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**SUPREME COURT
THIRD DIVISION**

**SOUTHEAST ASIAN FISHERIES
DEVELOPMENT CENTER represented
by its Chief, DR. FLOR J. LACANILAO,
*Petitioner,***

-versus-

**G.R. Nos. 97468-70
September 2, 1993**

**DANILO ACOSTA in his capacity as
Labor Arbiter of the National Labor
Relations Commission, Regional
Arbitration, Branch VI, CORAZON
CANTO, DAN BALIAO, ELIZABETH
SUPETTRAN, CARMELITA FERRER,
CATHRYN CONTRADOR, and DORIC
VELOSO,**

Respondents.

X-----X

RESOLUTION

VITUG, J.:

This is an original Petition for Certiorari and Prohibition, with a prayer for the issuance of a restraining order, to set aside the order of respondent labor arbiter, dated 20 September 1990, denying herein

petitioner's motion to dismiss the cases subject matter of the petition for lack of jurisdiction.

Two labor cases, docketed as RAB Case No. VI - 0156-86 and RAB Case No. VI — 0214-86, were filed by the herein private respondents against the petitioner, Southeast Asian Fisheries Development Center (SEAFDEC), before the National Labor Relations Commission (NLRC), Regional Arbitration Branch, Iloilo City. In these cases, the private respondents claim having been wrongfully terminated from their employment by the petitioner.

On 22 August 1990, the petitioner, contending to be an international inter-government organization, composed of various Southeast Asian countries, filed a Motion to Dismiss, challenging the jurisdiction of the public respondent in taking cognizance of the above cases.

On 20 September 1990, the public respondent issued the assailed order denying the Motion to Dismiss. In due course, a Motion for Reconsideration was interposed but the same, in an order, dated 07 January 1991, was likewise denied.

Hence, the instant petition. This Court, on 20 March 1991, issued the temporary restraining order prayed for.

The private respondents, as well as respondent labor arbiter, allege that the petitioner is not immune from suit and assuming that if, indeed, it is an international organization, it has, however, impliedly, if not expressly, waived its immunity by belatedly raising the issue of jurisdiction.

The Solicitor General, on his part, filed a Manifestation and Motion, which the Court granted, praying that he be excused from filing his comment for respondent Labor Arbiter, he not being in agreement with the latter's position on this matter.

On 30 March 1992, this Court dismissed the instant petition in a resolution which reads:

“— Considering the allegations, issues and arguments adduced in the petition for certiorari as well as the separate comments

thereon of the public and private respondents, and the consolidated reply thereto of the petitioner, the Court RESOLVED to DISMISS the petition for failure to sufficiently show that the questioned judgment is tainted with grave abuse of discretion. The temporary restraining order issued on March 20, 1991 is hereby LIFTED effective immediately.”

In time, the petitioner moved for a reconsideration, arguing that the ground for its seeking the allowance of the petition is the labor arbiter’s lack of jurisdiction over the dispute.

The court is now asked to rule upon the motion for reconsideration.

We rule for the petitioner.

It is beyond question that petitioner SEAFDEC is an international agency enjoying diplomatic immunity. This, we have already held in Southeast Asian Fisheries Development Center-Aquaculture Department vs. National Labor Relations Commission, G.R. No. 86773, 206 SCRA 283/1992/; see also Lacanilao vs. de Leon, G.R. No. 76532, 147 SCRA, 286/1987/, where we said —

“Petitioner Southeast Asian Fisheries Development Center-Aquaculture Department (SEAFDEC-AQD) is an international agency beyond the jurisdiction of public respondent NLRC.

“It was established by the Governments of Burma, Kingdom of Cambodia, Republic of Indonesia, Japan, Kingdom of Laos, Malaysia, Republic of the Philippines, Republic of Singapore, Kingdom of Thailand and Republic of Vietnam.

“The Republic of the Philippines became a signatory to the Agreement establishing SEAFDEC on January 16, 1968. Its purpose is as follows:

‘The purpose of the Center is to contribute to the promotion of the fisheries development in Southeast Asia by mutual co-operation among the member governments of the Center, hereinafter called the ‘Members’, and through collaboration with international organizations

and governments external to the Center. (Agreement Establishing the SEAFDEC, Art. 1;)

“SEAFDEC-AQD was organized during the Sixth Council Meeting of SEAFDEC on July 3-7, 1973 in Kuala Lumpur, Malaysia as one of the principal departments of SEAFDEC to be established in Iloilo for the promotion of research in aquaculture. Paragraph 1, Article 6 of the Agreement establishing SEAFDEC mandates:

‘1. The Council shall be the supreme organ of the Center and all powers of the Center shall be vested in the Council.’

“Being an intergovernmental organization, SEAFDEC including its Departments (AQD), enjoys functional independence and freedom from control of the state in whose territory its office is located.

“As Senator Jovito R. Salonga and Former Chief Justice Pedro L. Yap stated in their book, Public International Law (p. 83, 1956 ed.):

‘Permanent international commissions and administrative bodies have been created by the agreement of a considerable number of States for a variety of international purposes, economic or social and mainly non-political. Among the notable instances are the International Labor Organization, the International Institute of Agriculture, the International Danube Commission. In so far as they are autonomous and beyond the control of any one State, they have a distinct juridical personality independent of the municipal law of the State where they are situated. As such, according to one leading authority (t)hey must be deemed to possess a species of international personality of their own. (Salonga and Yap, Public International Law, 83 [1956 ed.]’.

“Pursuant to its being a signatory to the Agreement, the Republic of the Philippines agreed to be represented by one

Director in the governing SEAFDEC Council (Agreement Establishing SEAFDEC, Art. 5, Par. 1.), and that its national laws and regulations shall apply only insofar as its contributions to SEAFDEC of “an agreed amount of money, movable and immovable property and services necessary for the establishment and operation of the Center” are concerned (Art. 11, *ibid*). It expressly waived the application of the Philippine laws on the disbursement of funds of petitioner SEAFDEC-AQD (Section 2, P.D. No. 292).

“The then Minister of Justice likewise opined that Philippine Courts have no jurisdiction over SEAFDEC-AQD in Opinion No. 139, Series of 1984 —

‘4. One of the basic immunities of an international organization is immunity from local jurisdiction, i.e., that it is immune from the legal writs and processes issued by the tribunals of the country where it is found. (See Jenks, *Id.*, pp. 37-44) The obvious reason for this is that the subjection of such an organization to the authority of the local courts would afford a convenient medium thru which the host government may interfere in their operations or even influence or control its policies and decisions of the organization; besides, such subjection to local jurisdiction would impair the capacity of such body to discharge its responsibilities impartially on behalf of its member-states. In the case at bar, for instance, the entertainment by the National Labor Relations Commission of Mr. Madamba’s reinstatement cases would amount to interference by the Philippine Government in the management decisions of the SEARCA governing board; even worse, it could compromise the desired impartiality of the organization since it will have to suit its actuations to the requirements of Philippine law, which may not necessarily coincide with the interests of the other member-states. It is precisely to forestall these possibilities that in cases where the extent of the immunity is specified in the enabling instruments of international organizations, (jurisdictional immunity, is specified in the enabling instruments of international

organizations) jurisdictional immunity from the host country is invariably among the first accorded. (See Jenks, Id.; See Bowett. The Law of International Institutions. pp. 284-285).”

At its Sixth Meeting held at Kuala Lumpur, Malaysia, on 3 to 7 July 1973, the SEAFDEC Council approved the formal establishment of its Aquaculture Department in the province of Iloilo, Philippines, to promote research in Aquaculture as so expressed in the “Whereas” Clauses of Presidential Decree No. 292 issued on 13 September 1973^[1] Furthermore, Section 2 of the same decree had provided for the autonomous character of SEAFDEC, thus:

“All funds received by the Department shall be receipted and disbursed in accordance with the Agreement establishing the Southeast Asian Fisheries Development Center and pertinent resolutions duly approved by the SEAFDEC Council.”

As aptly pointed out by Associate Justice Isagani Cruz of this Court —

“Certain administrative bodies created by agreement among states may be vested with international personality when two conditions concur, to wit:, that their purposes are mainly non-political and that they are autonomous, i.e., not subject to the control of any state”.^[2]

Anent the issue of waiver of immunity, suffice it to say at the moment that the petitioner has timely raised the issue of jurisdiction. While the petitioner did not question the public respondent’s lack of jurisdiction at the early stages of the proceedings, it, nevertheless, did so before it rested its case and certainly well before the proceedings thereat had terminated.

WHEREFORE, our resolution, dated 30 March 1992, dismissing the petition for certiorari, is hereby reconsidered, and another is entered (a) granting due course to the petition; (b) setting aside the order, dated 20 September 1990, of the public respondent; and (c) enjoining the public respondent from further proceeding with RAB Case No. VI-0156-86 and RAB Case No. VI-0214-86. No costs.

SO ORDERED.

Feliciano, Bidin, Romero and Melo, *JJ.*, concur.

[1] WHEREAS, the Republic of the Philippines, on January 16, 1968, became a signatory to the Agreement establishing the Southeast Asian Fisheries Development Center (SEAFDEC);

WHEREAS, the SEAFDEC council, at its Sixth Meeting held at Kuala Lumpur (Malaysia) on July 3-7, 1973, approved the formal establishment of its Aquaculture Department in the province of Iloilo, Philippines; to promote research in aquaculture, especially in the production of prawns and shrimps, undertake the corresponding training programs for fisheries experts and technicians and disseminate information on fisheries research and development for SEAFDEC member-countries in Southeast Asia;

WHEREAS, the establishment of the SEAFDEC Aquaculture Department in the Philippines will directly and immediately stimulate the development of the fisheries industry in the country, as well as in neighboring nations in Southeast Asia.

[2] Isagani Cruz, International Law, 1977 Edition, p. 31.
