SUPREME COURT
THIRD DIVISION

PHILIPPINE SCHOOL OF BUSINESS ADMINISTRATION MANILA,
***Petitioner*,**

-versus-

G.R. No. L-80648
August 15, 1988

ACTING SECRETARY CARMELO C. NORIEL of the Department of Labor and Employment, PHILIPPINE SCHOOL OF BUSINESS ADMINISTRATION EMPLOYEES UNION-FFW CHAPTER, EDGARDO B. REYES, WILLIAM BUCE, RICARDO ABREU, LEILA ACUNA, MENDY FARRALES, SUSAN CRUZ, CRISTINA PASICOLAN, MODESTO MEJIA, ERLINDA PINEDA, DANILO SAMAR, NADIA YAMBAO, ANTONETTE SANCHEZ, ANNABELLA YUTUC, MAXIMO TUNDAG, METODIO OLAHAY, GLORIA PEREZ, FELINO REYES, VIRGINIA ANTONIO, FELIZARDA SALVIEJO, BENITO ANG, MARIO DIAZ, LOURDES ESPION, ROMELLE TAMAYO, MA. LUISA PALMA, CARLITO ANTONIO, ERLINDA BESANA, CYNTHIA LANDOY, ELIZABETH MACATULAD, EDNA DELOS SANTOS, PRISCILLA GARCIA,

ASUNCION ALON, MARIFE DE GUZMAN, EMMANUEL AGUSTIN, ENRIQUE ADALLA and EMILIO ERANA,

Respondents.

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D E C I S I O N

CORTES, *J.*:

On September 8, 1987, respondent union, alleging the support of the majority of petitioner's non-academic personnel in its Manila campus, filed with the Department of Labor and Employment a petition for direct certification docketed as NLR-OD-M-9-642-87 [Rollo, pp. 18-21.] On September 25, 1987, a notice of strike docketed as BLR-NS-9-423-87 was filed by respondent union with the Bureau of Labor Relations, alleging union busting, coercion of employees and harassment [Rollo, p. 26.]

Petitioner filed on October 2, 1987, its position paper in NLR-OD-M-9-642-87 praying for the denial of respondent union's petition on the ground that it did not represent a majority of the non-academic personnel, and in support thereof attached a letter from one Josefino Sacro, who claimed to represent a group composing the majority [Rollo, pp. 22-25.] However, it was only on October 8, 1987 that PSBA-AL-GROWELL, the group that Sacro represented, filed its application for registration as a legitimate labor organization with the Bureau of Labor Relations.

On October 4, 1987, the members of respondent union, by a vote of 36 to 0, decided to go on strike [Rollo, p. 103.] Several conciliation conferences were held by the Bureau of Labor Relations, but to no avail. The strike pushed through on October 16, 1987.

A complaint for unfair labor practice and for a declaration of illegality of the strike with a prayer for preliminary injunction docketed as ULP

Case No. 00-10-03666-87 was filed by petitioner against respondent union in the National Labor Relations Commission on October 19, 1987 [Rollo, pp. 37-44.] The parties were again called to conciliation conferences, including a scheduled meeting with the Secretary of Labor and the Director of the Bureau of Labor Relations on November 9, 1987, but petitioner refused to attend the conferences [Rollo, p. 15.]

While the certification, strike and unfair labor practice cases were pending in the Department of Labor and Employment, a complaint docketed as Civil Case No. 87-42470 was filed in the Regional Trial Court of Manila on October 19, 1987 by some PSBA students against petitioner and respondent union and its members, basically seeking to enjoin respondent union and its members from maintaining and continuing with their picket and from barricading themselves in front of the school's main gate [Rollo, pp. 27-35.] A temporary restraining order enjoining respondent union and its members from picketing and barricading the school's main gate was issued by the presiding judge [Rollo, p. 36.] In its answer filed on October 28, 1987, petitioner joined the plaintiffs prayer for injunction and included a crossclaim against respondent union, asking that it be indemnified by respondent union for any damages that may be assessed against it and awarded P500,000.00 as and for expenses of litigation and attorney's fees [Rollo, pp. 96-102.] On November 6, 1987, respondent union filed a motion to dismiss the complaint on the premise that the case involves a labor dispute over which the Regional Trial Court had no jurisdiction [Rollo, pp. 88-91.]

On November 17, 1987, respondent Acting Secretary Noriel issued the assailed order, which we quote in full:

O R D E R

> On September 25, 1987, the PSBA Employees Union-FFW filed a Notice of Strike before the Bureau of Labor Relations on the following grounds:
>
> 1. Union busting
>
> 2. Coercion of employees

3. Harassment

Several conciliation conferences were held by the Bureau of Labor Relations.

On October 16, 1987, the union struck.

The parties were again called for conciliation conferences including the scheduled meeting with the Director of Labor Relations and the Secretary of Labor and Employment on November 9, 1987, but still the management refused to attend the said conferences.

In the meantime, the strike at the school continues.

There is no doubt that the on-going labor dispute at the School adversely affects the national interest. The School is a duly registered educational institution of higher learning with more or less 9,000 students. The ongoing work stoppage at the School unduly prejudices the students and will entail great loss in terms of time, effort and money to everyone concerned. More important, it is not amiss to mention that the school is engaged in the promotion of the physical, intellectual and emotional well-being of the country's youth.

WHEREFORE, this Office hereby assumes jurisdiction over the labor dispute at the Philippine School of Bus. Administration-Manila pursuant to Article 263(g) of the Labor Code, as amended. Accordingly, all the striking employees are directed to return to work immediately and for the management of PSBA to accept all the returning employees under the same terms and conditions prevailing prior to the strike.

The parties are strictly enjoined to maintain [the] status quo and to cease and desist from committing any and all acts that will prejudice either party and aggravate the situation.

The Director, Bureau of Labor Relations is hereby directed to hear and receive evidence of the parties and to submit her

report and recommendation within ten (10) days from submission of the dispute for resolution.

SO ORDERED.

Manila, Philippines, 17 November, 1987

(Sgd.)
CARMELO C. NORIEL
Acting Secretary
[Rollo, pp. 15-16]

The members of respondent union returned to work but were allegedly prevented by petitioner from doing so. Consequently, a motion for the issuance of a writ of execution was filed by respondent union on November 23, 1987.

On November 23, 1987, petitioner filed the instant petition, which seeks the nullification of the assailed order of November 17, 1987 and its enjoinment pending resolution of the case, on the following grounds:

1. The respondent Secretary acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction over the request for issuance of a return to work order by an official otherwise disqualified from appearing before him.

2. The respondent Secretary erred in finding that the strike by a minority who had already been restrained by a court of competent jurisdiction from preventing the school, its faculty and its students from attending to their usual functions was a fit subject for a return to work order.

3. The respondent Secretary erred when he ordered the petitioner "to accept all the returning employees under the same terms and conditions prevailing prior to the strike" despite the pendency of ULP Case No. 00-10-03666-87. [Rollo, pp. 5-6.]

On February 4, 1988, Secretary Drilon issued a writ of execution of the order dated November 17, 1987, [Rollo, pp. 61-62.] Thus, petitioner filed in this Court on February 8, 1988 an "Urgent Motion to Implead Secretary Drilon as Additional Respondent and to Restrain Enforcement of Writ of Execution" [Rollo, pp. 57-65], which the Court noted [Rollo, p. 66.]

In the meantime, the complaint in Civil Case No. 87-42470 was dismissed by the Regional Trial Court on February 10, 1988 for lack of jurisdiction.

After petitioner refused to readmit the striking employees, a motion for the issuance of an alias writ of execution and motion to cite petitioner in contempt was filed by respondent union in the Department of Labor and Employment on February 19, 1988. Secretary Drilon, after petitioner had complied with his show-cause order, issued an order dated March 30, 1988 ordering petitioner to pay a fine of P10,000.00 and to immediately readmit the striking employees with full backwages and benefits computed from November 17, 1987 up to the date of their actual readmission [Rollo, pp. 118-119.] Thus, petitioner filed in this Court on April 8, 1988 an "Urgent Supplemental Petition and Motion Reiterating Urgent Motion to Restrain Enforcement of Writ of Execution" seeking the nullification of the order and the issuance of a restraining order [Rollo, pp. 110-120.]

These are the antecedent and contemporaneous facts. Now, to consider petitioner's arguments in support of the petition.

1. Petitioner makes much of the handwritten letter of Congressman Ramon Jabar, Vice-President of the Federation of Free Workers, to Secretary Drilon dated October 22, 1987, which reads:

    Dear Mr. Secretary,

    The bearer is Mr. Rey Malilin of VEGA-FFW, together with our leader, at PSBA which is on strike.

> The barricades at PSBA have already been removed, and our members are picketing peacefully, however, police authorities prohibit them from engaging in peaceful picketing.
>
> They will explain to you everything, Conciliation conferences were held but management refused to attend.
>
> Possible solution is for you to order a return to work and early certification election.
>
> Thank you very much.
>
> Very truly yours,
>
> *(Sgd.)*
> RAMON J. JABAR
> [Rollo, p. 45.]

Petitioner contends that it was "totally improper and without jurisdiction and in grave abuse of his discretion" for the Secretary to have acted on this request because of the prohibition in Art. VI, Sec. 14 of the Constitution, which provides:

> No Senator or Member of the House of Representatives may personally appear as counsel before any court of justice or before the Electoral Tribunals, or quasi-judicial and other administrative bodies. Neither shall he, directly or indirectly, be interested financially in any contract with, or in any franchise or special privilege granted by the Government, or any subdivision, agency, or instrumentality thereof, including any government-owned or controlled corporation, or its subsidiary, during his term of office. He shall not intervene in any matter before any office of the Government for his pecuniary benefit or where he may be called upon to act on account of his office.
>
> The premise of petitioner's argument, however, is flawed. Its conclusion that the Acting Secretary's order was vitiated by a jurisdictional defect is anchored on the premise that the only basis for, and what impelled him to issue, the order was Congressman Jabar's letter to Secretary Drilon. But this is not

so. Respondent union petitioned for its direct certification as sole and exclusive bargaining representative of petitioner's non-academic personnel. A notice of strike was filed by respondent union after petitioner allegedly engaged in union busting, coercion and harassment. Conciliation conferences were held, but to no avail. A strike took place, thereby causing the disruption of the operations of the school. Thus, petitioner filed a complaint for unfair labor practice and declaration of illegality of the strike with the National Labor Relations Commission while some of its students filed a civil case and obtained a temporary restraining order from the Regional Trial Court. In the subsequent conciliation conferences petitioner's representatives failed to attend, leading to an impasse. Given these circumstances, the existence of an unresolved labor dispute in petitioner's Manila campus which needed the immediate attention of the labor authorities certainly cannot be denied.

In the opinion of Acting Secretary Noriel, the labor dispute adversely affected the national interest, affecting as it did some 9,000 students. He was authorized by law to assume jurisdiction over the labor dispute, after finding that it adversely affected the national interest. This power is expressly granted by Art. 263(g) of the Labor Code, as amended by B.P. Blg. 227, which provides:

x x x

(g) When in his opinion there exists a labor dispute causing or likely to cause strikes or lockouts adversely affecting the national interest, such as may occur in but not limited to public utilities, companies engaged in the generation or distribution of energy, banks, hospitals, and export-oriented industries, including those within export processing zones, the Minister of Labor and Employment shall assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one has already taken place at the

> time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout. The Minister may seek the assistance of law enforcement agencies to ensure compliance with this provision as well as with such orders as he may issue to enforce the same.

The foregoing notwithstanding, the President of the Philippines shall not be precluded from determining the industries where in his opinion labor disputes may adversely affect the national interest, and from intervening at any time and assuming jurisdiction over any labor dispute adversely affecting the national interest in order to settle or terminate the same.

Acting Secretary Noriel did exactly what he was supposed to do under the Labor Code.

Hence, even if the writing of the letter to Secretary Drilon constituted an appearance as counsel by Congressman Jabar before a quasi-judicial body (although the Court is not disposed to agree to such contention), still the fact remains that under the circumstances the Acting Secretary had the power and the duty to assume jurisdiction over the labor dispute and, corollary to the assumption of jurisdiction, issue a return-to-work order. Given this factual and legal backdrop, no grave abuse of discretion can be attributed to the Acting Secretary.

2. Petitioner contends that the Acting Secretary erred when he found that the strike staged by respondent union and its members, who had already been restrained by the Regional Trial Court from picketing and barricading the main gate of the school, was a fit subject of a return to work order.

However, the Court finds that no error was made by the Acting Secretary.

First of all, the Regional Trial Court was without jurisdiction over the subject matter of the case filed by some PSBA students, involving as it

does a labor dispute over which the labor agencies had exclusive jurisdiction. That the regular courts have no jurisdiction over labor disputes and to issue injunctions against strikes is well-settled [Art. 254, Labor Code, amended; Leoquinco vs. Canada Dry Bottling Co. of the Phils., Inc. Employees Association, G.R. No. L-28621, February 22, 1971, 37 SCRA 535; Antipolo Highway Lines Employees Union vs. Aquino, G.R. No. L-31785, September 25, 1979, 93 SCRA 225; Kaisahan ng mga Manggagawa sa La Campana vs. Sarmiento, G.R. No. L-47853, November 16, 1984, 133 SCRA 220.] This the Regional Trial Court recognized when it subsequently corrected its error and dismissed the complaint for damages and injunction upon respondent union's motion.

Then, as discussed above in connection with petitioner's first argument, the facts and the law fully support the Acting Secretary's assumption of jurisdiction over the labor dispute and the issuance of a return-to-work order.

It may also be added that due to petitioner's intransigent refusal to attend the conciliation conferences called after the union struck, assumption of jurisdiction by the Secretary of Labor and the issuance of a return-to-work order had become the only way of breaking the deadlock and maintaining the status quo ante pending resolution of the dispute. The Solicitor General was correct when he stated that by assuming jurisdiction over the labor dispute, the Acting Secretary of Labor merely provided for a formal forum for the parties to ventilate their positions with the end in view of settling the dispute [Rollo, p. 132.] Thus, the contention that the Acting Secretary favored respondent union when he issued the assailed order cannot be seriously considered. A similar charge that certification of a labor dispute and the issuance of a return-to-work order favored a party was rejected by the Court in United CMC Textile Workers Union vs. Ople [G.R. No. L-62037, January 27, 1983, 120 SCRA 335]:

> It is, therefore, error for the petitioners to allege that by the mere act of certifying a labor dispute for compulsory arbitration and issuing a return to work order, the Minister of Labor and Employment thereby "enters the picture on the side of the Company," and violates the freedom of expression of workers engaged in picketing, "in utter subversion of the constitutional

> rights of workers." As contended by the Solicitor General, "there can be no such unconstitutional application (of Batas Pambansa Blg. 227) because all that respondent Minister has done is to certify the labor dispute for arbitration and thereafter personally assume jurisdiction over it. He has not rendered any decision; he has not favored one party over the other.

With more reason should such a charge be rejected in this case, coming as it does from management, for as explained by the Court in Free Telephone Workers Union vs. Minister of Labor and Employment [G.R. No. L-58184, October 30, 1981, 108 SCRA 757], the exercise of the power, to be in full accord with the Constitution, must be with a view to the protection of labor:

> It must be stressed anew, however, that the power of compulsory arbitration, while allowable under the [1973] Constitution, and quite understandable in labor disputes affected with a national interest, to be free from the taint of unconstitutionality, must be exercised in accordance with the constitutional mandate of protection to labor. The arbiter then is called upon to take due care that in the decision to be reached, there is no violation of "the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work." [Art. II, Sec. 9, 1973 Constitution.] It is of course manifest that there is such unconstitutional application if a law "fair on its face and impartial in appearance [is] applied and administered by a public authority with an evil eye and an unequal hand." [Yick Wo vs. Hopkins, 118 U.S. 356, 372 (1886).] It does not even have to go that far. An instance of unconstitutional application would be discernible if what is ordained by the fundamental law, the protection of law, is ignored or disregarded.

3. Finally, petitioner contends that the Acting Secretary erred when he ordered petitioner to accept all returning employees under the same terms and conditions prevailing prior to the strike despite the pendency of the case for unfair labor practice and declaration of illegality of the strike filed by petitioner (ULP Case No. 00-10-D-3666-87).

Again, the Court can discern no error on the part of the Acting Secretary.

The case filed by petitioner against respondent union in the National Labor Relations Commission was not an isolated circumstance, but one in a series of cases filed by the parties. Thus, it cannot be completely detached from the chain of events that led to the filing of the instant petition in this Court. It will be recalled that respondent union filed a petition for direct certification, that respondent union filed a notice of strike, alleging union-busting, coercion and harassment; that petitioner opposed the petition for direct certification, citing a letter from another group (PSBA-AL-GRO-WELL) that purportedly represented the majority of petitioner's non-academic personnel; that conciliation conferences were held but the dispute remained unresolved; that respondent union conducted a strike vote wherein its members voted to stage a strike; that respondent union and its members subsequently staged a strike; that petitioner filed a case against respondent union in the National Labor Relations Commission; that a civil case was filed and an order was issued by the Regional Trial Court restraining respondent union from picketing and barricading the main gate of the school; that petitioner refused to attend the conciliation conferences called by labor authorities during the strike. These circumstances, taken together, reveal the intensity of the dispute and how it had worsened, which virtually left the Acting Secretary with no recourse but to assume jurisdiction over it, to prevent the situation from getting out of hand.

Once the Secretary of Labor assumes jurisdiction over, or certifies for compulsory arbitration, a labor dispute adversely affecting the national interest, the law mandates that if a strike or lockout has already taken place at the time of assumption or certification, "all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike." [Art. 263(g), Labor Code, as amended.] Far from erring, the Acting Secretary, in issuing the return-to-work order, merely implemented the clear mandates of the law. Thus, the contention that error attended the issuance of such order is without any legal basis.

In conclusion, the Court cannot but note the apparent hostility exhibited by petitioner towards respondent union and its members. Lest it be forgotten, the dispute arose from a petition filed by respondent union to be directly certified as the sole and exclusive bargaining representative of the non-academic personnel of PSBA-Manila. By doing so, the workers did not engage in any activity prejudicial to the legitimate interests of petitioner, for they were just exercising their rights to self-organization and collective bargaining and negotiation guaranteed them by our Fundamental Law. The harassment of employees to dissuade them from supporting respondent union alleged to have been committed by petitioner was not warranted. But petitioner persisted with its hostile actions against the union members through both legal and extra-legal channels, taking an undue interest in opposing respondent union's petition when it should have been PSBA-AL-GRO-WELL, if at all it had already existed at that time, that should have done so. That PSBA-AL-GRO-WELL was suspiciously silent all throughout the proceedings before the labor authorities leaving the fight to petitioner, certainly lends credence to the charge that PSBA-AL-GRO-WELL was a creation of management.

Petitioner may not have preferred respondent union as its non-academic personnel's collective bargaining representative. But then it had no right to intervene. The choice was for the employees to make, not petitioner.

Time and again the Court has reminded employers that the choice of their employees of who shall be their collective bargaining representative is the employees' exclusive concern. Employers have no business dipping their fingers into this matter, unless it was the employer which filed the petition for certification election after being requested by a union to bargain collectively or when the contract-bar rule applies [Arts. 254 and 232, Labor Code, as amended; Consolidated Farms, Inc. vs. Noriel, G.R. No. L-47752, July 31, 1978, 84 SCRA 469; Filipino Metals Corp. vs. Ople, G.R. No. L-43861, September 14, 1981, 107 SCRA 211; Trade Union of the Phils. and Allied Services vs. Trajano, G. R. No. L-61153, January 17, 1983, 120 SCRA 64.] It cannot be otherwise, for the Constitution guarantees workers their rights to self-organization and collective bargaining and

negotiations [Art. XIII, Sec. 3], of which the choice of the collective bargaining representative forms an integral part.

In the instant case, the undisguised interest of petitioner, an educational institution, in the choice of the sole and exclusive bargaining agent of its non-academic personnel cannot be ignored. To borrow the phraseology of the Solicitor General, petitioner has "shown his hand" [Rollo, p. 130.] This much is borne by the records.

The Court will not be a party to any attempt to deprive workers, or any other person for that matter, of their constitutionally guaranteed rights. Petitioner's actions cannot be countenanced in this jurisdiction if adherence to democratic principles and fealty to the Constitution is to be observed and the rule of law upheld.

WHEREFORE, the instant Petition is hereby **DISMISSED** and the Order dated November 17, 1987 issued by Acting Secretary Noriel is **AFFIRMED**.

Petitioner's motion to restrain the enforcement of the writ of execution issued by Secretary Drilon on February 4, 1988 is **DENIED**. Likewise, the "Urgent Supplemental Petition and Motion Reiterating Urgent Motion to Restrain Enforcement of Writ of Execution" dated April 7, 1988 is also **DENIED**.

SO ORDERED.

Fernan, *C.J.*, Gutierrez, Jr., Feliciano and Bidin, *JJ.*, concur.