the letter and spirit of welfare legislation intended to protect labor and to promote social justice. The judiciary then should be the last to look with tolerance at such efforts of an employer to take part in the process leading to the free and untrammeled choice of the exclusive bargaining representative of the workers.

3. There was an attempt to lend a measure of plausibility to the petition by the allegation that respondent Director had been holding conferences preparatory to the holding of the certification election. It did not succeed. It could not have succeeded. No support was furnished its untenable pretension. That was to clutch at straws, to lean on a frail reed. There could be no plausible objection to respondent official taking all the necessary steps conducive to a fair and honest election. That would seem, from an objective and unbiased standpoint, a wise and prudent measure. Certainly, there is no occasion for the judiciary to interfere in a purely administrative matter. That is one way of implementing the statutory policy. It would be otherwise if thereby he displayed favoritism or partiality in favor of one of the contending unions. If so, an equal protection issue could be discerned. Here it was the employer apparently offended by such action of respondent official. It was not shown how in any way it could have been prejudiced. It was not one of the parties in the proposed certification election. Only the labor organizations affected could be entitled to claim an injury of that character. Petitioner then clearly lacked standing to raise such a question.

4. That is an there is to this petition. Clearly and manifestly, it is far from sufficient to call for the interposition of the corrective authority of this Tribunal in the exercise of its *certiorari* jurisdiction.

WHEREFORE, the Petition for *Certiorari* is dismissed. Costs against petitioner.

Barredo, Antonio, Aquino, Concepcion, Jr. and Santos, *JJ.*, concur.

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[1] L-40810, October 3, 1975, 67 SCRA 267.
[2] Republic Act No. 875 (1953).
[3] Presidential Decree No. 442 (1974).
[4] Ibid, 273.
[5] Ibid, 274.
[6] L-42115, January 27, 1976, 69 SCRA 132.
[7] Ibid, 141.
[8] L-45475, June 20, 1977, 77 SCRA 414.
[9] Ibid, 420.
[10] L-38813, April 29, 1975, 63 SCRA 508.
[11] He was assisted by Assistant Solicitor General Reynato S. Puno and Solicitor Jesus V. Diaz.
[12] Comment, 3-4.
[13] These other decisions are relevant Federacion Obrera vs. Noriel, L-41937, July 6, 1976, 72 SCRA 24; U.E. Automotive Employees and Workers Union vs. Noriel, L-44350, Nov. 25, 1976, 74 SCRA 72; Philippine Labor Alliance Council vs. Bureau of Labor Relations, L-41288, Jan. 31, 1977, 75 SCRA 162; Today's Knitting Free Workers Union vs. Noriel, L-45057, Feb. 28, 1977, 75 SCRA 450; Benguet Exploration Miners' Union vs. Noriel, L-44110, March 29, 1977, 76 SCRA 107; Rowell Labor Union vs. Ople, L-42270, July 29, 1977, 78 SCRA 166; Vassar Industries Employees Union (VIEU) vs. Estrella, L-46562, March 31, 1978.
[14] Cf. Antipolo Highway Lines vs. Inciong, L-38523, June 27, 1975, 64 SCRA 441; Jacqueline Industries vs. National Labor Relations Commission, L-37034, Aug. 29, 1975, 66 SCRA 397; Federacion Obrera vs. Noriel, L-41937, July 6, 1976, 72 SCRA 24; Kapisanan ng mga Manggagawa vs. Noriel, L-45475, June 20, 1977, 77 SCRA 414.
[15] Cf. Confederation of Citizens Labor Union vs. National Labor Relations Commission, L-38955, October 31, 1974, 60 SCRA 451.
