SUPREME COURT
FIRST DIVISION

BENEDICTO RODRIGUEZ, Etc.,
***Petitioner*,**

-versus-

G.R. Nos. 76579-82
August 31, 1988

HON. DIRECTOR, BUREAU OF LABOR RELATIONS, CARLOS GALVADORES and LIVI MARQUEZ,
***Respondents*.**
x----------x

REY C. SUMANGIL, VIRGILIO V. HERNANDEZ, Et Al.,
***Petitioners*,**

-versus-

G.R. No. 80504
August 31, 1988

MANOLITO PARAN, ROSALINDA DE GUZMAN, FREE TELEPHONE WORKERS UNION, PHILIPPINE LONG DISTANCE TELEPHONE CO., and HON. PURA FERRER-CALLEJA,
***Respondents*.**
x----------x

D E C I S I O N

NARVASA, *J.*:

The above entitled Special Civil Actions of *Certiorari* were separately instituted but have been consolidated because they involve disputes among employees of the Philippines Long Distance Telephone Company (PLDT), who are members of the same union, the Free Telephone Workers Union (FTWU). The disputes concern the validity of the general elections for union officers in 1986, and the increase of union dues adopted and put into effect by the incumbent officers subsequent to said elections.

G.R. Nos. 76579-82: Controversy Respecting Elections of Officers

Assailed by the petitioners in G.R. No. 76579-82 are (1) the decision dated October 10, 1986 of the Director of Labor Relations (BLR) annulling the elections of officers of the labor union above mentioned, FTWU, and (2) the resolution dated October 30, 1986, denying their motion for reconsideration of the decision.

The union's by-laws provide for the election of officers every three (3) years, in the month of July. Pursuant thereto, the union's Legislative Council set the provincial elections for its officers on July 14 to 18, 1986, and those for Metro Manila on July 25, 1986.

The same Council also quite drastically raised the fees for the filing of certificates of candidates which had therefore ranged from P75.00 to P100.00. The filing fee for each candidate for president of the labor organization was increased to P3,000; that for each candidate for vice-president, secretary-general, treasurer and auditor, to P2,000.00; and that for assistant secretary, assistant treasurer and assistant auditor, to P1,000.00 each.

Bureau of Labor Relations Cases: Nos. LRD-M-7-503-86 & LRD-M-7-504-86

Although the increased fees were paid in due course by the candidates, no less than two complaints were filed with the Bureau of Labor Relations for their invalidation as excessive, prohibitive and arbitrary. One, docketed as Case No. LRD-M-7-503-86, was presented by Rey Sumangil, a candidate for president, and the members of his slate. The other, Case No. LRD-M-7-504-86, was filed by Carlos Galvadores, also a presidential candidate, and his group. Impleaded as respondents in both complaints were Benedicto Rodriguez, the Chairman of the Commission on Elections of the union, and the incumbent union officers, headed by the president, Manolito Paran. Acting on the complaints, the Med-Arbiter issued on July 8, 1986 a restraining order against the enforcement of the new rates of fees.

Other BLR Cases: Nos. LRD-M-7-557-86 and LRD-M-7-559-86

It appears that notwithstanding the cases questioning the candidates' fees, the elections for the provinces of Visayas and Mindanao and certain areas of Luzon were nevertheless held on July 21 and 22, 1986, which are dates different from those specified by the Legislative Council (i.e., July 14 to 18, 1986). The validity of the elections was very shortly challenged on the ground of lack of (1) due notice and (2) adequate ground rules. Carlos Galvadores and his fellow candidates filed on July 22, 1986 a petition with the BLR, docketed as Case No. LRD-M-7557-86, praying that the Union's COMELEC be directed to promulgate ground rules for the conduct of the provincial elections. On the day following, Livi Marquez, a candidate for vice-president, together with other candidates in his ticket, filed another petition against the same Union COMELEC and Manolito Paran, the union president - docketed as Case No. LRD-M-7-559-86 - seeking to restrain the holding of the elections scheduled on July 25, 1986 in the Metro Manila are until (1) ground rules therefor had been formulated and made known to all members of the labor organization, and (2) the issue of the filing fees had been finally decided. In connection with these complaints, a temporary restraining order was issued on July 23, 1986 prohibiting the holding of elections on July 25, 1986.

The restraining order notwithstanding, the Union COMELEC proceeded with the general elections in all the PLDT branches in Metro Manila on July 25, 1986. It then reported that as of July 15, 1986 the number of qualified voters was 9,429 of which 6,903 actually voted, the percentage of turn-out being 73%, and that those who obtained the highest number of votes for the various elective positions were:

Manolito Paran	President	3,030 votes
Eduardo de Leon	1st Vice-President	2,185 votes
Efren de Lima	2nd Vice-President	2,806 votes
Roger Rubio	Secretary General	2,462 votes
Virgilio Tulay	Asst. Sec. General	2,924 votes
Rosalinda de Guzman	Treasurer	2,659 votes
Filmore Dalisay	Asst. Treasurer	2,525 votes
Damiana Yalung	Auditor	2,942 votes
Jaime Pineda	Asst. Auditor	3,082 votes

Livi Marquez and Carlos Galvadores, and their respective groups, forthwith filed separate motions praying that the COMELEC be declared guilty of contempt for defying the temporary restraining order, and for the nullification not only of the Metro Manila elections of July 25, 1986 but also the provincial elections of July 21 and 22, 1986.

The four (4) cases were jointly decided by Med-Arbiter Rasidali Abdullah on August 28, 1986. His judgment denied the petitions to nullify the elections, as well as the motion for contempt, but invalidated the increase in rates of filing fees for certificates of candidacies. The judgment accorded credence to the Union COMELEC's averment that it had not received the restraining order on time. It took account, too, of the fact that the turn-out of voters was 73%, much higher than the turn-out of 62% to 63% in prior elections, which fact, in the Med-Arbiter's view was a clear manifestation of the union members' desire to go ahead with the elections and express their will therein.

This judgment was however overturned by the Officer-in-Charge of Labor Relations, on appeal seasonably taken. The OIC's decision,

dated October 10, 1986 nullified the general elections in the provinces and Metro Manila on the ground of (1) lack of notice to the candidates and voters, (2) failure to disseminate the election ground rules to all parties concerned, and (3) disregard of the temporary restraining order of the Med-Arbiter. The decision stressed the following points:[1]

> "The undue haste with which the questioned general elections were held raises doubts as to its validity. In its desire to conduct the elections as scheduled, the respondents unwittingly disregarded mandatory procedural requirements. The respondents' pretensions that the appellants were duly furnished with the ground rules/guidelines of the general elections and that the same were properly disseminated to the qualified voters of the union are not supported by the records.
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> "x x x
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> "Moreover, the Union's Comelec did not follow the schedule of election outlined in the guidelines. Specifically, the guidelines fixed the elections in Visayas-Mindanao on July 14, 16 and 18, 1986, in Northern Luzon, on July 16, 17, 18 and 21, 1986 and in Southern Luzon on July 16,17 and 18,1986 (records, pp. 67-70). Surprisingly, however, the Union's Comelec conducted the elections in Northern and Southern Luzon on July 21, and 22, 1986 and in Visayas-Mindanao on July 25, 1986 without proper notice to the appellants.
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> "Accordingly, the unwarranted failure of the Union's Comelec to duly furnish the appellants the guidelines and properly disseminate the same to the voters, and the holding of the elections not in accordance with the schedule set by the guidelines and in open defiance of the July 23, 1986 Restraining Order, precipitated an uncalled for confusion among the appellants' supporters and unduly prevented them from adopting the appropriate electoral safeguards to protect their interests. Under the circumstances, this Office is constrained to invalidate the general elections held on July 21, 22 and 25, 1986 and declare the results thereof null and void.

> "Furthermore, only 6,903 out of the 9,426 qualified voters trooped to the polls during the July 21, 22 and 25, 1986 general elections. Considering the closeness of the result of the elections, the 2,056 qualified voters, if they were able to cast their votes, could have drastically altered the results of the elections. But more important, the disenfranchisement of the remaining 27% qualified voters is a curtailment of Trade Unionism implicitly ordained in the worker's right to self-organization explicitly protected by the Constitution.
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> "x x x
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> "The submission of the respondents that they did not receive a copy of the injunctive order is completely rebuffed by the records. It appears that the same was received and signed by a certain Cenidoza for respondent Manolito Paran at 4:30 P.M. of July 23,1986 and by respondent Benedicto Rodriguez himself, also on July 23, 1986 at 4:30 P.M. In the case of Manolitao Paran, the restraining order in question was served at his office/postal address at Rm. 310 Regina Bldg., Escolta, Manila."

It is this decision of the BLR Officer-in-Charge which is the subject of the certiorari actions filed in this Court by Benedicto Rodriguez, the chairman of the Union COMELEC, and docketed as G.R. Nos. 76579-82. He claims the decision was rendered with grave abuse of discretion considering that (a) the Med-Arbiter had found no fraud or irregularity in the elections; (b) the election was participated in by more than 73% of the entire union membership; and (c) the petition for nullity was not supported by 30% of the general membership.

G.R. No. 80504: Controversy Respecting Labor Union Dues

The terms of office of the old officers (Manolito Paran, et al.) ended in August, 1986. However, the new set of officers (headed by the same Manolito Paran) apparently could not assume office under a new term because of the proceedings assailing the validity of the elections pending before the Bureau of Labor Relations. What happened was that the old officers continued to exercise the functions of their respective offices under the leadership of Manolito Paran.

On January 17, 1987, the Legislative Council of the union passed a resolution which generated another controversy. That resolution increased the amount of the union dues from P21.00 to P50.00 a month. It was then presented to the general membership for ratification at a referendum called for the purpose. Rey Sumangil and his followers objected to the holding of the referendum. When their objection went unheeded, they and their supporters, all together numbering 829 or so, boycotted the referendum and formally reiterated their protest against it. Subsequently the union officers announced that the referendum has resulted in a ratification of the increased union dues.

On March 1, 1987 Manolito Paran requested the PLDT to deduct the union dues at the new, increased rates, from the salaries of all union members and dispense with their individual written authorizations therefor. PLDT acceded to the request and effected the check-off of the increased dues for the payroll period from March 1 to March 15, 1987.

BLR Case No. NCR-OD-M-7-3-206-87

Once again Rey Sumangil and his followers hired themselves off to the Bureau of Labor Relations. They filed a petition on March 26, 1987 challenging the resolution for the increase in union dues, docketed as BLR Case No. NCR-OD-M-73-206-87. They contended that since the terms of the members of the Legislative Council who approved the resolution had already expired in August, 1986, and their reelection had been nullified by the Bureau, they had no authority to act as members of the council; consequently, it could not be said that the resolution for the increase of union dues had been approved by 2/3 vote of the Council members, as provided by the union constitution and by laws; hence, the resolution was void. They further contended that there had been no valid ratification of the resolution because the plebiscite had been “rigged.”

Once again Rey Sumangil and his group were unsuccessful in proceedings at the level of the Med-Arbiter. The latter denied their petition on the ground of lack of support of at least 30% of all members of the union, citing Article 242 of the Labor Code which reads as follows:

> "Art. 242. Rights and conditions of membership in a labor organization. — Any violation of the above rights and conditions of membership shall be a ground for cancellation of union registration and expulsion of officer from office, whichever is appropriate. At least thirty percent (30%) of all the members of a union or any member or members specially concerned may report such violation to the Bureau. The Bureau shall have the power to hear and decide any reported violation to mete the appropriate penalty."

Again Sumangil and his group went up on appeal to the Director of Labor Relations, before whom they raised the issue of whether or not the petition in fact had the support of at least 30% of the members, and said 30%-support was indeed a condition sine qua non for acquisition by the Med-Arbiters (in the Labor Relations Division in a Regional Office of the MOLE) of jurisdiction over the case. Again Sumangil and his followers were successful in their appeal.

On July 1, 1987 the Director of Labor Relations rendered a decision reversing that of the Med-Arbiter. The Director ordered the cessation of the collection of the twenty-nine peso increase and the return of the amounts already collected. In the first place, according to her, the petition was supported by 6,022 signatures, a number comprising more than 30% of the total membership of the union (10,413). In the second place, the Director ruled, even assuming the contrary, the lack of 30%-support will not preclude the BLR from taking cognizance of the petition where there is a clear violation of the rights and conditions of union membership because Article 226 of the Labor Code, expressly confers on it the authority to act on all intra-union and inter-union conflicts and grievances affecting labor and management relations, at the instance of either or both parties. The provision cited reads as follows:

> "Art. 226. Bureau of Labor Relations. — The Bureau of Labor Relations and the Labor Relations division in the Regional Offices of the Department of Labor shall have original and exclusive authority to act, at their own initiative or upon request of either or both parties, on all inter-union and intra-union

> conflicts, and all disputes, grievances or problems arising from or affecting labor management relations."

As regards Article 242 of the Labor Code, relied upon by the Med-Arbiter, the Director expressed the new that the 30%-support therein provided is not mandatory, and is not a condition precedent to the valid presentation of a grievance before the Bureau of Labor Relations. The Director ruled, finally, that Sumangil and the other union members had a valid grievance calling for redress, since the record disclosed no compliance with the requirement that the resolution for the increase of union dues be passed by at least 2/3 vote of the members of the Legislative Council and be ratified by a majority of the entire membership at a plebiscite.

But not long afterwards, the Director reversed herself. The Manggagawa sa Komunikasyon sa Pilipinas (MKP) — with which Paran's Union, the FTWU, is affiliated — intervened in the case and moved for reconsideration of her decision. By resolution dated October 1, 1987, the Director set aside her decision of July 1, 1987 and entered a new one dismissing the petition of Sumangil and company, in effect affirming the Med-Arbiter's order. The Director opined that the intervenor (MKP) was correct in its contention that there was no 30%-membership-support for the petition, since only 829 members had signed their support therefor, as correctly found by the Med-Arbiter, and because of this, the BLR never acquired jurisdiction over the case. According to her:[2]

> "The rationale for such requirement is not difficult to discern. It is to make certain that there is a prima facie case against prospective respondents whether it be the union/or its officers and thus forestall nuisance or harassment petitions complaints. The requirement was intended to shield the union from destabilization and paralyzation coming from adventurous and ambitious members or non-members engaged in union politics under the guise of working for the union welfare.
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> "As found out by the Med-Arbiter in the Office of origin all signatures except that of 829 were obtained without the knowledge of the signatories. At this point we cannot permit 829 members to 'rock the boat.' so to speak, of a union which

has at present ten thousand four hundred and thirteen (10,413) passengers."

In an effort to set aside this reversing resolution of the Labor Relations Director, Rey Sumangil and his group have come to this Court via the instant special civil action of certiorari. In their petition they insist that the support of 30% of the union membership is not a jurisdictional requirement for the ventilation of their grievance before the BLR, and assuming the contrary, they have proven that 3,501 workers had in fact joined in the petition, constituting 33% of the total membership. They also emphasize the validity of their grievance, drawing attention to the absence of the requisite 2/3 vote essential for validity of any resolution increasing the rates of union dues, and the doubtful result of the referendum at which the resolution had allegedly been ratified.

Three issues are thus presented to the Court in these cases. The first involves the validity of the 1986 general elections for union officers; the second, whether or not 30%-membership support is indispensable for acquisition of jurisdiction by the Bureau of Labor Relations of a complaint for alleged violation of rights and conditions of union members; and third, the validity of the increase in union dues.

The General Elections of 1986

A review of the record fails to disclose any grave abuse of discretion tainting the adjudgment of respondent Director of Labor Relations that the general elections for union officers held in 1986 were attended by grave irregularities, rendering the elections invalid. That finding must thus be sustained.

The dates for provincial elections were set for July 14 to 18, 1986. But they were in fact held on July 21 to 22, 1986, without prior notice to all voting members, and without ground rules duly prescribed therefor. The elections in Metro Manila were conducted under no better circumstances. It was held on July 25, 1986 in disregard and in defiance of the temporary restraining order properly issued by the Med-Arbiter on July 23, 1986, notice of which restraining order had been regularly served on the same date, as the proofs adequately

show, on both the Union, President, Manolito Paran, and the Chairman of the Union COMELEC, Benedicto Rodriguez. Moreover, as in the case of the provincial elections, there were no ground rules or guidelines set for the Metro Manila elections. Undue haste, lack of adequate safeguards to ensure integrity of the voting, and absence of notice of the dates of balloting, thus attended the elections in the provinces and in Metro Manila. They cannot but render the proceedings void.

The claim that there had been a record-breaking voter turnout of 73%, even if true, cannot purge the elections of their grave infirmities. The elections were closely contested. For example, in the presidential contest, Manolito Paran appeared to have won over Rey Sumangil by only 803 votes, and in the vice-presidential race, Eduardo de Leon won over Dominador Munar by only 204 votes. These results would obviously have been affected by the ballots of the 2,056 voters who had been unable to cast their votes because of lack of notice of actual dates of the elections.

It goes without saying that free and honest elections are indispensable to the enjoyment by employees and workers of their constitutionally protected right to self-organization. That right "would be diluted if in the choice of the officials to govern . . . (union) affairs, the election is not fairly and honestly conducted," and the labor officers concerned and the courts have the duty "to see to it that no abuse is committed by any official of a labor organization in the conduct of its affairs."[3]

The Matter of 30%-Support for Complaints for Violations of Union Membership Rights

The respondent Director's ruling, however, that the assent of 30% of the union membership, mentioned in Article 242 of the Labor Code, was mandatory and essential to the filing of a complaint for any violation of rights and conditions of membership in a labor organization (such as the arbitrary and oppressive increase of union dues here complained of), cannot be affirmed and will be reversed. The very article relied upon militates against the proposition. It states that a report of a violation of rights and conditions of membership in a labor organization may be made by "(a)t least thirty percent (30%)

of all the members of a union or any member or members specially concerned."[4] The use of the permissive "may" in the provision at once negates the notion that the assent of 30% of all the members is mandatory. More decisive is the fact that the provision expressly declares that the report may be made, alternatively by "any member or members specially concerned." And further confirmation that the assent of 30% of the union members is not a factor in the acquisition of jurisdiction by the Bureau of Labor Relations is furnished by Article 226 of the same Labor Code, which grants original and exclusive jurisdiction to the Bureau, and the Labor Relations Division in the Regional Offices of the Department of Labor, over "all inter-union and intra-union conflicts, and all disputes, grievances or problems arising from or affecting labor management relations," making no reference whatsoever to any such 30%-support requirement. Indeed, the officials mentioned are given the power to act "on all inter-union and intra-union conflicts (1) "upon request of either or both parties" as well as (2) "at their own initiative." There can thus be no question about the capacity of Rey Sumangil and his group of more than eight hundred, to report and seek redress in an intra-union conflict involving a matter they are specially concerned, i.e., the rates of union dues being imposed on them.

These considerations apply equally well to controversies over elections. In the cases at bar, the petition to nullify the 1986 union elections could not be deemed defective because it did not have the assent of 30% of the union membership. The petition clearly involved an intra-union conflict - one directly affecting the right of suffrage of more than 800 union members and the integrity of the union elections - over which, as the law explicitly provides, jurisdiction could be assumed by the Labor Relations Director or the Med-Arbiters "at their own initiative" or "upon request of either or both parties."

The assumption of jurisdiction by the Med-Arbiter and the Labor Relations Director over the cases at bar was entirely proper. It was in fact their duty to do so, given the facts presented to them. So this Court has had occasion to rule:[5]

> "The labor officials should not hesitate to enforce strictly the law and regulations governing trade unions even if that course

> of action would curtail the so-called union autonomy and freedom from government interference.
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> "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.
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> "Laxity, permissiveness, neglect and apathy in supervising and regulating the activities of union officials would result in corruption and oppression. Internal safeguards within the union can easily be ignored or swept aside by abusive, arrogant and unscrupulous union officials to the prejudice of the members.
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> "It is necessary and desirable that the Bureau of Labor Relations and the Ministry of Labor should exercise close and constant supervision over labor unions, particularly the handling of their funds, so as to forestall abuses and venalities."

As regards the final issue concerning the increase of union dues, the respondent Director found that the resolution of the union's Legislative Council to this effect[6] does not bear the signature of at least two-thirds (2/3) of the members of the Council, contrary to the requirement of the union constitution and by-laws; and that proof is wanting of proper ratification of the resolution by a majority of the general union membership at a plebiscite called and conducted for that purpose, again in violation of the constitution and by-laws. The resolution increasing the union dues must therefore be struck down, as illegal and void, arbitrary and oppressive. The collection of union dues at the increased rates must be discontinued; and the dues thus far improperly collected must be refunded to the union members or held in trust for disposition by them in accordance with their charter and rules, in line with this Court's ruling in a parallel situation,[7] viz:

> "All amounts already collected must be credited accordingly in favor of the respective members either for their future legal dues or other assessments or even delinquencies, if any. And if this arrangement regarding the actual refund of what might be excessive dues is not acceptable to the majority of the members,

the matter may be decided in a general meeting called for the purpose."

WHEREFORE, in G.R. Nos. 76579-82, the petition for *certiorari* is **DISMISSED**, no grave abuse of discretion or other serious error having been shown in the decision of the respondent Director of Labor Relations, said decision — ordering the holding of new elections for officers of the Free Telephone Workers Union — being on the contrary in accord with the facts and the law, but in the G.R. No. 80504, the petition for certiorari is granted, the challenged order dated October 1, 1987 is set aside, and the decision of July 1, 1987 of the Labor Relations Director reinstated, modified only as to the treatment of the excess collections which shall be disposed of in the manner herein indicated. Costs against petitioner in G.R. Nos. 7657982 and private respondents (except the PLDT) in G.R. No. 80504.

Cruz, Gancayco, Griño-Aquino and Medialdea, *JJ.*, concur.

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[1] Rollo, pp. 68-69.
[2] Rollo, pp. 21-22.
[3] Pasudeco vs. BLR, 101 SCRA 732.
[4] Italics supplied.
[5] Duyag vs. Inciong, 98 SCRA 522, 533.
[6] Resolution No. 87-02, January 17, 1987.
[7] San Miguel Corporation vs. Noriel, 103 SCRA 185.