

FIRST DIVISION

[G.R. No. 217453, July 19, 2017]

DENMARK S. VALMORES, PETITIONER, VS. DR. CRISTINA ACHACOSO, IN HER CAPACITY AS DEAN OF THE COLLEGE OF MEDICINE, AND DR. GIOVANNI CABILDO, FACULTY OF THE MINDANAO STATE UNIVERSITY, RESPONDENTS.

DECISION

CAGUIOA, J:

Before the Court is a petition for *mandamus*^[1] filed under Rule 65 of the Rules of Court (Petition), seeking the enforcement of Commission on Higher Education (CHED) Memorandum^[2] dated November 15, 2010 (2010 CHED Memorandum) by herein respondents Dr. Cristina Achacoso (Achacoso) and Dr. Giovanni Cabildo (Cabildo) (collectively, "respondents"). Respondents are being sued in their respective capacities as Dean and faculty member of the Mindanao State University (MSU)-College of Medicine.^[3]

Antecedent Facts

The facts culled from the records follow.

Petitioner Denmark S. Valmores (Valmores) is a member of the Seventh-day Adventist Church,^[4] whose fundamental beliefs include the strict observance of the Sabbath as a sacred day.^[5] As such, petitioner Valmores joins the faithful in worshipping and resting on Saturday, the seventh day of the week, and refrains from non-religious undertakings from sunset of Friday to sunset of Saturday.^[6]

Prior to the instant controversy, petitioner Valmores was enrolled as a first-year student at the MSU-College of Medicine for Academic Year 2014-2015.^[7] To avoid potential conflict between his academic schedule and his church's Saturday worship, petitioner Valmores wrote a letter^[8] to respondent Achacoso, requesting that he be excused from attending his classes in the event that a regular weekday session is rescheduled to a Saturday. At the same time, petitioner Valmores expressed his willingness to make up for any missed activity or session due to his absence.^[9]

Between the months of June to August 2014, some of petitioner Valmores' classes and examinations were moved from weekdays to Saturdays.^[10] In one instance, petitioner Valmores was unable to take his Histo-Pathology laboratory examination held on September 13, 2015, a Saturday.^[11] Respondent Cabildo was his professor for the said subject.^[12] Despite his request for exemption, no accommodation was given by either of the respondents. As a result, petitioner Valmores received a failing grade of 5 for that particular module and was considered ineligible to retake the

exam.^[13]

Thereafter, several pastors and officers of the Seventh-day Adventist Church sent a letter^[14] to respondent Achacoso, requesting for a possible audience with the members of the MSU school board. In addition, the church, through Pastor Hanani P. Nietes, issued a Certification^[15] dated September 15, 2014 in connection with petitioner Valmores' request for exemption.

The Certification dated September 15, 2014 reads in part:

This is to certify that **DENMARK S. VALMORES** is a bona fide member of the Seventh-day Adventist Church affiliated at Balongis, Balulang, Cagayan de Oro City.

As Seventh-day Adventists, we uphold our observance of the Saturday Sabbath as a day of worship and rest from labor, observing the sacredness of the Lord's day from sunset Friday to sunset Saturday. We do away [with] secular activities like working in the office or field/**attending classes/participating/attending non-religious functions during Saturday.**

This certification is issued to support his request for exemption from all his Sabbath (from sunset Friday to sunset Saturday) classes, exams, and **other non-religious activities.**^[16]

On September 19, 2014, petitioner Valmores again wrote a letter^[17] to respondent Achacoso to seek reconsideration regarding his situation, reiterating his willingness to take make-up classes or their equivalent in order to complete the requirements of his course.

Despite the foregoing communications, petitioner Valmores' requests fell on deaf ears.^[18]

Hence, aggrieved by respondents' lack of consideration, petitioner Valmores elevated the matter before the CHED.^[19] In an Indorsement dated January 6, 2015, the CHED Regional Office, Region X, through Mr. Roy Roque U. Agcopra, Chief Administrative Officer, referred the matter directly to the President of MSU as well as respondent Achacoso and requested that the office be advised of the action thus taken.^[20]

In response, Dr. Macapado Abaton Muslim (Dr. Muslim), President of MSU, instructed respondent Achacoso to enforce the 2010 CHED Memorandum.^[21] In doing so, Dr. Muslim sent a copy of the said memorandum to respondent Achacoso with the following marginal note in his own handwriting:

Urgent!

For: Dean Cristina Achacoso
College of Medicine

You are hereby enjoined to enforce this CHED memo re the case of MR.

DENMARK S. VALMORES.

Thanks.^[22]

Despite the foregoing correspondence, petitioner Valmores' request still went unheeded. Thus, in a Letter^[23] dated March 25, 2015, petitioner Valmores, this time through his counsel on record, sought reconsideration from respondent Achacoso for the last time and manifested his intention to resort to appropriate legal action should no action be taken.

Notwithstanding the lapse of several months, no written or formal response was ever given by respondent Achacoso.^[24]

Hence, the present Petition.

Petitioner Valmores brings his cause before the Court based on his constitutional right to freedom of religion, which he argues was violated by respondents when they refused to enforce the 2010 CHED Memorandum, as follows: (i) by refusing to excuse petitioner Valmores from attending classes and taking examinations on Saturdays, and (ii) by disallowing petitioner Valmores to take make-up examinations in order to comply with the academic requirements of his course.^[25]

Respondents, on the other hand, chiefly base their defense on the fact that MSU had other students who were able to graduate from their College of Medicine despite being members of the Seventh-day Adventist Church.^[26] On this claim, respondents argued that petitioner Valmores' case was not "unique" as to merit exceptional treatment.^[27] Respondents likewise claimed that the Certification dated September 15, 2014 submitted by petitioner Valmores was not the certification contemplated by the 2010 CHED Memorandum and therefore there was no corresponding duty on their part to enforce the same.^[28] Lastly, respondents posited that the changes in schedule were not unreasonable as they were due to unexpected declarations of holidays as well as unforeseen emergencies of the professors in their respective hospitals.^[29]

Petitioner Valmores, in his Reply,^[30] reiterated his prayer for the issuance of a writ of *mandamus* against respondents and prayed for the immediate resolution of the dispute.

Issue

The threshold issue is simple: whether *mandamus* lies to compel respondents to enforce the 2010 CHED Memorandum in the case of petitioner Valmores.

The Court's Ruling

The Petition is impressed with merit.

Strict adherence to the doctrine of hierarchy of courts is not absolute

Before disposing of the substantial issue, although not raised by respondents in their

Comment, a procedural matter warrants discussion.

Under Rule 65 of the Rules, a petition for *mandamus* is directed against a tribunal, corporation, board, officer or person who unlawfully neglects the performance of an act specifically enjoined by law or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled.^[31] If the petition relates to an act or omission of a board, officer, or person, the same must be filed with the Regional Trial Court exercising jurisdiction over the territorial area as may be defined by the Court.^[32]

In the case at bench, petitioner Valmores questions the acts of respondents in their capacities as Dean and faculty member of MSU-College of Medicine. As such, by directly filing the Petition with the Court instead of the proper regional trial court, as required by the Rules, petitioner Valmores was in error.

Strict adherence to the judicial hierarchy of courts has been a longstanding policy of the courts in determining the appropriate forum for initiatory actions.^[33] While this Court has concurrent jurisdiction with the inferior courts to issue corrective writs of *certiorari*, prohibition, and *mandamus*, a party's choice of forum is by no means absolute.^[34]

Needless to say, however, such rule is not without exception. Recently, in *Maza v. Turla*,^[35] the Court emphasized that it possesses full discretionary power to take cognizance and assume jurisdiction over petitions filed directly with it for exceptionally compelling reasons or if warranted by the nature of the issues involved in the dispute. Citing *The Diocese of Bacolod v. Commission on Elections*^[36] the Court held therein that a direct resort is allowed in the following instances, *inter alia*: (i) when there are genuine issues of constitutionality that must be addressed at the most immediate time; (ii) when the questions involved are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice; and (iii) when the circumstances require an urgent resolution.

The above exceptions are all availing in this case.

The freedom of religion enjoys a preferred status among the rights conferred to each citizen by our fundamental charter.^[37] In this case, no less than petitioner Valmores' right to religious freedom is being threatened by respondents' failure to accommodate his case.^[38] In this regard, when confronted with a potential infringement of fundamental rights, the Court will not hesitate, as it now does, to overlook procedural lapses in order to fulfill its foremost duty of satisfying the higher demands of substantial justice.

The Court is also aware of petitioner Valmores' plea for the expedient resolution of his case, as he has yet to enroll in the MSU-College of Medicine and continue with his studies.^[39] Plainly enough, to require petitioner Valmores to hold his education in abeyance in the meantime that he is made to comply with the rule on hierarchy of courts would be unduly burdensome. It is a known fact that education is a time-sensitive endeavor, where premium is placed not only on its completion, but also on the timeliness of its achievement. Inevitably, justice in this case must take the form of a prompt and immediate disposition if complete relief is to be accorded.

In a related matter, the Rules also require the exhaustion of other plain, speedy, and adequate remedies in the ordinary course of law before a petition for *mandamus* is filed.^[40] In this case, petitioner Valmores had exerted all efforts to obtain relief from respondents, as clearly evidenced by the letters and other communications on record. Likewise, after respondents' repeated failure to enforce the 2010 CEDED Memorandum, petitioner Valmores elevated the matter before the CHED, which in turn directly indorsed the matter to the President of MSU. Thus, prior to resorting to the instant Petition, the Court finds that petitioner Valmores had satisfactorily complied with the requirement of availing himself of other remedies under Rule 65.

On these premises, the Court finds sufficient bases to relax the foregoing procedural rules in the broader interest of justice.

The freedom of religion vis-a-vis the 2010 CHED Memorandum

Religion as a social institution is deeply rooted in every culture; it predates laws and survives civilizations. In the Philippines, the 1935, 1973, and 1987 Constitutions were crafted in full acknowledgment of the contributions of religion to the country through the enactment of various benevolent provisions.^[41] In its present incarnation, our fundamental law, by "imploing the aid of Almighty God," makes manifest the State's respect and recognition of the collective spirituality of the Filipino.^[42] Such recognition is embodied in Section 5, Article III of the Constitution:

SEC. 5. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

In *Centeno v. Villalon-Pornillos*,^[43] the Court discussed the two-fold nature of the free-exercise clause enshrined in the cited provision:

[T]he constitution embraces two concepts, that is, freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society. The freedom to act must have appropriate definitions to preserve the enforcement of that protection. In every case, the power to regulate must be so exercised, in attaining a permissible end, as not to unduly infringe on the protected freedom.

Whence, even the exercise of religion may be regulated, at some slight inconvenience, in order that the State may protect its citizens from injury. Without doubt, a State may protect its citizens from fraudulent solicitation by requiring a stranger in the community, before permitting him publicly to solicit funds for any purpose, to establish his identity and his authority to act for the cause which he purports to represent. The State is likewise free to regulate the time and manner of solicitation generally, in the interest of public safety, peace, comfort, or convenience.

^[44]