

EN BANC

[G.R. No. 227926, March 10, 2020]

**PROVINCE OF CAMARINES SUR, REPRESENTED BY GOVERNOR
MIGUEL LUIS R. VILLAFUERTE, PETITIONER, VS. THE
COMMISSION ON AUDIT, RESPONDENT.**

DECISION

REYES, J. JR., J.:

The Facts and the Case

Before the Court is a Petition for *Certiorari* under Rule 64 in relation to Rule 65 of the Rules of Court seeking to nullify and set aside the December 29, 2014 Decision^[1] and the September 26, 2016 Resolution^[2] of respondent Commission on Audit (COA). The assailed Resolution denied the motion for reconsideration filed by petitioner Province of Camarines Sur, represented by Governor Miguel Luis R. Villafuerte (Gov. Villafuerte), for lack of merit, and affirmed with finality COA Regional Office V (COA-RO V) Decision No. 2013-L-016^[3] which sustained the validity of Notice of Disallowance No. 2011-200-010(08)^[4] on the payment of allowances to locally funded teaching and non-teaching personnel of the Department of Education (DepEd)-Division of Camarines Sur in the total amount of P5,820,843.30.

To accommodate the growing number of enrollees in public schools, petitioner started hiring in 1999 temporary teaching personnel to handle extension classes of existing public schools, as well as non-teaching personnel in connection with the establishment and maintenance of these extension classes. The salaries of the personnel hired were charged to the Special Education Fund (SEF).^[5]

On March 5, 2009, Atty. Eleanor V. Echano, Audit Team Leader (ATL) assigned to the province of Camarines Sur issued Audit Observation Memorandum (AOM) No. 2009-19 (2008) dated February 18, 2009 stating that the payments made by the petitioner for the allowances/honoraria of locally funded teaching and non-teaching personnel of the DepEd-Division of Camarines Sur from July 2008 to October 2008 in the total amount of P5,820,843.30 that were charged to the SEF contravene the provisions of Section 272 of Republic Act (R.A.) No. 7160 or The Local Government Code of 1991 (LGC) and the Department of Education, Culture and Sports, Department of Budget and Management, and Department of Interior and Local Government Joint Circular (DECS-DBM-DILG JC) No. 1, Series of 1998 dated April 15, 1998 on the utilization of the SEF for the operation and maintenance of elementary and secondary public schools.^[6]

In their Comment dated June 23, 2010 to the AOM, the Officer-In-Charge (OIC)-Provincial Accountant; OIC-Provincial Treasurer and OIC-Provincial Budget Officer of

the petitioner contended that the payments made did not violate Section 272 of the LGC and other pertinent circulars as the payments were well within the purpose and intent for which the SEF may be utilized.^[7]

On December 23, 2011, the ATL and Supervising Auditor-in-Charge issued Notice of Disallowance No. 2011-200-010(08)^[8] dated November 15, 2011 disallowing the payments of allowances/honoraria to locally funded teaching and non-teaching personnel of DepEd-Division of Camarines Sur which were charged to the 2008 SEF for the following violations:

1. The payments for the allowances of locally funded teachers were in violation of the provisions of Section 272 of RA 7160 which explicitly provide that the proceeds of Special Education Fund shall be allocated for the operation and maintenance of public schools and DECS-DBM-DILG Joint Circular No. 01 s of 1998 dated April 14, 1998, clarified under JC No. 01-A dated March 14, 2000 and JC No. 01-B dated June 25, 2001 which state that payments of salaries, authorized allowances and personnel-related benefits are only for hired teachers that handle new classes as extension of existing public elementary [or] secondary schools established and approved by DepEd;
2. The allowances was taken up in the Special Education Fund (SEF) books as "Donations" (878) instead of taking it up to the General Fund books[;]
3. No Memorandum of Agreement and Accomplishment Report attached[;]
4. The payments of payrolls on JEV Nos. 200-08-10-185(1-5) and 200-08-10-188 were not approved by the Provincial Governor[;]
5. The Journal Entry of Payrolls on JEV Nos. 200-08-09-165(12), 200-08-185(1-5) and 200-08-10-188 were not approved by the Provincial Accountant[;]
6. The OBR on JEV No. 200-08-09-165(12) was not approved by the Provincial Budget Officer (PBO)[;]
7. There were no certifications coming from the Head Teachers that the recipient-teacher indeed served in a particular school at a given time[;]
8. There was no certification from the HRMO of the [p]rovince regarding the authenticity of each claim.^[9]

Under the said Notice of Disallowance, the following persons were found liable for the disbursements:

Name	Position/Designation	Nature of Participation in the Transaction

Nora Cariño	OIC-HRMO	For approving the transaction
Lizerna Molave, Ma. Teresa Genova, Ruby Estefani	Provincial Accountant	For certifying that the supporting documents are complete
Susan Laquindanum	Assistant Provincial HRMO	For certifying that charges to appropriation/allotment were necessary, lawful and under your direct supervision and that supporting documents were valid, proper and legal. ^[10]

On June 19, 2012, petitioner, through the Provincial Legal Officer, appealed the Notice of Disallowance to the Office of the Regional Director of COA-RO5 insisting that the payments of allowances and honoraria to locally funded teaching and non-teaching personnel were properly charged to the SEF in light of the pronouncement of the Court in *Commission on Audit v. Province of Cebu*^[11] and that the locally funded teachers actually rendered their services for calendar year 2008 as certified to by the Provincial Human Resource Management Officer (PFtRMO) and the Schools Division Superintendent (SDS) of Camarines Sur.^[12]

In their Answer dated July 11, 2012, the ATL and the Supervising Auditor (SA) maintained that the payments of allowances/honoraria to locally funded teachers were rightfully disallowed for failure to comply with the mandatory requirements of law and joint circulars on the utilization of SEF, particularly the establishment of extension classes wherein the approval of the DECS Secretary, upon the recommendation of the DECS Regional Director is necessary, as well as the certification of the division superintendent concerned of the necessity or urgency of establishing such extension classes.^[13]

Furthermore, the ATL and SA averred that the province failed to submit certifications of school heads/head teachers attesting to the actual periods of the services rendered by the personnel in their respective schools. While they agree with the provincial legal officer's contention that payments of salaries, allowances and personnel-related benefits of public school teachers are authorized expenditures of the SEF as enunciated in *COA v. Province of Cebu*, they noted that there were also mandatory requirements' that should be complied with before a lawful disbursement of the SEF may be made, which the province failed to submit.^[14]

On July 29, 2013, COA-RO5 rendered Decision No. 2013-L-016^[15] denying the appeal and affirming the subject disallowance on the ground that DepEd-Division of Camarines Sur did not comply with the mandatory conditions for the establishment of extension classes before the payment of allowances/honoraria to locally funded teachers hired to handle extension classes could be validly charged to the SEF pursuant to Section 2.1 of DECS-DBM-DILG JC No. 01-A dated March 14, 2000 and Section 2.1 of DECS-DBM-DILG JC No. 01-B dated June 25, 2001. COA-RO5 also ruled that the payment of allowances to non-teaching personnel violated Section

272 of the LGC and DECS-DBM-DILG JC Nos. 01, 01-A and 01-B because only salaries and allowances of public school teachers who handle extension classes are chargeable to the SEF.

Not accepting defeat, petitioner elevated the matter before respondent COA proper (COA) *via* a petition for review. However, the petition was denied by the COA in Decision No. 2014-454^[16] dated December 29, 2014 for being filed out of time. Petitioner moved for reconsideration.

In its Resolution,^[17] docketed as Decision No. 2016-268 and dated September 26, 2016, the COA found the petition for review to have been timely filed but resolved to deny the motion for reconsideration for lack of merit. The dispositive portion of the Resolution reads:

WHEREFORE, premises considered, the motion for reconsideration is hereby DENIED for lack of merit. Accordingly, Commission on Audit Regional Office V Decision No. 2013-L-016 dated July 29, 2013 sustaining the Notice of Disallowance No. 2011-200-010 (08) dated November 15, 2011, on the payment of allowances/honoraria to locally hired temporary teachers and personnel of the Department of Education-Division of Camarines Sur in the total amount of P5,820,843.30, is AFFIRMED with FINALITY.^[18]

In finding the disallowance of the subject allowances/honoraria to be proper, the COA gave the same reasons as the COA-RO V when it affirmed the subject Notice of Disallowance. It held:

The afore-quoted DECS-DBM-DILG JCs provide that the salaries and allowances of teachers hired to handle extension classes are among the priority expenses chargeable to SEF. In this regard, such extension classes should be approved by the DECS (now DepEd) secretary upon the recommendation of the DepEd regional director and certified by the division superintendent as to the necessity and urgency of establishing extension classes in the LGUs and the number of pupils/students therein shall at least be 15.

This Commission finds nothing in the records that the mandatory requirements for the establishment of extension classes were complied with, much less, were the teachers hired for the purpose of handling extension classes. Only the certification dated November 5, 2009 issued by Schools Division Superintendent Emma I. Cornejo attesting to the necessity and urgency of establishing extension classes in the elementary was presented.

With respect to the payment of allowances to the non-teaching personnel employed in the extension classes established by the DepEd-Division of Camarines Sur, the same is irregular since in the DECS-DBM-DILG JC No. 01-B dated June 25, 2001, only the salaries and authorized allowances of teachers hired to handle extension classes are chargeable against the SEF.^[19]

Undaunted, petitioner is now before this Court *via* the present Petition for *Certiorari*.

The Issues Presented

Petitioner raised the following issues for this Court's consideration:

A.

THE COA ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO CONSIDER PETITIONER'S COMPLIANCE WITH THE LOCAL GOVERNMENT CODE.

B.

THE COA ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO CONSIDER THAT THE APPROVAL, RECOMMENDATION, AND CERTIFICATION REQUIREMENTS IN THE DECS-DBM-DILG JOINT CIRCULAR NO. 01-A CONSTITUTES AN INVALID EXERCISE OF THE ADMINISTRATIVE RULE-MAKING POWER, AND VIOLATES THE PRINCIPLE OF LOCAL AUTONOMY GRANTED TO LGUs BY THE LOCAL GOVERNMENT CODE.

C.

THE COA ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT FAILED TO CONSIDER THAT THE JOINT CERTIFICATION BY THE ACTING HRMO AND SCHOOLS DIVISION SUPERINTENDENT SUFFICIENTLY MET THE CERTIFICATION REQUIREMENTS STATED IN THE AOM AND THE ND.^[20]

The Arguments of the Parties

Petitioner contended that the COA acted in an oppressive, whimsical, capricious and arbitrary manner when, in 2009, it suddenly assailed the hiring of temporary personnel to teach and handle extension classes, and the giving of allowances to them when it did not question the same for almost a decade, or from 1999 to 2008.

^[21] At any rate, it insisted that it complied with all the requirements laid down by the LGC before it utilized the SEF for the payment of the allowances and honoraria of locally-funded teaching and non-teaching personnel. Consonant with Sections 100, 235, 272 of the LGC, the High Court, in *COA v. Province of Cebu*, ruled that SEF may be used to answer for the compensation of teachers handling extension classes. While the decision therein is silent as to whether the SEF may be used for the salaries of non-teaching personnel, its silence must not be taken to mean that the Local Government Units (LGUs), like the petitioner, through the Local School Board (LSB), has no discretion to decide on how its budget may be utilized. The power to use the SEF for the operation and maintenance of public schools necessarily implies that it may be used for the payment of salaries of non-teaching personnel applying the doctrine of necessary implication inasmuch as non-teaching personnel are as necessary and as indispensable to the operation and maintenance of public schools and the establishment of and handling of extension classes as the teaching personnel. To say that an LGU has the power to use its funds to pay for the salaries of teachers hired to handle extension classes and at the same time say that