SUPREME COURT
SECOND DIVISION

SAMAHAN NG MGA MANGGAGAWA SA FILSYSTEMS (SAMAFIL-NAFLU-KMU),
***Petitioner*,**

-versus-

G.R. No. 128067
June 5, 1998

HON. SECRETARY OF LABOR AND EMPLOYMENT AND FILSYSTEMS, INC.,
***Respondents*.**
x----------x

D E C I S I O N

PUNO, *J.*:

Assailed under Rule 65 of the Rules of Court are the Resolution and Order[1] of the public respondent, dated June 28, 1996 and November 18, 1996, respectively, dismissing petitioner's petition for certification election.

It appears that petitioner Samahan ng mga Manggagawa sa Filsystems (SAMAFIL-NAFLU-KMU) is a registered labor union with Certificate of Registration No. NCR-UR-10-1575-95 issued by the Department of Labor and Employment (DOLE) on October 25, 1995.

On November 6, 1995, petitioner union filed a Petition for Certification Election among the rank-and-file employees of private respondent FILSYSTEMS, Inc. before the DOLE — National Capital-Region (NCR).[2] Attached as annexes to the petition are the Certificate of Registration issued by the DOLE, copies of union membership signed by thirty three (33) rank-and-file employees of respondent company, the Charter Certificate showing its affiliation with the National Federation of Labor Unions (NAFLU-KMU), the list of union officers, the certification of the union secretary of the minutes of the general membership meeting, the Books of Accounts and its Constitution and By-Laws.[3]

Private respondent opposed the petition. It questioned the status of petitioner as a legitimate labor organization on the ground of lack of proof that its contract of affiliation with the NAFLU-KMU has been submitted to the Bureau of Labor Relations (BLR) within thirty (30) days from its execution.[4]

In reply, petitioner averted that as a duly registered labor union, it has "all the rights and privileges to act as representative of its members for the purpose of collective bargaining with employers."[5]

On January 12, 1996, Med-Arbiter Paterno D. Adap dismissed the petition for certification election. He ruled that petitioner, as an affiliate of NAFLU-KMU, has no legal personality on account of its failure to comply with paragraphs (a), (b) and (e) of Section 3, Rule II of the Implementing Rules of Book V of the Labor Code,[6] viz:

"x x x

> "In matters of affiliation of an independently registered union, the rules provide that the latter shall be considered an affiliate of a labor federation after submission of the contract or agreement of affiliation to the Bureau of Labor Relations (BLR) within thirty (30) days after its execution.
>
> "Likewise, it mandates the federation or national union concerned to issue a charter certificate indicating the creation or establishment of a local or chapter, copy of which shall be

submitted to the Bureau of Labor Relations within thirty (30) days from issuance of such certificate.

"A close examination of the records of the case does not reveal that the federation and the independent union have executed a contract or agreement of affiliation, nor had it shown that it has submitted its charter certificate to the Bureau of Labor Relations, within thirty (30) days from issuance of such charter certificate as amended by the rules.

"Petitioner argued that it has complied with all the requirements for certification election pursuant to the mandate of Sec. 2, Rule V of Book V of the Implementing Rules of the Labor Code; that the rule cited by respondent is not included in the Rule citing the requirements for certification election.

"We disagree with petitioner's contention. The rule cited by the petitioner, Sec. 2, Rule V, Book V, sub-paragraphs A, B, C, D, E, F and G, refers to an independently registered labor organization which has filed a petition for certification election.

"In the case at bar, an independently registered union has affiliated with a federation, hence, strict compliance with the requirements embodied in Sec. 3, paragraphs A, B and E of Rule II, Book V of the Rules and Regulations implementing the Labor Code should be complied with.

"Record discloses that petitioner has not shown to have executed a contract or agreement of affiliation nor has it established that is has submitted its charter certificate to the Bureau of Labor Relations (BLR) within thirty (30) days from its execution.

"Thus, petitioner in this case having failed to comply with the mandatory requirement, there was no valid affiliation. Consequently, petitioner has no legal personality because the union failed to attain the status of legitimacy for failure to comply with the requirements of law."

Petitioner appealed to the Office of the Secretary of Labor and Employment. It reiterated its contention that as an independently registered union, it has the right to file a petition for certification election regardless of its failure to prove its affiliation with NAFLU-KMU.[7]

On February 26, 1996, private respondent opposed the appeal. It argued that petitioner should have filed its petition for certification election as an independently registered union and not as a union affiliated with NAFLU-KMU.[8]

Meanwhile or on February 7, 1996, another union, the Filsystem Workers Union (FWU), filed a Petition for Certification Election in the same bargaining unit. On March 22 , 1996, the Med-Arbitration — NCR Branch granted the petition. The certification election held on April 19, 1996, was won by FWU which garnered twenty six (26) votes out of the forty six (46) eligible voters. The FWU was certified on April 29, 1996, as the exclusive bargaining agent of all rank-and-file employees of private respondent. Eventually, FWU and the private respondent negotiated a CBA.[9]

On June 11, 1996, the private respondent filed a Motion to Dismiss Appeal of petitioner as it has become moot and academic. It also invoked Section 3, Rule V of the Implementing Rules of Book V of the Labor Code stating that "once a union has been certified, no certification election may be held within one (1) year from the date of issuance of a final certification election [result]."[10]

In opposing the Motion to Dismiss Appeal, petitioner contended that its appeal is not moot as the certification election held on April 19, 1996, was void for violating Section 10, Rule V of the Implementing Rules of Book V of the Labor Code,[11] viz:

> "SEC. 10. Decision of the Secretary final and inappealable. — The Secretary shall have fifteen (15) calendar days within which to decide the appeal from receipt of the records of the case. The filing of the appeal from the decision of the Med-Arbiter stays the holding of any certification election. The decision of the Secretary shall be final and inappealable."

Petitioner further argued that the CBA executed between the FWU and the private respondent could not affect its pending representation case following Section 4, Rule V of the Implementing Rules of Book V of the Labor Code[12] which states:

> "SEC. 4. Effects of early agreements. — The representation case shall not, however, be adversely affected by a collective bargaining agreement registered before or during the last 60 days of the subsisting agreement or during the pendency of the representation case."

On June 28, 1996, respondent Secretary dismissed the appeal interposed by petitioner on the ground that it has been rendered moot by the certification of FWU as the sole and exclusive bargaining agent of the rank-and-file workers of respondent company. Petitioner's Motion for Reconsideration was denied in an Order dated November 18, 1996.[13]

Before this Court, petitioner contends:

I

> Public respondent acted with grave abuse of discretion amounting to acting without or in excess of jurisdiction in holding that the pending appeal in the representation case was rendered moot and academic by a subsequently enacted collective bargaining agreement in the company.

II

> Public respondent committed a serious legal error and gravely abused its discretion in failing to hold that the legal personality of petitioner as a union having been established by its Certificate of Registration, the same could not be subjected to collateral attack.

The petition is meritorious.

I

We shall first resolve whether the public respondent committed grave abuse of discretion when he effectively affirmed the Resolution dated January 12, 1996 of the Med-Arbiter dismissing petitioner's petition for certification election for failure to prove its affiliation with NAFLU-KMU.

The reasoning of the public respondent and the Med-Arbiter is flawed, proceeding as it does from a wrong premise. Firstly, it must be underscored that petitioner is an independently registered labor union as evidenced by a Certificate of Registration issued by the DOLE. As a legitimate labor organization, petitioner's right to file a petition for certification election on its own is beyond question.[14] Secondly, the failure of petitioner to prove its affiliation with NAFLU-KMU cannot affect its right to file said petition for certification election as an independent union. At the most, petitioner's failure will result in an ineffective affiliation with NAFLU-KMU. Still, however, it can pursue its petition for certification election as an independent union. In our rulings, we have stressed that despite affiliation, the local union remains the basic unit free to serve the common interest of all its members and pursue its own interests independently of the federation.[15]

In fine the Med-Arbiter erred in dismissing petitioner's petition for certification election on account of its non-submission of the charter certificate and the contract of affiliation with the NAFLU-KMU with the BLR. The public respondent gravely abused his discretion in sustaining the Med-Arbiter's Resolution.

II

We shall now resolve the issue of whether the appeal filed by the petitioner was rendered moot and academic by the subsequent certification election ordered by the Med-Arbiter, won by the FWU and which culminated in a CBA with private respondent.

Public respondent's ruling is anchored on his finding that there exists no pending representation case since the petition for certification election filed by the petitioner was dismissed by the Med-Arbiter. According to the public respondent, the legal effect of the dismissal of the petition was to leave the playing field open without any legal barrier or prohibition to any petitioner; thus, other legitimate labor organizations may file an entirely new petition for certification election.

We reject public respondent's ruling. The order of the Med-Arbiter dismissing petitioner's petition for certification election was seasonably appealed. The appeal stopped the holding of any certification election. Section 10, Rule V of the Implementing Rules of Book V of the Labor Code is crystal clear and hardly needs any interpretation.

Accordingly, there was an unresolved representation case at the time the CBA was entered between FWU and private respondent. Following Section 4, Rule V of the Implementing Rules of Book V of the Labor Code, such CBA cannot and will not prejudice petitioner's pending representation case or render the same moot.[16] This rule was applied in the case of Associated Labor Unions (ALU-TUCP) vs. Trajano[17] where we held that "[t]here should be no obstacle to the right of the employees to petition for a certification election at the proper time, that is, within sixty (60) days prior to the expiration of the life of a certified collective bargaining agreement, not even by a collective agreement submitted during the pendency of the representation case." Likewise, in Associated Labor Unions (ALU) vs. Ferrer-Calleja,[18] we held that a prematurely renewed CBA is not a bar to the holding of a certification election.

Finally, we bewail private respondent's tenacious opposition to petitioner's certification election petition. Such a stance is not conducive to industrial peace. Time and again, we have emphasized that when a petition for certification election is filed by a legitimate labor organization, it is good policy for the employer not to have any participation or partisan interest in the choice of the bargaining representative. While employers may rightfully be notified or informed of petitions of such

> nature, they should not, however, be considered parties thereto with an inalienable right to oppose it. An employer that involves itself in a certification election lends suspicion to the fact that it wants to create a company union. Thus, in Consolidated Farms, Inc. II vs. Noriel,[19] we declared that "[o]n a matter that should be the exclusive concern of labor, the choice of a collective bargaining representative, the employer is definitely an intruder. His participation, to say the least, deserves no encouragement. This Court should be the last agency to lend support to such an attempt at interference with a purely internal affair of labor. While it is true that there may be circumstances where the interest of the employer calls for its being heard on the matter, sound policy dictates that as much as possible, management is to maintain a strictly hands-off policy. For if 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 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."

IN VIEW WHEREOF, the instant Petition is **GRANTED**. The assailed Resolution and Order of the public respondent are set aside. The Bureau of Labor Relations is **ORDERED** to hold a certification election in respondent company with petitioner as a contending union. No costs.

SO ORDERED.

Regalado, Mendoza and Martinez, *JJ.*, concur.
Melo, *J.*, is on leave.

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[1] In OS-A-4-100-96.
[2] Rollo, pp. 5 and 72.
[3] Records, pp. 1-30.
[4] Rollo, pp. 6 and 72-73.

[5] Rollo, p. 6.
[6] Resolution, pp. 7-8; Rollo, pp. 36-37.
[7] Rollo, pp. 38-44.
[8] Rollo, pp. 77-78.
[9] Rollo, pp. 7 and 78.
[10] Rollo, pp. 46-48.
[11] Rollo, pp. 57-61.
[12] Id.
[13] Order, p. 1; Rollo, p. 24.
[14] See Articles 212 (h) and 257 of the Labor Code; Lopez Sugar Corporation vs. Secretary of Labor and Employment, 247 SCRA 1 [1995]; San Miguel Foods, Inc. — Cebu B-Meg Feed Plant vs. Laguesma, 263 SCRA 68 [1996].
[15] Adamson & Adamson, Inc. vs. Court of Industrial Relations, 127 SCRA 268 [1984]; St. Luke's Medical Center, Inc. vs. Torres, 223 SCRA 779 [1993]; Pambansang Kapatiran ng mga Anak Pawis sa Formey Plastic National Workers Brotherhood vs. Secretary of Labor, 253 SCRA 96 [1996].
[16] Samahan ng Manggagawa sa Pacific Plastic vs. Laguesma, 267 SCRA 303 [1997].
[17] 172 SCRA 49, 58 [1989].
[18] 179 SCRA 127 [1989].
[19] 84 SCRA 469, 473-475 [1978]; see also Phil. Telegraph and Telephone Corp. vs. Laguesma, 223 SCRA 452 [1993); Barbizon Philippines, Inc. vs. Nagkakaisang Supervisor ng Barbizon Philippines, Inc. — NAFLU, 261 SCRA 738 [1996].