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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

SECOND DIVISION

[G.R. No. L-48347. October 3, 1978]

SCOUT RAMON V. ALBANO MEMORIAL COLLEGE, *petitioner, vs.* **HON. CARMELO C. NORIEL, and FEDERATION OF FREE WORKERS (Scout Ramon V. Albano Memorial College Chapter),** *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; COLLECTIVE BARGAINING; A PRIME MANIFESTATION OF INDUSTRIAL DEMOCRACY AT WORK. — The institution of collective bargaining is a prime manifestation of industrial democracy at work. The two parties to the relationship, labor and management make their own rules by coming to terms. That is to govern themselves in matters that really count. As labor, however, is composed of a number of individuals, it is indispensable that they be represented by a labor organization of their choice. Thus may be discerned how crucial is a certification election.

2. ID.; ID.; CERTIFICATION ELECTION; SIGNIFICANT FOR THE COLLECTIVE BARGAINING PROCESS. — A certification election for the collective bargaining process is the fairest and most effective way of determining which labor organization can truly represent the working force. It is a fundamental postulate that the will of the majority, if given expression in an honest election with freedom on the part of the voters to make their choice, is controlling. No better device can assure the institution

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of industrial democracy with the two parties to a business enterprise, management and labor, establishing a regime of self-rule.

3. **ID.; ID.; ID.; MAY BE HELD WITHOUT SATISFYING 30% REQUIREMENT.** — The Bureau of Labor Relations, in the exercise of sound discretion, may order a certification election notwithstanding the failure to meet the 30% requirement. Once that requisite is complied with, however, the Code makes clear that "it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit.

4. **ID.; ID.; ID.; THE MOST APPROPRIATE MEANS OF ASCERTAINING THE WILL OF LABOR.** — The institution of collective bargaining is designed to assure that the other party, labor, is free to choose its representative. To resolve any doubt on the matter, a certification election is the most appropriate means of ascertaining its will.

5. **ID.; ID.; ID.; MANAGEMENT TO MAINTAIN HANDS-OFF POLICY.** — Sound policy dictates that as much as possible, management is to maintain a strictly hands-off policy. For if it does not, it may lend itself to the legitimate suspicion that it is partial to one of the contending unions. That is repugnant to the concept of collective bargaining. That is against the letter and spirit of welfare legislation intended to protect labor and to promote social justice. The judiciary then should be the last to look with tolerance at such efforts of an employer to take part in the process leading to the free and untrammeled choice of the exclusive bargaining representative of the workers.

APPEARANCES OF COUNSEL

Martiniano A. Valdisimo for petitioner.

Jaime D. Lauron for private respondent.

Solicitor General Estelito P. Mendoza, Assistant Solicitor General Reynato S. Puno and *Solicitor Jesus V. Diaz* for the public respondent.

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DECISION

FERNANDO, *Acting C.J.*:

The grave abuse of discretion imputed to respondent Director of Labor Relations Carmelo C. Noriel, when he ordered a certification election at the instance of private respondent, Federation of Free Workers, was his alleged failure to abide by previous rulings of the Department of Labor. Assuming such to be the case, the point raised is not decisive of this controversy. As was made apparent in the Comment of Solicitor General Estelito P. Mendoza,[1] the challenged order conforms to the decisions of this Court. Where the law is concerned, it is this Tribunal that speaks authoritatively. Petitioner has failed to make out a case. We dismiss.

The controversy began with the filing of a petition for certification election on September 22, 1977 by the Scout Ramon V. Albano Memorial College Chapter of private respondent labor union. It alleged that the written consent of 67 employees out of an alleged total working force of 200, more or less, had been secured. There was, on October 21, 1977, a motion to dismiss the petition filed by the employer, the present petitioner. It was based on the lack of the 30% consent requirement, as there were 250 employees, the required thirty percent of the said work force being 75. With the figure of the actual number of employees in the school establishment thus supplied, private respondent submitted on October 26, 1977 the additional signatures of 22 employees in support of its plea for a certification election. There was an opposition on the part of the present petitioner, It was filed on November 2, 1977. Then came, fifteen days later, an order from the Med-Arbiter assigned to the case dismissing the petition for certification on the ground that the compliance with the 30% requirement must be shown as of the time of its filing. Private respondent appealed to the Bureau of Labor Relations such order of the Med-Arbiter dismissing

[1] He was assisted by Assistant Solicitor General Reynato S. Puno and Solicitor Jesus V. Diaz.

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its petition. Respondent Noriel on February 8, 1978 sustained the appeal, ordering a certification election at the Scout Ramon V. Albano Memorial College within twenty (20) days from receipt thereof, with the following as contending unions: 1. FFW (Scout Ramon V. Albano Memorial College Chapter); 2. No Union. Petitioner moved for its reconsideration, but it did not succeed. An appeal to the Secretary of Labor was likewise of no avail. Hence this petition.

As set forth at the outset, there is no merit to this petition.

1. The present Labor Code did not take effect until November 1, 1974,[2] The day before, on October 31, 1974 this Court, speaking through Justice E. Fernandez, now retired, in *Confederation of Citizens Labor Union v. National Labor Relations Commission,*[3] held fast to the existing doctrine emphasizing the significance of a certification election in a regime of collective bargaining. Then in the first decision after its effectivity, *United Employees Union of Gelmart Industries v. Noriel,*[4] it was pointed out: "The institution of collective bargaining is, to recall Cox, a prime manifestation of industrial democracy at work. The two parties to the relationship, labor and management, make their own rules by coming to terms. That is to govern themselves in matters that really count. As labor, however, is composed of a number of individuals, it is indispensable that they be represented by a labor organization of their choice. Thus may be discerned how crucial is a certification election. So our decisions from the earliest case of *PLDT Employees Union v. PLDT Co. Free Telephone Workers Union* to the latest, *Philippine Communications, Electronics & Electricity Workers' Federation (PCWF) v. Court of Industrial Relations,* had made clear."[5] The same

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[2] Presidential Decree No. 570-A, Sec. 64.

[3] L-38955-56, October 31, 1974, 60 SCRA 450.

[4] L-40810, October 3, 1975, 67 SCRA 267.

[5] *Ibid.*, 273. PLDT Employees Union is reported in 97 Phil. 424, a 1955 decision. The Philippine Electronics decision; L-34531, promulgated on March 29, 1974, is found in 56 SCRA 480.

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principle was again given expression in language equally emphatic in the subsequent case of *Philippine Association of Free Labor Unions v. Bureau of Labor Relations*:[6] "Petitioner thus appears to be woefully lacking in awareness of the significance of certification election for the collective bargaining process. It is the fairest and most effective way of determining which labor organization can truly represent the working force. It is a fundamental postulate that the will of the majority, if given expression in an honest election with freedom on the part of he voters to make their choice, is controlling. No better device an assure the institution of industrial democracy with the two parties to a business enterprise, management and labor, establishing a regime of self-rule."[7] That is to accord respect to he policy of the Labor Code, indisputably partial to the holding of a certification election so as to arrive in a manner definitive and certain concerning the choice of the labor organization to represent the workers in a collective bargaining unit.[8]

2. Conformably to the above basic concept, this Court, in the aforesaid Philippine Association of Free Labor Unions decision, recognized that the Bureau of Labor Relations, in the exercise of sound discretion, may order a certification election notwithstanding the failure to meet the 30% requirement. Once that requisite is complied with, however, the Code makes clear

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[6] L-42115, January 27, 1976, 69 SCRA 132.

[7] *Ibid.*, 139.

[8] Cf. *Federacion Obrera v. Noriel*, L-41937, July 6, 1976, 72 SCRA 24; *UE Automotive Employees and Workers Union-Trade Unions of the Philippines and Allied Services v. Noriel*, L-44350, Nov. 25, 1976, 74 SCRA 72; *Philippine Labor Alliance Council v. Bureau of Labor Relations*, L-41288, Jan. 31, 1977, 75 SCRA 162; *Today's Knitting Free Workers Union v. Noriel*, L-45057, Feb. 28, 1977, 75 SCRA 450; *Benguet Exploration Miner's Union v. Noriel*, L-44110, March 29, 1977, 76 SCRA 107; *Kapisanan v. Noriel*, L-45475, June 20, 1977, 77 SCRA 414; *Rowell Labor Union-Trade Unions of the Philippines v. Ople*, L-42270, July 29, 1977, 78 SCRA 166; *Vassar Industries Employees Union v. Estrella*, 44652, March 31, 1978; *National Mines and Allied Workers Union v. Luna*, L-46722, June 15, 1978; *General Textiles Allied Workers Association v. Director of Bureau of Labor Relations*, L-45719, July 31, 1978.

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that "it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit."[9] Necessarily then, the argument of petitioner as to the inability of private respondent to come up with the required signatures when the petition was first filed falls to the ground. At any rate, additional signatures were subsequently secured. The allegation that there was thereafter a retraction on the part of a number of such signatories lends added support to the decision arrived at by respondent Noriel that the only way of determining with accuracy the true will of the personnel involved in the bargaining unit is to conduct a certification election. At any rate. that is a factual matter, the resolution of which by respondent Noriel is entitled to respect by this Tribunal.[10]

3. There is relevance likewise to this excerpt from *Monark International, Inc. v. Noriel,* cited in the Comment of Solicitor General Mendoza: "There is another infirmity from which the petition suffers. It was filed by the employer, the adversary in the collective bargaining process. Precisely, the institution of collective bargaining is designed to assure that the other party, labor, is tree to choose its representative. To resolve any doubt

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[9] Article 258 of the Labor Code reads in full: "*Requisites for certification election.* — Any petition for certification election filed by any legitimate labor organization shall be supported by the written consent of at least thirty percent (30%) of all the employees in the bargaining unit. Upon receipt and verification of such petition, it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit."

[10] Cf. *Antipolo Highway Lines v. Inciong*, L-38523, June 27, 1975, 64 SCRA 441; *Jacqueline Industries v. National Labor Relations Commission.* L-37034, Aug. 29, 1975, 66 SCRA 397; *Federacion Obrera v. Noriel.* L-41937, July 6, 1976, 72 SCRA 24; *Kapisanan ng mga Manggagawa v. Noriel,* L-45475, June 20, 1977. 77 SCRA 414; *Monark International. Inc. v. Noriel*, L-47570-71, May 11, 1978, was promulgated on May 11. 1978.

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on the matter, a certification election, to repeat, is the most appropriate means of ascertaining its will. It is true that there may be circumstances where the interest of the employer calls for its being heard on the matter. An obvious instance is where it invokes the obstacle interposed by the contract-bar rule. This case certainly does not fall within the exception. Sound policy dictates that as much as possible, management is to maintain a strictly hands-off policy. For if it does not, it may lend itself to the legitimate suspicion that it is partial to one of the contending unions. That is repugnant to the concept of collective bargaining. That is against the letter and spirit of welfare legislation intended to protect labor and to promote social justice. The judiciary then should be the last to look with tolerance at such efforts of an employer to take part in the process leading to the free and untrammeled choice of the exclusive bargaining representative of the workers."[11]

WHEREFORE, the petition for *certiorari* is dismissed, with costs. This decision is immediately executory. The restraining order is hereby lifted. A certification election must be conducted forthwith.

Barredo, Antonio, Aquino, Concepcion Jr. and *Santos, JJ.,* concur.

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[11] Comment, 5. The Monark International decision, L-47570-71, was promulgated on May 11, 1978. Cf. *Consolidated Farms, Inc., II v. Noriel,* L-47752, July 31, 1978.