

FIRST DIVISION

[G.R. No. 149833, June 29, 2004]

NOTRE DAME OF GREATER MANILA, PETITIONER, VS. HON. BIENVENIDO E. LAGUESMA, (UNDERSECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT); MED-ARBITER TOMAS FALCONITIN; AND NOTRE DAME OF GREATER MANILA TEACHERS AND EMPLOYEES UNION, RESPONDENTS.

D E C I S I O N

PANGANIBAN, J.:

Unless it has filed a petition for a certification election pursuant to Article 258 of the Labor Code, an employer has no standing to question such election or to interfere therein. Being the sole concern of the workers, the election must be free from the influence or reach of the company.

The Case

Before us is a Petition for Review^[1] under Rule 45 of the Rules of Court, challenging the March 31, 2000 Decision^[2] and the August 28, 2001 Resolution^[3] of the Court of Appeals (CA) in CA-GR SP No. 51287. The assailed Decision disposed as follows:

"In sum, the Court finds that public respondents did not commit any abuse of discretion in issuing the assailed decision and order. There is no capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction and hence there is no room for the issuance of the equitable writ of certiorari.

"WHEREFORE, the instant petition is **dismissed.**"^[4]

The challenged Resolution denied petitioner's Motion for Reconsideration.

The Facts

The factual antecedents of the case are summarized by the CA as follows:

"On October 14, 1991, private respondent Notre Dame of Greater Manila Teachers & Employees Union (NGMTEU for brevity) a legitimate labor organization duly accredited and registered with the Department of Labor & Employment (DOLE) under Registration Certificate No. 9989 filed with the Med-Arbitration Branch, National Capital Region, (DOLE) a petition for direct certification as the sole and exclusive bargaining agent or certification election among the rank and file employees of petitioner NDGM.

"On November 18, 1991, Med-Arbiter Tomas F. Falconitin issued an order

[granting the petition for certification election and] directing Adelayda C. Francisco, Representation Officer, to undertake a pre-election conference. The order reads:

'Considering the manifestation of petitioner its legal counsel praying that this case be submitted for resolution; and considering further that the respondent failed to appear on November 13, 1991 scheduled hearing despite knowledge of said hearing; and considering furthermore [that] respondent is [an] unorganized establishment within the purview of Art. 257 of the Labor Code, as amended, we rule to grant certification election instead of direct certification as prayed for by petitioner, in order to give each employee a fair chance to choose their bargaining agent.

'Accordingly, the Representation Officer is hereby directed to conduct the usual pre-election conference in connection thereof, taking into account the following choices:

1. Notre Dame of Greater Manila Teachers and Employees Union (NDGMTEU); and
2. No Union.

'SO ORDERED.'

"On January 8, 1992, a pre-election conference was conducted wherein the parties agreed, among others, that the certification election shall be conducted on January 18, 1992 from 10:00 o'clock in the morning to 2:00 o'clock in the afternoon and that the eligible voters shall be 'those employees appearing in the list submitted by management as agreed upon by the parties by affixing their signatures on said list.'

"On January 13, 1992, petitioner NDGM registered a motion to include probationary and substitute employees in the list of qualified voters. On the same day, respondent Med-Arbiter Falconitin denied said motion by handwritten notation on the motion itself - '1/13/92 - The Rep. officer allow[s] only regular employees to vote'.

"On January 17, 1992, petitioner NDGM filed an appeal from the said handwritten 'order' dated January 13, 1992 of Med. Arbiter Falconitin in the form of a notation, in effect excluding probationary and substitute employees from the list of voters.

"On January 18, 1992, public respondent conducted a certification election with the following results:

'YES.....	56
NO.....	23
Number of segregated	
Ballots.....	4
Number of spoiled	
Ballots.....	<u>1</u>

"On January 18, 1992, petitioner filed a written notice of protest against the conduct and results of the certification of election, which was opposed by private respondent NDGMTEU.

"On January 27, 1992, a motion to certify private respondent NDGMTEU as the exclusive bargaining agent of petitioner was filed.

"On March 16, 1992[,] Med-Arbiter Tomas Falconitin issued an order which certified private respondent NDGMTEU as the sole and exclusive bargaining agent of all the rank-and-file employees of petitioner and accordingly dismissed petitioner's protest.

"On March 30, 1992, petitioner lodged an appeal from the aforementioned March 16, 1992 Order of Med-Arbiter Falconitin.

"On July 23, 1992, respondent then Undersecretary Laguesma rendered the questioned decision dismissing the appeal for lack of merit.

"Petitioner filed a motion for reconsideration of the Decision which was rejected by public respondent in his order dated October 12, 1992.

"Dissatisfied, petitioner NDGM filed the instant petition asseverating on the following issues, viz:

'The issuance of the orders dated July 23, 1992 and October 12, 1992 is flagrantly contrary to and violative of the provisions of the Labor Code of the Philippines.

'1. On [o]rdering the [h]olding of the [c]ertification [e]lection on January 18, 1992 despite [p]etitioner's [p]erfected [a]ppeal on January 17, 1992 with the Office of the Secretary of the Department.

'2. On the [a]rbitrary, whimsical and capricious exclusion from the Qualified Voters List [p]robationary and [s]ubstitute [e]mployees, contrary to law and established jurisprudence."

[5]

Ruling of the Court of Appeals

Ruling in favor of respondents, the appellate court held that Med-Arbiter Falconitin's notation on petitioner's "Motion to Include Probationary and Substitute Employees in the List of Qualified Voters" was not an order that could be the subject of an appeal to the Secretary of the Department of Labor and Employment. Also, petitioner was deemed to have abandoned its appeal of the notation when it filed another one on March 30, 1992, also with the labor secretary. Thus, the CA held that staying the holding of the certification election was unnecessary.

The appellate court added that complaints regarding the conduct of the certification election should have been raised with the registration officer before the close of the

proceedings. Moreover, it held that only complaints relevant to the election could be filed. Be that as it may, the pre-election conference was deemed to have already dispensed with the issue regarding the qualification of the voters.

Lastly, the CA ruled that petitioner had no standing to question the qualification of the workers who should be included in the list of voters because, in the process of choosing their collective bargaining representative, the employer was definitely an intruder.

Hence, this Petition.^[6]

The Issues

In its Memorandum, petitioner raises these issues for our consideration:

"A. Whether or not Hon. Court of Appeals committed grave error in dismissing the petition which petition alleged that Public Respondent Laguesma flagrantly violated the provisions of the Labor Code of the Philippines in the issuance of Orders, dated July 23, 1992 and October 12, 1992[.]

"B. Whether or not the Hon. Court of Appeals committed errors in fact and law[.]"^[7]

Simply put, the main issue is whether the holding of the certification election was stayed by petitioner's appeal of the med-arbiter's notation on the Motion to Include the Probationary and Substitute Employees in the List of Qualified Voters.

This Court's Ruling

The Petition has no merit.

Main Issue:

Appeal of Med-Arbiter's Handwritten Denial of the Motion

The solution to the controversy hinges on the correct interpretation of Article 259 of the Labor Code, which provides:

"Art 259. Appeal from certification election orders.– Any party to an election may appeal the order or results of the election as determined by the Med-Arbiter directly to the Secretary of Labor and Employment on the grounds that the rules and regulations or parts thereof established by the Secretary of Labor and Employment for the conduct of the election have been violated. Such appeal shall be decided within fifteen (15) calendar days."

This provision is supplemented by Section 10 of Rule V of Book Five of the 1992 Omnibus Rules Implementing the Labor Code. Stating that such appeal stays the holding of a certification election, the later provision reads:

"Sec. 10. Decision of the Secretary final and inappealable.– The Secretary shall have fifteen (15) calendar days within which to decide the