



Public Sector Labor-Management Council

Civil Service Commission Central Office Building
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DEPARTMENT OF AGRARIAN REFORM EMPLOYEES ASSOCIATION (DAREA)

Re: Extension of Terms of Office;
Election of Officers; Intra-Union Dispute

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PSLMC Resolution No. 01, s. 2009

This has reference to the intra-union dispute that has been causing disunity among the officers and members of the Department of Agrarian Reform Employees Association (DAREA) within the Department of Agrarian Reform (DAR), Central Office, Quezon City. The issues surrounding the intra-union dispute within the DAREA are the extension of terms of office of Antonia H. Pascual, National President of the DAREA and her officers from January 18, 2008 to January 2009 and that of the election of Raul M. Leonin as National President and his officers of the DAREA on January 31, 2008.

Records of the case show that Antonia H. Pascual, et al., were elected to their respective positions in the DAREA for three (3) years from January 17, 2005 to January 17, 2008. On October 3-7, 2007, DAREA conducted its National Assessment and Planning Workshop at Ciudad Christia, San Mateo, Rizal. During the conduct of the said planning workshop, Resolution No. 14, series 2007 dated October 6, 2007 was promulgated by Pascual, et al. The gist of the said Resolution was the resetting of the synchronized national elections of officers of the said union from the third Thursday of January 2008 to January 2009. By virtue of the promulgation of the said Resolution, the terms of office of Pascual, et al., were extended for another year. Pascual, et al., argued that the promulgation of Resolution No. 14, series 2007 dated October 6, 2007, amended Section 4, Article X (Association Election) of the CBL of the DAREA in correlation with Section 1, Article XVIII (Amendments) of the said CBL. Thereafter, the aforesaid Resolution was allegedly submitted for ratification to the general membership of the DAREA to make the same binding and effective.

In opposition thereto, Raul M. Leonin, et al., on October 8, 2007, filed a petition calling for the immediate DAREA Election of Officers on January 2008 as stipulated in the CBL of the said union. Accordingly, as enjoined by Leonin, et al., the subject petition is culled on the circumstance that Pascual, et al., have no intention to call for an election after the expiration of their terms of office on January 17, 2008. As represented by Leonin, et al., the petition was signed by 60% of the members of DAREA in the DAR Central Office and 40% in the Local Regional/Provincial Chapters of DAREA. Pertinent thereto, Leonin, et al., submitted the signatures of the union members from various geographical locations of Luzon, Visayas and Mindanao who are members of the DAREA comprising of three thousand three hundred eighty six (3,386) members.

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On October 30, 2007, Resolution No. 1, series 2007 has been promulgated by the bonafide members of the DAREA to conduct the said election on January 2008 and constituted the Committee on Election (COMELEC).

On the other hand, a petition for the conduct of election has been filed by Leonin, et al., before the Council on November 26, 2007, through the Civil Service Commission-Personnel Relations Office (CSC-PRO). The filing of the same is pursuant to Section 5, Article XVII-B (Election Disputes) of the Amended Implementing Rules and Regulations of Executive Order No. 180. Then Director IV Maria Leticia G. Reyna of the CSC-PRO in her letter dated January 11, 2008 ruled that the said petition has been prematurely filed and the dispute shall be settled internally within the DAREA. However, the petition as opined by Leonin, et al., has been mooted by the expiration of the terms of office of Pascual, et al., on January 17, 2008.

On December 6, 2007, Resolution No. 2, series 2007, has been promulgated by the same members of the union reiterating the call for the conduct of DAREA election on January 2008 and again constituted the COMELEC.

On January 18, 2008, the constituted COMELEC of the DAREA promulgated COMELEC Resolution No. 1, series 2008. The same prescribed that the election of officers of the union will be held on January 31, 2008. The same Resolution approved the guidelines and procedures on the conduct of the said election. The said COMELEC also promulgated Resolution No. 2, series 2008 dated January 25, 2008 extending the filing of certificates of candidacy from January 18-25, 2008 to January 18-29, 2008.

After the conduct of the said election on January 31, 2008, Pascual, et al., argued that the conducted election has been participated by minority members of eight hundred ten (810) members of good standing in the DAR Central Office (DARCO) and further alleged that not all of the voters who participated in the said election are members of the DAREA.

With the extension of the terms of office of Pascual, et al., from January 17, 2008 to January 2009 and with the election of Leonin, et al., as the executive officers of the DAREA on January 31, 2008, it resulted into a situation wherein there are two (2) sets of officer of the DAREA. Each camp claimed to be the legitimate representatives of the rank-and-file employees of the DAR. These cogent issues prompted the Department of Agrarian Reform (DAR) management as shown in letters dated January 25, 2008 and February 14, 2008, respectively, for the Civil Service Commission (CSC) to intervene in the intra-union dispute and submit the case to the Council for appropriate action. Based on the said request, the CSC-PRO conducted a consultative meeting/mandatory conference on March 14, 2008. On the said mandatory conference, the disputing parties failed to settle amicably their dispute. Thus, leaving no other recourse but to submit the issue to the PSLMC for its appropriate action.

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On March 28, 2008, the CSC-PRO issued an Order which directed Pascual, et al. to submit to the PSLMC through the CSC-PRO, within ten (10) calendar days from receipt of the same their sworn comments/position papers together with their arguments and counter arguments and pieces of evidence in support of their allegation on the illegality/irregularity of the election held on January 31, 2008. Pascual et al. were likewise directed to submit a proof of service of their sworn comments/position paper to Leonin, et al.

On the other hand, Leonin, et al. were likewise given ten (10) calendar days to file their counter comments with proof of service upon receipt of said pleading from Pascual et al. In all instances, the ten (10) day period was not subject to extension. The CSC-PRO in the said Order ruled that new issues brought up by either parties which were not properly alleged in the comments/position paper and in the counter comment/reply, or any pleading wherein the other party was not furnished shall be excluded from the evaluation/resolution of the said intra-union dispute.

On April 14, 2008, Pascual, et al. submitted their Position Paper dated April 11, 2008. In the said Position Paper it is clearly shown that Leonin, et al. have been forwarded a copy of the same, thereby, establishing a fact that the proof of service has been duly complied with. The same is shown in the Registry Receipt dated April 14, 2008, wherein the same reads, as follows:

***“Copy furnished: Raul Leonin, et al. (c/o Raul Leonin),
Department of Agrarian Reform Central Office, Elliptical Road,
Diliman, Quezon City.”***

On May 30, 2008, Leonin, et al., submitted their Position Paper dated May 29, 2008. In the submitted Manifestation dated May 30, 2008 of Leonin, his proper address, reads as follows:

***“Office of the Assistant Secretary for Legal Affairs, DAR
Compound, Elliptical Road, Diliman, Quezon City.”***

Based from the foregoing, the right to be informed in the due process clause has been duly complied with.

Inasmuch as the issues have been joined already, it is now ripe for the Council to resolve the said intra-union dispute, hence, this Resolution.

The two (2) cardinal issues that shall be resolved in the case at bar, are as follows:

1. Whether Resolution No. 14, series 2007 dated October 6, 2007 which reset the DAREA Synchronized National Election from the third Thursday of January 2008 to January 2009 was ratified by the entirety of the membership of DAREA; and

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2. Whether the election that has been conducted on January 31, 2008, wherein Leonin, et al., has been elected as the National Executive Officers and Office Representatives of the DAREA was valid.

Anent the first issue, the argument of Pascual, et al., that the promulgated Resolution No. 14, series 2007 dated October 6, 2007 has been ratified by the general membership of the DAREA is found to be bereft of merit.

Records of the case show that the passage of Resolution No. 14, series 2007 dated October 6, 2007, was done during the National Assessment and Planning Workshop of the DAREA at Ciudad Christia, San Mateo, Rizal on October 3-7, 2007. In the said planning workshop, the issues that have been deliberated were the CARP extension, the approval of the DAR 2008 budget, confirmation of DAR Secretary Nasser C. Pangandaman, Rationalization Law, transfer of DAR Central Office to Davao City, the disputed Resolution No. 14, series 2007, among others.

Prior to the promulgation of Resolution No. 14, series 2007 dated October 6, 2007, the representatives from the provincial and regional chapters of the DAREA were consulted on the said resetting of the synchronized election of the union. On her part, Pascual shared her view on the necessity of the resetting of the synchronized national election on January 2009 of the DAREA based on the abovementioned issues besetting the DAR. In their discussion, the officers of the DAREA agreed with the resetting of the synchronized election as long as there is legal basis and the same shall be submitted for ratification to all the members of the union. Thereafter, sixteen (16) voted for the January 2008 election and fifty one (51) voted for the resetting of the said election for January 2009. Hence, the promulgation of the assailed Resolution No. 14 series 2007 dated October 6, 2007.

As contended by Pascual, et al., Resolution No. 14, series of 2007 dated October 6, 2007, was an amendment of Section 4, Article X (Association Election) of the DAREA's Constitution and By-Laws which is corollary with Section 1, Article XVIII (Amendments) of the said CBL. For clarity, these provisions in the DAREA' CBL are hereunder quoted as follows:

Section 4, Article X (Association Election) of the DAREA's CBL

"Section 4. The regular election for the Executive Officers and the Office Representatives from the National down to the Regional and Provincial Chapters shall be held every 3rd Thursday of January and every three (3) years thereafter."

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Section 1, Article XVIII (Amendments) of the DAREA's CBL

"Section 1. This Constitution and By-Laws or any portion thereof may be amended or repealed in a resolution adopted by majority votes of the members of the National Executive Officers and National Office Representatives, and provided, that amendments made by the said Officers shall be submitted for ratification and approved by a majority vote of the members of the Association."

Admittedly, Resolution No. 14, series 2007, was promulgated authorizing for the resetting of the synchronized election of the DAREA on January 2009, however, the records is bereft of any proof that the controverted Resolution had been submitted for referendum and/or plebiscite to all the members of the DAREA for its ratification. Simply put, the said Resolution was not submitted for ratification through the process of referendum and/or plebiscite but only through a signature campaign during the said planning workshop. Section 1, Article XVIII of the CBL of DAREA is explicit that any amendments of any portions of the said CBL **shall be done by the majority votes of the members** and **shall be submitted for ratification and approval of the majority votes of the members of the association**. The aforecited provision is unequivocal and adopts no other interpretation than its literal intention that any amendment, abrogation, repeal and revision on any provision of the CBL of the DAREA **will be valid only** when ratified by a majority votes cast in a referendum/plebiscite.

Noteworthy to stress that ratification involves people in their sovereign authority to give their consent through referendum and/or plebiscite and not through a signature campaign whether within the planning workshop or otherwise. The National Assessment and Planning Workshop held on October 6, 2007, at the Ciudad Christia, San Mateo, Rizal, fell short of the requirement to legitimize the assailed Resolution No. 14, series 2007. It is our considered view that the submission of the amendment of the said CBL to its members presupposes that the members have been afforded their opportunity to ponder over the original provision and the proposed amendment and reach a conclusion within the dictates of their conscience free from any influences and persuasions. Our contention finds its support in the ruling of the Supreme Court in the case of **Gonzales vs. Commission on Elections, 21 SCRA 774** which is hereunder quoted, as follows:

"x x x is that it can only be amended by the people expressing themselves according to the procedures ordained by the Constitution. Therefore, amendments must be fairly laid before the people for their blessing or spurning. The people are not to be mere rubber stamps. They are not to vote blindly. They must be afforded ample opportunity to mull over the original provisions, compare them with the proposed amendments, and try to reach a conclusion as the dictates of their conscience suggest, free from the incubus of extraneous or possible insidious influences. x x x to enlighten the

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people, educate them with respect to their act of ratification or rejection. There must be fair submission, intelligent consent or rejection. If with all these safeguards the people still approve the amendment no matter how prejudicial it is to them, then so be it. For the people decree their own fate."

For purposes of direction, **referendum** is aptly defined as a method of submitting an important legislative measure to a direct vote of the people. While, **plebiscite** is a device to obtain a direct popular vote on a matter of political importance, but chiefly in order to create some more or less permanent political condition (**Philippine Political Law, Cruz, Isagani, 2001 Edition, p. 100**).

Again, by merely submitting Resolution No. 14, series 2007 dated October 6, 2007 to the National, Provincial and National Officers of the DAREA who participated during the National Assessment and Planning Working on October 3-7, 2007, through a signature campaign, obviously this does not constitute ratification. Our findings equally apply to those assemblies and special meetings that had been conducted by the Regional, Provincial and National chapters purporting support on the abovestated Resolution but said meetings/assemblies were not attended by the general membership. The efficacy of the controverted Resolution can only attain the imprimatur of legitimacy when it is approved and ratified by the general assembly of their respective chapters (**Section 2 [C. 3], Article XI of the DAREA's CBL**).

Delving on the second issue, the election on January 31, 2008, conducted by Leonin, et al., the Council finds the same to be wanting of the majority support/participation of the DAREA members through their sovereign electoral mandate.

While it may be true that Pascual, et al., in their submitted Position Paper dated April 11, 2008, assailed the call of Leonin, et al., for an immediate election on the very reason that the same violated the CBL of the DAREA, finds refuge in **Section 5, Article XVII-B (Election Disputes) of the Amended Implementing Rules and Regulations of Executive Order No. 180**, to call for an immediate conduct of an election in view of Pascual, et al., failure to call for an election after the expiration of their terms of office. Pertinent provision of the rule reads:

"Section 5. Where the terms of the officers of an employees' organization have expired and its officers failed to call for an election of new officers, at least thirty percent (30%) of the members of the employees' organization may file a petition for the conduct of election of their officers with the Council."

Thus, Leonin et. al., in their Reply dated July 7, 2008 (which was addressed to the Council) to the Position Paper dated April 11, 2008 of Pascual, et. al., they narrated all forms of harassment and intimidation were used by the group of Pascual to hamper the conduct of the said election. Allegedly, Pascual, went room to room together with Ferdinand Gaité, President of COURAGE warning the members not to participate in the said election. Leonin, et. al., also encountered

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with the guards of the DAR which did not allow them to hang their election paraphernalia and other election materials. The said vexation continued until the day of the election, hence, the submitted Information Report dated January 31, 2008 duly signed by the guards of the DAR.

The validity of the conduct of the said election as abovementioned finds its sanctuary in Section 5, Article XVII of the Amended Implementing Rules and Regulations of Executive Order No. 180, however, upon perusal of the submitted Election Proceedings rendered by the DAREA COMELEC disclosed the following information, viz:

DAREA National Executive Officers

1. President	-Raul B. Leonin	220 votes
2. Vice President	-Mary Libertine Amor	199 votes
3. Secretary	-Mona Ampaso	187 votes
4. Asst. Secretary	-Garland Leila Cuarteros	179 votes
5. Treasurer	-Vicenta Naraja	194 votes
6. Asst. Treasurer	-Ma. Luisa Balilia	180 votes
7. Auditor	-Richard Gallardo	184 votes
8. PRO	-Lourdes Cruz	157 votes

Office Representatives

1. BARIE	-Sylvia Calaycay	7 votes
2. BLAD	-Ma. Luzviminda Ringor	46 votes
3. BLD	-Helen Cruz	16 votes
4. FMAO	-Romeo Jimenez	14 votes
5. FOO-SSO	-Filipinas Garza	12 votes
6. OSEC	-Nenita Wella Vargas	29 votes

The aforecited official results bared a startling reality that the election of Leonin, et al., fell short in terms of the majority participation of the entirety of the membership of the DAREA when the election was conducted. The participation of 810 members of the DAREA clearly manifested that Leonin, et al., lacked the majority support of the members of the DAREA. The sovereign electoral mandate of all the members of the DAREA is wanting.

The representation of Leonin, et al., that there were three thousand three hundred eighty six (3,386) members who agreed to the January 31, 2008 election failed to attain the sovereign mandate during the conduct of the said election. This failure is shown during the day of the election with only eight hundred ten (810) members who had exercised their rights to vote on the said day. Such participation is only 23.922 percent of the total membership.

Conversely, the representation of Pascual, et al., in their Position Paper on the minority participation of the members of the DAREA on the day of the election affirmed the said circumstance. In the said document, Pascual. et al., stated that ***the DAREA Central Office Chapter has a total number of 810 qualified member-voters while the voting members for the National Executive***

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Officers is two thousand one hundred twenty nine (2,129) composed of the Regional and Provincial Executive Officers. By simple analogy, only the minority of the DAREA Central Office Chapter participated in the January 31, 2008 election. Wanting are the pieces of evidence (e.g. election official results) from the Regional and Provincial Chapters showing that they elected Leonin, et al., as the next DAREA National President of the union on January 31, 2008.

The participation of the 810 members during the said election runs-counter with **Sections 6 and 7, Article X (Association Election) of the CBL of DAREA,** which are hereunder quoted, as follows:

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"Section 6. The National Executive Officers who will come from the Central Office Chapter shall be elected by all Provincial, Regional DAREA Officers and members of the DAREA Central Office.

"Section 7. Voting shall be by secret balloting and the election shall be decided by the majority of the membership."(Underscoring supplied)

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Be that as it may, while it may be true that the conducted election on January 31, 2008 is within the ambit of Section 5, Article XVII-B (Election Disputes) of the Amended IRR of Executive Order No. 180, the 810 members of the union who participated during the election do not represent the majority members who elected Leonin, et al., to be the new Executive Officers and Office Representatives of the DAREA. This situation is complicated by the absence of elections results from the Regional and Provincial Chapters of the DAREA. Clearly, Leonin, et al., possess only a fraction of the mandate of the DAREA Executive Officers when they won the election on January 31, 2008. The 810 voters could not validate or uphold authority on the new set of officers without impairing the abovequoted Sections 6 and 7, Article X (Association Election) of the CBL of the union.

Moreover, the absence of the official election results from the Regional and Provincial Chapters of the DAREA belied the representation of Leonin. et al., that some Provincial and Regional Chapters of the DAREA had conducted their own elections. As aforementioned, the same has not been supported by submitted pieces of evidence such as the official results of the said election duly signed by the COMELEC chairmen of the abovestated Provincial and Regional Chapters of the DAREA.

On the other hand, we are mindful on the manifestos that have been promulgated by the local chapters in the DAREA Aklan and Sultan Kudarat Chapters throwing their support to Leonin, et al. However, the same can not **ipso facto** be construed as direct participation during the election on January 31, 2008. At best, the manifestos will only be considered as a mere signature campaign. Similarly situated is the certification dated July 2, 2008, issued by Antonio E.

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Emprese, Vice-Chairman of the COMELEC wherein he stated that the provinces of Maguindanao, Batangas, Bohol, Sultan Kudarat, Sarangani, Cordillera Autonomous Region and Bataan conducted their own synchronized election on the date of the election.

We must stress, that the issue in the case at bar is not the exclusivity of representation but the validity of the promulgation of Resolution No. 14, series 2007 dated October 6, 2007 and the election held on January 31, 2007. Succinctly put, the crux of the controversy is the validity of the ratification which can be resolved by applying the provisions of the DAREA's CBL. The provisions of the Labor Code of the Philippines is only applied in suppletory character when the dispute can not be resolved based on union's CBL or by the Executive Order No. 180.

WHEREFORE, Resolution No. 14, series of 2007 dated October 6, 2007 is hereby considered **NULL** and **VOID** by virtue of its non-ratification pursuant to Section 1, Article XVIII (Amendments) of the Constitution and By-Laws of the Department of Agrarian Reform Employees Association (DAREA) dated June 20, 2001. In the same vein, the election conducted on January 31, 2008, is likewise declared **NULL** and **VOID** in violation of Sections 6 and 7, Article X (Association Election) of the Constitution and By-Laws of the DAREA. Accordingly, an immediate election of officers in the DAREA shall be conducted within ninety (90) days upon receipt of this Resolution pursuant to the provisions of Article X (Association Election) of the Constitution and By-Laws of the DAREA.

RESOLVED further, in view of the animosity prevailing between the two (2) contending parties, the Department of Labor and Employment-Bureau of Labor Relations (DOLE-BLR) and the Civil Service Commission-Personnel Relations Office (CSC-PRO) are hereby directed to send their official representatives to act as Observers during the conduct of the election of the DAREA.

Quezon City February 2, 2009.



RICARDO L. SALUDO
Chairman, Civil Service Commission
CHAIRMAN



MARIANITO D. ROQUE
Secretary, Department of Labor and Employment
VICE-CHAIRMAN



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Office of the Secretary



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RAUL M. GONZALEZ
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ROLANDO G. ANDAYA, JR.
Secretary, Department of Budget and Management
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Attested by:


ALAN F. ALEGRIA
Director IV
Personnel Relations Office
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Chair, PSLMC Secretariat

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