

## FIRST DIVISION

[ G.R. No. 116172, October 10, 1996 ]

**SAN MIGUEL FOODS, INC.-CEBU B-MEG FEED PLANT,  
PETITIONER, VS. HON. BIENVENIDO E. LAGUESMA,  
UNDERSECRETARY OF DOLE AND ILAW AT BUKLOD NG  
MANGGAGAWA (IBM), RESPONDENTS.**

### D E C I S I O N

**HERMOSISIMA, JR., J.:**

This is a petition for certiorari under Rule 65 to review and set aside two Resolutions of Mediator-Arbiter Achilles V. Manit, dated January 5, 1994 and April 6, 1994, and the affirmation Order on appeal of the public respondent, Undersecretary Bienvenido E. Laguesma of the Department of Labor and Employment. The petition below was entitled: "In Re: Petition for Direct Certification as the Sole and Exclusive Bargaining Agent of All Monthly Paid Employees of SMFI-Cebu B-Meg Feeds Plant," docketed as OS-MA-A-3-51-94 (RO700-9309-RU-036).

The essential facts are not disputed.

On September 24, 1993, a petition for certification election among the monthly-paid employees of the San Miguel Foods, Inc.-Cebu B-Meg Feeds Plant was filed by private respondent labor federation Ilaw at Buklod ng Manggagawa (IBM, for brevity) before Med-Arbiter Achilles V. Manit, alleging, *inter alia*, that it is a legitimate labor organization duly registered with the Department of Labor and Employment (DOLE) under the Registration Certificate No. 5369-IP. SMFI-Cebu B-Meg Feeds Plant (SMFI, for brevity), herein petitioner, is a business entity duly organized and existing under the laws of the Philippines which employs roughly seventy-five (75) monthly paid employees, almost all of whom support the present petition. It was submitted in said petition that there has been no certification election conducted in SMFI to determine the sole and exclusive bargaining agent thereof for the past two years and that the proposed bargaining unit, which is SMFI's monthly paid employees, is an unorganized one. It was also stated therein that petitioner IBM (herein private respondent) has already complied with the mandatory requirements for the creation of its local or affiliate in SMFI's establishment.

On October 25, 1993, herein petitioner SMFI filed a Motion to Dismiss the aforementioned petition dated September 24, 1993 on the ground that a similar petition remains pending between the same parties for the same cause of action before Med-Arbiter Achilles V. Manit.

SMFI was referring to an evidently earlier petition, docketed as CE CASE NO R0700-9304-RU-016, filed on April 28, 1993 before the office of Med-Arbiter Manit. Indeed, both petitions involved the same parties, cause of action and relief being

prayed for, which is the issuance of an order by the Med-Arbiter allowing the conduct of a certification election in SMFI's establishment. The contention is that the judgment that may be rendered in the first petition would be determinative of the outcome of the second petition, dated September 24, 1993.

On December 2, 1993, private respondent IBM filed its Opposition to SMFI's Motion to Dismiss contending, among others, that the case referred to by SMFI had already been resolved by Med-Arbiter Manit in his Resolution and Order date July 26, 1993<sup>[1]</sup> and September 2, 1993,<sup>[2]</sup> respectively, wherein IBM's first petition for certification election was denied mainly due to IBM's failure to comply with certain mandatory requirements of the law. This denial was affirmed by the Med-Arbiter in another Order dated November 12, 1993<sup>[3]</sup> wherein the Resolutions dated July 26, 1993 and September 2, 1993 were made to stand. Thus, IBM argues that there having been no similar petition pending before Med-Arbiter Manit, another petition for certification election may be refiled as soon as the said requirements are met. These requirements were finally satisfied before the second petition for certification election was brought on September 24, 1993.

On January 5, 1994, Med-Arbiter Manit, this time, granted the second petition for certification election of private respondent IBM in this wise:

"Let, therefore, a certification election be conducted among the monthly paid rank and file employees of SMFI-CEBU B-MEG FEEDS PLANT at Lo-oc, Mandaue City. The choices shall be: YES-for IBM AT SMFI-CEBU B-MEG; and NO-for No Union.

The parties are hereby notified of the pre-election conference which will take place on January 17, 1994 at 3:00 o'clock in the afternoon to set the date and time of the election and to thresh out the mechanics thereof. On said date and time the respondent is directed to submit the payroll of its monthly paid rank and file employees for the month of June 1993 which shall be the basis for the list of the eligible voters. The petitioner is directed to be ready to submit a list of the monthly paid rank and file employees of SMFI-CEBU B-MEG FEEDS PLANT when the respondent fails to submit the required payroll.

SO ORDERED."<sup>[4]</sup>

Petitioner SMFI appealed the foregoing Order to the Secretary of Labor and Employment alleging that the Med-Arbiter erred in directing the conduct of certification election considering that the local or chapter of IBM at SMFI is still not a legitimate labor organization with a right to be certified as the exclusive bargaining agent in petitioner's establishment based on two grounds: (1) the authenticity and due execution of the Charter Certificate submitted by IBM in favor of its local at SMFI cannot yet be ascertained as it is still now known who is the legitimate and authorized representative of the IBM Federation who may validly issue said Charter Certificate; and (2) a group of workers or a local union shall acquire legal personality only upon the issuance of a Certificate of Registration by the Bureau of Labor Relations under Article 234 of the Labor Code, which IBM at SMFI did not possess.

In a resolution dated April 6, 1994, public respondent Undersecretary Bienvenido

Laguesma, by authority of the Secretary of Labor and Employment, denied petitioner's appeal, viz.:

"WHEREFORE, the appeal is hereby denied for lack of merit and the Order of the Med-Arbitrator is hereby affirmed.

Let the records of this case be forwarded to the Regional Office of origin for the immediate conduct of certification election subject to the usual pre-election conference.

SO RESOLVED."<sup>[5]</sup>

Thereafter, a Motion for Reconsideration was filed which was also denied by the public respondent in his Order dated May 24, 1994.<sup>[6]</sup>

Hence, the instant petition interposing the following justifications:

"1) THE HONORABLE UNDERSECRETARY BIENVENIDO E. LAGUESMA GRAVELY ABUSED HIS DISCRETION WHEN HE ARBITRARILY RULED THAT 'A LOCAL OR CHAPTER OF A LABOR FEDERATION, LIKE RESPONDENT IBM, NEED NOT OBTAIN A CERTIFICATE OF REGISTRATION FROM THE BUREAU OF LABOR RELATIONS TO ACQUIRE LEGAL PERSONALITY,' WHEN ARTICLE 234 OF THE LABOR CODE OF THE PHILIPPINES AND SECTION 3 OF RULE II OF BOOK V OF THE RULES IMPLEMENTING THE LABOR CODE, AS AMENDED, CLEARLY PROVIDES THAT A GROUP OF WORKERS OR A LOCAL UNION SHALL ACQUIRE LEGAL PERSONALITY ONLY UPON THE ISSUANCE OF THE CERTIFICATE OF REGISTRATION BY THE BUREAU OF LABOR RELATIONS. AND,

2) THE HONORABLE UNDERSECRETARY BIENVENIDO E. LAGUESMA GRAVELY ABUSED HIS DISCRETION WHEN HE PREMATURELY AND ARBITRARILY RULED THAT RESPONDENT IBM IS A LEGITIMATE LABOR ORGANIZATION WHEN THE AUTHENTICITY AND DUE EXECUTION OF THE CHARTER CERTIFICATE SUBMITTED BY RESPONDENT IBM CANNOT YET BE ASCERTAINED BECAUSE IT IS STILL NOT KNOWN WHO ARE THE LEGITIMATE OFFICERS OF THE IBM FEDERATION WHO MAY VALIDLY ISSUE SAID CHARTER CERTIFICATE AS THE CASE FILED TO RESOLVE THE ISSUE ON WHO ARE THE LEGITIMATE OFFICERS OF THE IBM FEDERATION IS STILL PENDING RESOLUTION BEFORE THIS HONORABLE SUPREME COURT."<sup>[7]</sup>

The petition has no merit.

Petitioner asserts that IBM at SMFI is not a legitimate labor organization notwithstanding the fact that it is a local or chapter of the IBM Federation. This is so because under Article 234 of the Labor Code, any labor organization shall acquire legal personality upon the issuance of the Certificate of Registration by the Bureau of Labor Relations.

We do not agree.

Article 212(h) of the Labor Code defines a legitimate labor organization as "any labor organization duly registered with the Department of Labor and Employment, and *includes any branch or local thereof.*"

It is important to determine whether or not a particular labor organization is legitimate since legitimate labor organizations have exclusive rights under the law which cannot be exercised by non-legitimate unions, one of which is the right to be certified as the exclusive representative of all the employees in an appropriate collective bargaining unit for purposes of collective bargaining. These rights are found under Article 242 of the Labor Code, to wit:

"ART. 242. Rights of legitimate organizations.--A legitimate labor organization shall have the right:

(a) To act as the representative of its members for the purpose of collective bargaining;

(b) *To be certified as the exclusive representative of all the employees in an appropriate collective bargaining unit for purposes of collective bargaining;*

(c) To be furnished by the employer, upon written request, with his annual audited financial statements, including the balance sheet and the profit and loss statement, within thirty (30) calendar days from the date of receipt of the request, after the union has been duly recognized by the employer or certified as the sole and exclusive bargaining representative of the employees in the bargaining unit, or within sixty (60) calendar days before the expiration of the existing collective bargaining agreement, or during the collective bargaining negotiation;

(d) To own property, real or personal, for the use and benefit of the labor organization and its members;

(e) To sue and be sued in its registered name; and

(f) To undertake all other activities designed to benefit the organization and its members, including cooperative, housing welfare and other projects not contrary to law.

x x x

x x x

x x x."

The pertinent question, therefore, must be asked: When does a labor organization acquire legitimacy?

Ordinarily, a labor organization attains the status of legitimacy only upon the issuance in its name of a Certificate of Registration by the Bureau of Labor Relations pursuant to Articles 234 and 235 of the Labor Code, *viz.:*

"ART. 234. Requirements of registration.--Any applicant labor organization, association or group of unions or workers *shall acquire legal personality and shall be entitled to the rights and privileges granted by law to legitimate labor organizations upon issuance of the certificate of*

*registration based on the following requirements:*

- (a) Fifty pesos (P50.00) registration fee;
- (b) The names of its officers, their addresses, the principal address of the labor organization, the minutes of the organizational meetings and the list of the workers who participated in such meetings;
- (c) The names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate;
- (d) If the applicant union has been in existence for one or more years, copies of its annual financial reports; and
- (e) Four (4) copies of the constitution and by-laws of the applicant union, minutes of its adoption or ratification, and the list of the members who participated in it.

ART. 235. Action on application. -- The Bureau shall act on all applications for registration within thirty (30) days from filing.

All requisite documents and papers shall be certified under oath by the secretary or the treasurer of the organization, as the case may be, and attested to by its president."

The foregoing procedure is not the only way by which a labor union may become legitimate, however. When an unregistered union becomes a branch, local or chapter of a federation, some of the aforementioned requirements for registration are no longer required.<sup>[8]</sup> Section 3, Rule II, Book V of the Implementing Rules of the Labor Code governs the procedure for union affiliation, the relevant portions of which provide:

"Sec. 3. Union Affiliation: Direct Membership with National Union. -- An affiliate of a labor federation or national union may be a local or chapter thereof or an independently registered union.

(a) *The labor federation or national union concerned shall issue a chapter certificate indicating the creation or establishment of a local or chapter, copy of which shall be submitted to the Bureau of Labor Relations within thirty (30) days from issuance of such charter certificate.*

(b) An independently registered union shall be considered an affiliate of a labor federation or national union after submission to the Bureau of the contract or agreement of affiliation within thirty (30) days after its execution.

x x x

x x x

x x x

(e) The local or chapter of a labor federation or national union shall have and maintain a constitution and by-laws, set of officers and book of accounts. For reporting purposes, the procedure governing the reporting