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SECOND DIVISION

[G.R. No. 69188. September 23, 1986]

MIGUEL J. VILLAOR and CECILIO V. BAUTISTA, *petitioners, vs.* **HON. CRESENCIANO B. TRAJANO, in his capacity as Director, Bureau of Labor Relations of the Ministry of Labor and Employment; OCTAVIO A. PINEDA, RAFAEL SAMSON, EDUARDO C. FLORA, MARIO S. SANTOS and CARLOS BANDALAN,** *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; BUREAU OF LABOR RELATIONS; ORIGINAL AND EXCLUSIVE AUTHORITY TO ACT ON INTRA-UNION CASES. — Article 226 of the Labor Code and supplemented by Policy Instruction No. 6 — relating to the distribution of jurisdiction over labor cases, it is safe to conclude that the freedom of the unions from interference from the government presupposes that there is no inter-union or intra-union conflict. In the instant case, there is no question that there is an intra-union conflict.

2. ID.; ID.; ID.; 'PIECE MEAL' ELECTION FOR UNION OFFICERS, NOT ALLOWED. — The May 4, 1984 special election in Cebu and Mactan is without factual and legal justification. As aptly observed by the Solicitor General, the same was resorted to only to accommodate the herein other private respondents — "There is absolutely no justification for calling the said May 4, 1984 elections. Obviously, such move was resorted by the PALEA Comelec to accommodate defeated candidates for president and vice-president in the February 20, 1984 election, Marios Santos and Carlos Bandalan (respondents herein), and enable them to overcome the winning margin of winning candidates therein, Villaor and Bautista (herein petitioners), who won by only 145 and 44 votes respectively.

3. ID.; ID.; RIGHT OF UNION MEMBERS TO VOTE; NOT DEPRIVED IN CASE AT BAR. — It is the contention of the protestants that a great number of PALEA members were deprived of their right to vote because it had been tradition since 1969 to hold elections in Cebu and Mactan for two days; and that the holding

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of elections for only one day was done without notice to all PALEA members in said station. On the other hand, it is the contention of the petitioners that the change was agreed upon by all the candidates concerned in a conference held at SM CD Office, Nichols Fields, on February 20, 1982. On said controversy, while public respondent found for the protestants, the Solicitor General is for the petitioners. Be that as it may, it is a fact that the PALEA COMELEC issued on February 15, 1984 a bulletin announcing that the elections in the area would be only on February 20, 1984. Hence, it cannot be said that the voters therein were not duly notified. In addition to this, worth mentioning is the comment of the Solicitor General, which reads:" x x x. Besides, we do not see how these 193 members could have failed to know about the one-day election. It was held within the office premises, and, surely, they must have been told of such fact by the other members who voted in the election. It would appear that these 193 members simply did not bother to vote for one reason for another. And we do not see the necessity of holding a two-day election in said areas with only 500 members, and hold a one-day election in Metro Manila area which has about 4,000 members. That it is the tradition to hold a two-day election in said areas is not a valid argument. Tradition can always be overturned, as what happened in the instant case."

APPEARANCES OF COUNSEL

Wenceslao C. Laureta for petitioners.
Bernardino Julve for private respondents.
Porter Puguon for public respondent.

DECISION

PARAS, *J.*:

This is a petition to review on *certiorari* the November 14, 1984 decision of respondent BLR Director Cresenciano B. Trajano in BLR Case No. A-182-84, entitled "Miguel J. Villaor, et al., Petitioners *vs.* Octavio Pineda, et al., Respondents, and Mario S. Santos, et al., Intervenors," setting aside the Med-Arbiter's Orders of June 27, 1984 and August 1, 1984.

The Philippine Air Lines Employees' Association (PALEA) is the bargaining agent of the workers in the Philippine Air Lines

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(PAL). The union has a Board of Directors composed of the president, vice-president, secretary, treasurer and 17 directors elected for a term of three (3) years by members in "good standing" on the last Thursday of February of the election year. It has also a Commission on Election (COMELEC) whose members sit for a term of three (3) years. At present, the COMELEC is composed of herein respondents Octavio Pineda, as chairman, and Rafael Samson and Eduardo Flora, as members. The then incumbent president and vice-president were herein respondents Mario S. Santos and Carlos Bandalan, respectively.

On February 17-23, 1984, in Metro Manila and on February 20, 1984 in Cebu/Mactan area, PALEA held its election for National Officers. Herein petitioner Miguel J. Villaor won the election over respondent Mario S. Santos for the presidency, Villaor obtaining 1,954 votes to Santos' 1,809 votes, or a difference of 145 votes. Likewise, herein petitioner Cecilio V. Bautista won against Carlos V. Bandalan for the position of vice-president, Bautista garnering 1,264 votes as against Bandalan's 1,220 votes, or a difference of 44 votes. They were proclaimed on February 25, 1984.

Subsequently, the defeated candidates - respondent Mario S. Santos, for president; respondent Carlos V. Bandalan, for vice-president; and Antonio Josue, for secretary, filed their election protests with the PALEA COMELEC within the 30 day reglementary period, as provided under the Constitution and By-Laws of the Association, on the grounds that (1) a number of votes in precincts 1, 4 and 4-A were segregated and not counted; and (2) a substantial number of PALEA members in Cebu/Mactan area were not able to vote on February 20, 1984 by reason of the voting days having been reduced from two (February 20-21, 1984) to just one day (February 20, 1984). Respondent Mario S. Santos filed his protest on March 12, 1984; respondent Carlos Bandalan filed his protest on February 27, 1984; and Antonio Josue on March 14, 1984, before PALEA COMELEC composed of the herein other respondents.

Meanwhile, on March 6, 1984, respondent Mario S. Santos sent petitioner Miguel J. Villaor a letter, the body of which reads —

"We formally turnover to you PALEA's CBA proposals in the ongoing PAL-PALEA CBA negotiations. Other pertinent records are either accompanying these proposals or on file with the office.

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"Other PALEA properties, including the President's car and another vehicle, shall also be turned over to you at the appropriate time.

"On the CBA negotiation, we would like to inform you that we are filing a manifestation with the Director-Bureau of Labor Relations in order to withdraw PALEA's declaration of deadlock. This will give you and the other officers-elect a free hand to continue with the PAL-PALEA CBA negotiation.

"As we have the common objective of protecting and promoting the interests of our members, we wish yon all the luck and best of everything for our members and our union."

On April 17, 1984, petitioners filed their joint Comment/Answer to the election protests cases, and two (2) basic issues were joined, to wit:

1. Whether or not the more than 40 to 47 ballots cast by alleged qualified PALEA members in Precincts 1, 4 and 4-A which were segregated and invalidated actually resulted in the disenfranchisement of said PALEA voters; and
2. Whether or not the qualified PALEA voters in the Cebu/Mactan areas were deprived of their right to vote as a result of the sudden change from the two day traditional election days in previous years to just one day.

On the basis of the election protests and the Comment/Answer thereto, respondent PALEA COMELEC members, in a letter dated April 25, 1984, informed the parties that the ballot boxes in the questioned precincts would be opened and their voters list retrieved on April 25, 1984 at 10:00 in the morning.

On April 24, 1984, herein petitioners Miguel J. Villaor and Cecilio V. Bautista, and Ernesto P. Galang filed a complaint/petition with the Regional Office of the Ministry of Labor and Employment (MOLE) against the PALEA COMELEC members, seeking their disqualification from their positions as such on the ground of alleged partiality for the protestants. The Regional Office summoned the parties to appear before Med-Arbiter Renato D. Parungao "on the 25th of April at 9:30 a.m."

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On April 25, 1984, herein petitioners Miguel J. Villaor and Cecilio V. Bautista, and respondent PALEA COMELEC member Edwardo C. Flora appeared before the Med-Arbiter who issued an Order "enjoining the respondents from opening the ballot boxes subject of the controversy." On the same day, at 10:30 a.m., respondents Octavio Pineda and Rafael Samson proceeded to open the ballot boxes.

On April 27, 1984, respondents, sitting *en banc,* resolved the election protests, the dispositive portion of which reads —

"WHEREFORE, AND IN VIEW OF ALL THE FOREGOING, THE PALEA COMELEC HEREBY RESOLVES, AS IT HEREBY RESOLVED.

"1. To set aside the proclamation dated February 25, 1984 of Miguel J. Villaor as PALEA President, Cecilio V. Bautista as Vice-President and Ernesto P. Galang as Secretary;

"2. To count the segregated votes of qualified PALEA members, as verified, in Precincts 1, 4 and 4-A. The counting shall be held on May 4, 1984 at 1300 H at the PALEA COMELEC Office;

"3. To hold a special election on May 4, 1984 from 0500 H to 1700 H, in Cebu/Mactan to allow PALEA members, not able to vote on February 20, 1984, to cast their votes for the positions of President, Vice President and Secretary; and

"4. To proclaim the winning candidates for PALEA President, Vice-President and Secretary immediately after the election, counting and canvassing of votes as hereinabove indicated.

SO RESOLVED."

On May 3, 1984, petitioners filed a motion with the Med-Arbiter to cite COMELEC members for contempt, to suspend them from office, and to annul their Resolution of April 27, 1984 "for being issued without jurisdiction." On the same day, a notice was issued directing the parties and the petitioners' counsel to appear for hearing at 1:30 p.m. on May 3 and 4, 1984, On the May 3, 1984 scheduled hearing, none of the parties appeared, and on the May 4, 1984 scheduled hearing, only the petitioners' counsel appeared.

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In conformity with the Resolution of April 27, 1984, respondents PALEA COMELEC members counted the segregated ballots in precincts 1, 4 and 4-A on May 4, 1984 and likewise held on said date a special election in Cebu/Mactan area. As a result of the election of May 4, 1984, Mario S. Santos, Carlos V. Bandalan and Ernesto Galang, were proclaimed on May 5, 1984 as the duly elected President, Vice-President and Secretary respectively by PALEA COMELEC.

On May 8, 1984, Petitioner Miguel J. Villaor filed a motion to annul the May 4, 1984 election and the proclamation of the winners contending that these were "premature" as no action had yet been taken on the motion to declare the April 27, 1984 Resolution void.

On May 31, 1984, the respondents filed their omnibus answer to the petition and the subsequent motions filed by the petitioners.

On the same date, May 31, 1984, herein respondents Mario S. Santos and Carlos V. Bandalan filed their Notice To Admit Intervention (Record, p. 128) in the case filed by Villaor, et al. against the PALEA COMELEC members. The intervention was allowed when therein petitioners withdrew their opposition thereto. The intervenors likewise manifested that they were adopting the position paper filed by the respondents therein as their own.

On June 5, 1984, petitioners filed a motion for injunction alleging that Mario S. Santos and "his cohorts" had inveigled the Board of Directors to adopt a resolution including Santos in the union panel and that as a result thereof, the PAL refused to continue negotiating with the union.

On June 8, 1984, herein respondents Mario S. Santos and Carlos V. Bandalan filed their answer in intervention alleging that they were duly proclaimed officers of the union and the ones recognized by the Board of Directors.

On the same day, June 8, 1984, the Med-Arbiter issued a temporary restraining order "enjoining the respondents and the intervenors to cease and desist from acting as PALEA President, Vice-President and Secretary in order to maintain the status quo prevailing prior to the filing of the instant petition." The Med-Arbiter furthermore directed them to show cause why injunction

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should not be granted in favor of the petitioners. The intervenors filed an opposition on June 19, 1984.

On June 27, 1984, the Med-Arbiter issued a writ of preliminary injunction (Ibid., pp. 116-117) "enjoining both the respondents and intervenors to cease and desist from further committing the acts complained of until the intra-union conflict and all its attendant incidents are finally resolved." Moreover, the Med-Arbiter declared that "Miguel J. Villaor remains as President of the Philippine Airlines Employees' Association (PALEA) unless ordered otherwise."

The Med-Arbiter, after hearing, issued an Order dated August 1, 1984, (*Ibid*, pp. 119-127) the dispositive portion of which reads —

"WHEREFORE, premises considered the petition is hereby granted and let an order issue, as it is hereby issued:

"a) Declaring respondents Octavio Pineda, Rafael Samson and Edwardo Flora as disqualified from their office as chairman and members, respectively, of the PALEA Commission on Elections and ordering them to desist from further performing their functions as Comelec officers;

"b) Declaring as null and void Resolution dated 27 April 1984, promulgated ex-parte in complete violation of Sec. 6, Article XIX of the PALEA Constitution and By-laws;

"c) Declaring the special election conducted by the respondents (PALEA Comelec) on 4 May 1984 as invalid and that the results thereof, proclaiming Mario S. Santos, Carlos V. Bandalan, as President and Vice-President, respectively, as likewise declared null and void;

"d) The writ of preliminary injunction dated 27 June 1984, enjoining intervenors Mario S. Santos and Carlos V. Bandalan as President and Vice-President, of PALEA, but, also from interfering with the on-going CBA negotiations between the PAL Management and PALEA and also from interfering in any manner with the operation of the activities of PALEA, shall continue to remain binding and effective until this intra-union conflict and its attendant aspects are finally resolved and terminated, in which case the said injunctive writ shall likewise be dissolved."

Therein respondent PALEA COMELEC members and intervenors Mario S. Santos and Carlos V. Bandalan appealed the said Order of the Med-Arbiter to the Bureau of Labor Relations (BLR).

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BLR Director Cresenciano B. Trajano, in a decision dated November 14, 1984, (*Ibid.*, pp. 33-42) set aside the Med-Arbiter's Orders of June 27, 1984 and August 1, 1984, and at the same time dismissed the petition of Miguel J. Villaor and Cecilio V. Bautista for lack of merit. Hence, the instant petition (*Ibid.*, pp. 56-115).

The First Division of this Court, in a Resolution dated January 16, 1985, resolved without giving due course to the petition to require the respondents to comment within ten (10) days from notice thereof (*Ibid.*, p. 203).

In compliance with the said Resolution, private respondents filed their comment (*Ibid.*, pp. 237-247) on March 18, 1985.

On March 28, 1985, petitioners filed their "Reply" to the comment filed by the private respondents.

On March 29, 1985, the Solicitor General filed his comment. In the same, the Solicitor General concluded that it is his opinion that respondent BLR Director committed reversible error in setting aside the Med-Arbiter's Orders, and recommended that the instant petition be given due course.

Petitioners, in compliance with the Resolution of the First Division of this Court dated April 22, 1985 (Ibid., p. 273) filed on May 17, 1985 their "Reply" to the "Comment" filed by the Solicitor General.

Public respondent, in compliance with the June 16, 1985 Resolution of the First Division of this Court, filed his comment (*Ibid.*, pp. 327-374) on August 8, 1985.

The First Division of this Court, in a Resolution dated August 26, 1985 (*Ibid.*, p. 374-a) resolved (a) to give due course to the petition; and (b) to require the parties to submit simultaneous memoranda within thirty (30) days from notice.

Petitioners filed their memorandum (*Ibid.*, pp. 391-435) on October 28, 1985; Private respondents filed their memorandum (*Ibid.*, pp. 438-464) on November 5, 1985; and public respondent, in a "Motion" dated November 19, 1985 (*Ibid.*, pp. 462-464), respectfully moved that the comment he has filed be treated and considered as memorandum. Said motion was granted by the First

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Division of this Court in its Resolution of January 13, 1986 (*Ibid.*, p. 476).

The sole issue in this case is —

Whether or not the decision of public respondent Bureau of Labor Relations Director issued on November 14, 1984 was promulgated with grave abuse of discretion amounting to lack of jurisdiction.

In his Decision of November 14, 1984 (p. 7, *Ibid.*, p. 39), Public respondent BLR Director Cresenciano B. Trajano, in reversing Med-Arbiter Renato D. Parungo's ruling disqualifying therein respondents as members of the PALEA COMELEC, stressed that the Philippine Constitution assures the right of workers to self-organization and this right implies the freedom of unions from interference by employers and the government; that it includes the right of unions to elect their officers in full freedom and guarantee that the government refrains from any interference which would restrict this right or impede its lawful exercise; and that "It shall be unlawful for any person," Article 247 of the Labor Code states, "to unduly interfere with employees and workers in their exercise of the right to self-organization." With the foregoing as his premise, he opined that the right of self-organization is impaired when the government dissolves a union COMELEC and proceeds to resolve an election protest pending before it.

In this connection, attention is invited to Article 226 of the Labor Code, which reads —

"ART. 226. Bureau of Labor Standards. — The Bureau of Labor Relations and the Labor Code relations divisions of the regional offices of the Department of Labor (now the Ministry of Labor and Employment) shall have original and exclusive authority to act, at their own initiative or upon request of either or both parties, on all inter-union and intra-union conflicts and all disputes arising from or affecting labor-management relations in all workplaces whether agricultural or non-agricultural, except those arising from the implementation of collective bargaining agreements which shall be the subject of grievance procedure and or voluntary arbitration."

as supplemented by Policy Instruction No. 6 — relating to the distribution of jurisdiction over labor cases -

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"x x x x x x x x x

"3. The following cases are under the exclusive original jurisdiction of the Med-Arbiter Section of the Regional Office:

x x x x x x x x x

"b) Intra-union cases."

From the aforequoted provisions, it is safe to conclude that the freedom of the unions from interference from the government presupposes that there is no inter-union or intra-union conflict. In the instant case, there is no question that there is an intra-union conflict.

Public respondent further opined that the COMELEC should have been allowed to discharge its functions without prejudice to the right of petitioners to apply for relief from the Board of Directors. He averred that under the union constitution, the Board has the power to remove or discipline, by three-fourths' votes, any union officer including the president himself or the members of the COMELEC, and accordingly concluded that only after the remedy failed could the petitioners be allowed to bring their case to the Med-Arbiter. In short, the petitioners should first exhaust administrative remedies before bringing their case to the Med-Arbiter.

Anent this opinion of public respondent, petitioners averred that pursuant to Section 4 of Article VII of the PALEA Constitution and By-Laws, which reads:

"Section 4 — As a fact-finding body, the Chairman and members of the Board of Inquiry (created by the President) shall have the sole power to conduct investigation on involving an act specified under Article 18, Section of this Constitution committed by any officer, member of the board or members of the Association and submit thereto reports and recommendations based on their findings to the Board of Directors who shall have the sole power to render decisions and impose penalty to whoever is guilty."

The Board of Inquiry, created by the President, has the sole power to investigate cases involving acts committed by any officer, member of the Board or member of the Association that the power of the Board to remove or discipline any union officer, including

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the President himself or the COMELEC members cannot be exercised until the Board of Inquiry submits its report and recommendation based on their findings on the acts complained of after due investigation. With this as a premise, petitioners claim that in their Reply and Opposition dated September 14, 1984, in connection with the three (3) consolidated cases before Med-Arbiter Napoleon V. Fernando, Nos, NLR-LRD-M-6-185-184, NLR-LRD-M6-156-84 and NLR-LRD-N-6-204-84, they called attention to the fact that they have exhausted administrative remedies provided in the PALEA Charter — On May 17, 1984, PALEA President Miguel J. Villaor created the Special Board of Inquiry and appointed Rey Taggueg, as chairman, Ildefonso Medina and Rodolfo de Guzman, as members, however, the Board refused to approve the newly created Special Board of Inquiry for fear that they themselves may be the first to be subjected to investigation for the acts complained of in Case No. NCR-LRD M-6-156-84. This claim of petitioners was never denied by the private respondents.

Accordingly, there is no question that the Med-Arbiter rightly exercised jurisdiction over the case.

Section 6 of Article XIX of the PALEA Constitution provides:

"Sec. 6. In cases where a situation arises, whereby the losing candidate does not concede to the result of the election, he may, if he so desires, submit in writing, his protest to the Commission on Election within 30 days after the proclamation of the winning candidates and the Commission on Election, sitting en banc, shall hear and decide such protest x x x.

From the aforequoted provision, as opined by the Solicitor General, "once a candidate concedes the election, he is precluded from filing a protest." Private respondent Mario S. Santos, prior to filing his election protest, in his letter of March 6, 1984 to herein petitioner Miguel J. Villaor, had already unequivocably conceded the position of president to the latter.

Likewise, from the aforequoted provision, it is mandatory for the PALEA COMELEC to set the election protest for appropriate hearing on the issues raised before it could finally resolve the case. In the instant case, it is undisputed that the PALEA COMELEC, without conducting any formal hearing on the issues raised, on the basis of the pleadings of the parties, informed the parties in a letter

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dated April 23, 1984 that the ballot boxes in the questioned precincts would be opened and their voters' list retrieved on April 25, 1984 at 10:00 in the morning. Likewise, on April 27, 1984, the PALEA COMELEC, without the benefit of formal hearing resolved the election protest by setting aside the proclamation dated February 25, 1984 of Miguel J. Villaor as PALEA President, Cecilio V. Bautista as Vice-President, and Ernesto P. Galang as Secretary; directing the canvassing of the segregated ballots in precincts 1, 4, and 4-A; and directing the holding of a special election in Cebu and Mactan on May 4, 1984.

Besides, it appears that respondents Octavio Pineda and Rafael Samson intentionally disregarded the summons of Med-Arbiter Renato D. Parungo to appear before him at 9:00 a.m. on April 25, 1984 so that they can carry out their plan to open the ballot boxes. Please note that the herein petitioners alleged that Med-Arbiter Parungo issued a restraining order enjoining the respondents, as PALEA COMELEC members, to refrain from proceeding with their plan to open the ballot boxes. Said restraining order was personally served on respondent Edwardo Flora who immediately called the PALEA office and after respondent Octavio Pineda was on the phone, Flora informed him, in the presence of Med-Arbiter Parungo, about the restraining order served upon them. Notwithstanding said information, respondents Pineda and Samson went ahead and opened the ballot boxes as planned. This allegation of petitioners was never denied by the respondents. Respondent PALEA COMELEC members, likewise disregarded Med-Arbiter Renato D. Parungo's notice for them to appear for hearing at 1:30 p.m. on May 3 and 4, 1984.

The May 4, 1984 special election in Cebu and Mactan is without factual and legal justification. As aptly observed by the Solicitor General, the same was resorted to only to accommodate the herein other private respondents —

"There is absolutely no justification for calling the said May 4, 1984 election. There is no law which allows 'piece meal' elections. Obviously, such move was resorted to by the PALEA Comelec to accommodate defeated candidates for president and vice-president in the February 20, 1984 election, Mario Santos and Carlos Bandalan (respondents herein), and enable them to overcome the winning margin of winning candidates

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therein, Villaor and Bautista (herein petitioners), who won by only 145 and 44 votes, respectively.

It is the contention of the protestants that a great number of PALEA members were deprived of their right to vote because it had been the tradition since 1969 to hold election in Cebu and Mactan for two days; and that the holding of elections for only one day was done without notice to all PALEA members in said station. On the other hand, it is the contention of the petitioners that the change was agreed upon by all the candidates concerned in a conference held at SMCD Office, Nichols Field, on February 20, 1982. On said controversy, while public respondent found for the protestants, the Solicitor General is for the petitioners. Be that as it may, it is a fact that the PALEA COMELEC issued on February 15, 1984 a bulletin announcing that the elections in that area would be only on February 20, 1984. Hence, it cannot be said that the voters therein were not duly notified. In addition to this, worth mentioning is the comment of the Solicitor General, which reads:

"x x x Besides, we do not see how these 103 members could have failed to know about the one-day election. It was held within the office premises, and, surely, they must have been told of such fact by the other members who voted in the election. It would appear that these 193 members simply did not bother to vote for one reason or another. And we do not see the necessity of holding a two-day election in said areas with only 500 members, and hold a one-day election in Metro Manila area which has about 4,000 members. That it is the tradition to hold a two-day election in said areas is not a valid argument. Tradition can always be overturned, as what happened in the instant case."

The holding of the May 4, 1984 special election, when its legality is still pending determination by the Med-Arbiter, therefore, further shows the partiality of the respondent PALEA COMELEC members.

WHEREFORE, the assailed decision of respondent BLR Director is hereby SET ASIDE and the Orders of June 27, 1984 and August 1, 1984 of Med-Arbiter Renato D. Parungo are hereby REVIVED.

SO ORDERED.

Feria (Chairman), Fernan, Alampay, and *Gutierrez, Jr., JJ.,* concur.