

## EN BANC

[ G.R. No. 188720, February 23, 2016 ]

**QUEZON CITY PTCA FEDERATION, INC., PETITIONER, VS.  
DEPARTMENT OF EDUCATION, REPRESENTED BY SECRETARY  
JESLI A. LAPUS, RESPONDENT.**

### DECISION

**LEONEN, J.:**

This resolves a Petition for Certiorari and Prohibition<sup>[1]</sup> praying that respondent Department of Education's Department Order No. 54, Series of 2009 (Department Order) be nullified for being unconstitutional and contrary to law, and that a writ of prohibition permanently enjoining the Department of Education and all persons acting on its behalf from enforcing the assailed Department Order be issued.<sup>[2]</sup>

The Petition also prays that, in the interim, a temporary restraining order and/or writ of preliminary injunction be issued, restraining the enforcement of the Department Order.

On June 1, 2009, the Department of Education, through Former Secretary Jesli A. Lapus, issued Department Order No. 54, Series of 2009<sup>[3]</sup> entitled Revised Guidelines Governing Parents-Teachers Associations (PTAs) at the School Level.

The Department of Education explained the reasons for the issuance of the Department Order as follows:

The Department Order sought to address the limitations of the guidelines set forth in D.O. No. 23, s. 2003 and was issued in response to increasing reports of malpractices by officers or members of PTAs, such as, but not limited to (1) officers absconding with contributions and membership fees; (2) non-disclosure of the status of funds and non-submission of financial statements; and (3) misuse of funds.<sup>[4]</sup> (Citations omitted)

The Department Order is divided into 11 articles: (I) General Policy;<sup>[5]</sup> (II) Organization of PTAs at the School Level;<sup>[6]</sup> (III) General Assembly;<sup>[7]</sup> (IV) Board of Directors and Officers;<sup>[8]</sup> (V) Recognition and Monitoring of PTAs;<sup>[9]</sup> (VI) Privileges of Recognized PTAs;<sup>[10]</sup> (VII) Activities;<sup>[11]</sup> (VIII) Financial Matters;<sup>[12]</sup> (IX) Prohibited Activities and Sanctions;<sup>[13]</sup> (X) Transitory Provision;<sup>[14]</sup> and (XI) Repealing Clause.<sup>[15]</sup>

More specifically, the Department Order provides for:

(1) The approval of the school head as a prerequisite for PTAs to be organized:

## II. Organization of PTAs at the School Level

. . . .

2. Within fifteen (15) days from the start of the school year the Homeroom Adviser and the Parents/Guardians shall organize the Homeroom PTA with the approval of the School Head.<sup>[16]</sup>

(2) The terms of office and manner of election of a PTA's board of directors:

## II. Organization of PTAs at the School Level

. . . .

3. The elected presidents of the Homeroom PTAs and their respective Homeroom Advisers shall elect the Board of Directors within thirty (30) days from the start of the school year. The Board of Directors shall immediately elect from among themselves the executive officers of the PTA on the same day of their election to the Board.<sup>[17]</sup>

. . . .

## IV. Board of Directors and Officers

1. The administration of the affairs and management of activities of the PTA is vested [in] the Board of Directors and its officers in accordance with these guidelines or their respective Constitution and By-Laws, if any, which shall adhere to the following:

. . . .

- e. The term of office of the Board of Directors and its Officers shall be one (1) year from the date of election. In no case shall a PTA Board Director serve for more than two (2) consecutive terms;<sup>[18]</sup>

(3) The cessation of recognition of existing parents-teachers community associations (PTCAs) and of their federations effective school year 2009-2010. The Department Order gave them until June 30, 2009 to dissolve, wind up their activities, submit financial reports, and turn over all documents to school heads and schools division superintendents:

## X. Transitory Provision

Existing and duly recognized PTCAs and its [sic] Federations shall no longer be given recognition effective School Year 2009-2010. They shall cease operation at the end of School Year 2008-2009 and given until June 30, 2009 to dissolve, wind up their activities, submit their financial reports and turn-over all documents to the School Heads and Schools Division Superintendents, respectively.<sup>[19]</sup>

Petitioner Quezon City PTCA Federation filed the present Petition in the belief that the above-quoted provisions undermine the independence of PTAs and PTCAs, effectively amend the constitutions and by-laws of existing PTAs and PTCAs, and violate its constitutional rights to organize and to due process, as well as other existing laws.<sup>[20]</sup>

On November 17, 2009, the Department of Education filed its Comment,<sup>[21]</sup> and on February 9, 2010, Quezon City PTCA Federation filed its Reply.<sup>[22]</sup>

In the Resolution<sup>[23]</sup> dated January 8, 2013, this court gave due course to the Petition and required the parties to submit their memoranda. Quezon City PTCA Federation complied on March 22, 2013,<sup>[24]</sup> and the Department of Education on May 15, 2013.<sup>[25]</sup>

For resolution is the central issue of whether the Department of Education acted with grave abuse of discretion amounting to lack or excess of jurisdiction in issuing Department Order No. 54, Series of 2009. Subsumed under this issue are:

First, whether the issuance of the Department Order was a valid exercise of the Department of Education's rule-making powers:

- (a) Whether the Department Order contravenes any of the laws providing for the creation and organization of parent-teacher associations;
- (b) Whether Department Order is invalid and ineffective as no public consultations were (supposedly) held before its adoption, and/or as it was not published by the Department of Education; and

Second, whether the assailed provisions of the Department Order (i.e., Article II (2) and (3), Article IV (I)(e), and Article X) undermine the organizational independence of parent-teacher associations.

Apart from these, the Department of Education assails the filing of this Petition as being violative of the principle of hierarchy of courts.

We sustain the position of the Department of Education. The present Petition was filed in violation of the principle of hierarchy of courts. Department Order No. 54, Series of 2009 was validly issued by the Secretary of Education pursuant to his statutorily vested rule-making power and pursuant to the purposes for which the organization of parent-teacher associations is mandated by statute. Likewise, there was no fatal procedural lapse in the adoption of Department Order No. 54, Series of 2009.

## **I**

The Department of Education correctly points out that the present Petition was filed in violation of the principle of hierarchy of courts. On this score alone, the Petition should be dismissed.

It is true that petitions for certiorari and prohibition under Rule 65 of the 1997 Rules of Civil Procedure fall under the original jurisdiction of this court. However, this is also true of regional trial courts and the Court of Appeals.

"[T]his Court will not entertain a direct invocation of its jurisdiction unless the redress desired cannot be obtained in the appropriate lower courts, and exceptional and compelling circumstances justify the resort to the extraordinary remedy of a writ of certiorari."<sup>[26]</sup> Indeed, "concurrency [of jurisdiction] does not allow unrestricted freedom of choice of the court forum. A direct invocation of the Supreme Court's original jurisdiction to issue this writ should be allowed only when there are special and important reasons, clearly and specifically set out in the petition."<sup>[27]</sup>

In *Vergara v. Suelto*:<sup>[28]</sup>

The Supreme Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition. It cannot and should not be burdened with the task of dealing with causes in the first instance. Its original jurisdiction to issue the so-called extraordinary writs should be exercised only where absolutely necessary or where serious and important reasons exist therefor. Hence, that jurisdiction should generally be exercised relative to actions or proceedings before the Court of Appeals, or before constitutional or other tribunals, bodies or agencies whose acts for some reason or another are not controllable by the Court of Appeals. Where the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented. This is and should continue to be the policy in this regard, a policy that courts and lawyers must strictly observe.<sup>[29]</sup>

Petitioner argues that the present Petition justifies direct recourse to this court "considering the pervasive effect of the assailed Department Order to all the different PTCAs or PTAs across the country and in order to avoid multiple suits that would only serve to further clog the court's dockets."<sup>[30]</sup>

This reason fails to impress.

That the effects of the Department Order extend throughout the country is a concern that can be addressed by recourse to the Court of Appeals. Its territorial jurisdiction, much like this court's, also extends throughout the country. Moreover, the Court of Appeals is well-equipped to render reliable, reasonable, and well-grounded judgments in cases averring grave abuse of discretion amounting to lack or excess of jurisdiction. Recourse to the Court of Appeals is not a futile exercise that results to nothing more than the clogging of court dockets.

## II

Citing Article III, Section 8,<sup>[31]</sup> Article II, Section 23,<sup>[32]</sup> and Article XIII, Sections 15<sup>[33]</sup> and 16<sup>[34]</sup> of the 1987 Constitution, petitioner asserts that PTCAs are "independent voluntary organization[s]"<sup>[35]</sup> enjoying constitutional protection.<sup>[36]</sup>

It adds that, pursuant to Section 8(1)<sup>[37]</sup> of Batas Pambansa Blg. 232, otherwise

known as the Education Act of 1982, and Article 77<sup>[38]</sup> of Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, the PTCA "promotes and protects the welfare of . . . students all over the country and . . . serve[s] as a forum for parents and the community to have an active role in the efficient implementation of the . . . programs of the school [sic]."<sup>[39]</sup>

Petitioner assails the Department Order as an inordinate exercise of the Department of Education's rule-making power. It claims that the Department Order contradicts the provisions of the Education Act of 1982 and of the Child and Youth Welfare Code, the statutes that provide for the creation of PTAs. It also alleges that the Department Order was issued without prior consultation and publication, contrary to the requirements for regulations issued by administrative agencies.

Noting that the Department Order lends recognition only to PTAs and not to PTCAs, petitioner assails the Department Order as being contrary to the purposes of Republic Act No. 9155,<sup>[40]</sup> otherwise known as the Governance of Basic Education Act of 2001, and of Republic Act No. 8980,<sup>[41]</sup> otherwise known as the Early Childhood Care and Development Act.

Petitioner further claims that Article II (2) of the Department Order, which provides for the organization of the Homeroom PTA *with the approval of the School Head*, infringes upon the independence of PTCAs and PTAs. It asserts that this provision gives "unbridled discretion [to the school head] to disapprove the organization of a PTA."<sup>[42]</sup> Petitioner likewise assails the Department Order's provisions on the terms of office of PTA officers as being violative of the right to due process.<sup>[43]</sup>

### III

The three powers of government—executive, legislative, and judicial—have been generally viewed as non-delegable. However, in recognition of the exigencies that contemporary governance must address, our legal system has recognized the validity of "subordinate legislation," or the rule-making power of agencies tasked with the administration of government. In *Eastern Shipping Lines v. Philippine Overseas Employment Administration*:<sup>[44]</sup>

The principle of non-delegation of powers is applicable to all the three major powers of the Government but is especially important in the case of the legislative power because of the many instances when its delegation is permitted. The occasions are rare when executive or judicial powers have to be delegated by the authorities to which they legally pertain. In the case of the legislative power, however, such occasions have become more and more frequent, if not necessary. This has led to the observation that the delegation of legislative power has become the rule and its non-delegation the exception.

The reason is the increasing complexity of the task of government and the growing inability of the legislature to cope directly with the myriad problems demanding its attention. The growth of society has ramified its activities and created peculiar and sophisticated problems that the legislature cannot be expected reasonably to comprehend. Specialization even in legislation has become necessary. To many of the problems