

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**PASUDECO      WORKERS'      UNION**  
**OFFICERS,**  
*Petitioners,*

*-versus-*

**G.R. No. 50241  
December 19, 1980**

**BUREAU OF LABOR RELATIONS and  
RICARDO ALCONGA,**  
*Respondents.*

X-----X

**DECISION**

**FERNANDO, J.:**

An order of the Bureau of Labor Relations ordering a recount of the ballots cast in the election of officers of the PASUDECO Workers' Union for reasons of equity is assailed in this certiorari petition on the ground that it was filed after the ten-day period, and in the wrong office at that, namely, with the Ministry of Labor instead of the regional office where the union is domiciled. As pointed out in the Comment of the Solicitor General,<sup>[1]</sup> such a step was taken in view of the irregularities that had attended the counting of the ballots, more specifically that "1) only one padlock was used; 2) no list of registration of voters were found inside the ballot box; 3) no ballot stubs were found; and 4) no excess ballots which were not used in the

election were found and are unaccounted for.”<sup>[2]</sup> With the specific reference to the 172 ballots, the irregularities allegedly consisted of the following: “1) Some ballots used in the 2 January 1978 election bearing the signature of Federico Taruc, Chairman of the MOL, RO3 election committee, were properly identified; 2) Many of the ballots cast were found spurious in that counter signatures of the protestant Alconga are allegedly falsified; 3) More than one kind of writing instruments were utilized in the filing up of the candidates’ names in the ballots indicating alleged tampering with the same.”<sup>[3]</sup> The Comment was treated as the answer. It sought the dismissal of this petition. Thereafter, the petition was considered submitted for decision.

As prayed for, this petition must be dismissed.

1. The contention by petitioners that because the protest was filed twenty-three days after the canvassing of votes, respondent Bureau was devoid of jurisdiction, finds no support in law. Their reliance on the implementing rules and regulations of the New Labor Code,<sup>[4]</sup> prescribing a five-day period after the election, with the failure to do so resulting in its being deemed waived, is vain and illusory. As pointed out in the Comment of the Solicitor General: “The contention cannot be sustained. It must be stressed that Rule VI, Book V, of the Rules and Regulations Implementing the New Labor Code refers to a certification election for the determination of the collective bargaining representative of the workers. It does not cover [the] intra-union election of officers. Consequently, the same does not apply to the case at bar as [the] intra-union election of officers is governed by the union’s by-laws. Petitioner, however, admits that their constitution and by-laws are silent on this point. Hence, in the absence of a prescribed period, it cannot be said that the protest in question has already prescribed,”<sup>[5]</sup> Nor could petitioners rely on the ten-day period under the 1978 Election Code for the filing of an election protest. The analogy does not hold. It is flimsy and far-fetched. Again, the comment is illuminating: “The reason is obvious. The Code governing the conduct of election in the country is not all encompassing as to cover election of labor union officers. Its

coverage pertains solely to the election of certain public officers.”<sup>[6]</sup>

2. There is no merit, either, to the equally untenable proposition advanced by petitioners that a grave abuse of discretion sufficient in character for a certiorari proceeding to succeed was committed when respondent Bureau assumed jurisdiction for the sole reason that the election protest was filed in the Manila office of the Ministry of Labor when, according to the rules, the situs should be “the regional office where the union is domiciled. “ A cursory knowledge of the applicable principles, both constitutional and statutory, should have rendered clear that the Minister of Labor certainly can entertain petitions filed directly with his office. That is implied in the concept of control which such a dignitary possesses.
3. An even more decisive consideration is that the right to self organization,<sup>[7]</sup> an aspect of the highly-prized freedom of the liberty of association,<sup>[8]</sup> would be diluted if in the choice of the officials to govern its affairs, the election is not fairly and honestly conducted. Conformably to such a view, this Court even under the previous statutes,<sup>[9]</sup> had accorded due recognition to the competence of the then Court of Industrial Relations to see to it that no abuse is committed by any official of a labor organization in the conduct of its affairs. Such an approach was given added emphasis in a recent decision, *Duyag vs. Inciong*,<sup>[10]</sup> where the ponente, Justice Aquino, stressed: “For the protection of union members and in order that the affairs of the union may be administered honestly, labor officials should be vigilant and watchful in monitoring and checking the administration of union affairs.”<sup>[11]</sup>

**WHEREFORE**, the petitioner for certiorari is dismissed for lack of merit and the temporary restraining order issued on April 2, 1979, lifted and declared to be of no further force and effect. This decision is immediately executory.

**Barredo, Aquino, Concepcion Jr., Abad Santos and De Castro, *JJ.*, concur.**

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- [1] Solicitor General Estelito P. Mendoza was assisted by Assistant Solicitor General Ramon A. Barcelona and Solicitor Dennis M. Taningco.
- [2] Comment, 4.
- [3] *Ibid*, 5.
- [4] Rule VI, Book V, Sections 4 and 8.
- [5] Comment, 6-7.
- [6] *Ibid*, 7-8.
- [7] Article II, Sec. 9 of the Constitution, insofar relevant, reads: “The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work.”
- [8] Article IV, Sec. 7 of the Constitution reads: “The right to form associations or societies for purposes not contrary to law shall not be abridged.”
- [9] Cf. Commonwealth Act. No. 213, November 21, 1936 and Republic Act No. 875, June 17, 1953.
- [10] G. R. No. L-47775, July 5, 1980.
- [11] *Ibid*, 11.