



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management

Malacañang, Manila

LEGAL OPINION NO. L-B-2001-04

SUBJECT : Local Government Budgeting – Annual Budget

ISSUE : Whether or not appropriation of public funds for Study Now Pay Later and Hospitalization of Indigents can be allowed in budget review.

FACTS : In the FY 2000 Annual Budget of the Province of Laguna, the amounts of P24,000,000 and P1,095,000, for Study Now Pay Later and Hospitalization of Indigents at the Biñan Perpetual Hospital, respectively, were disallowed in budget review for lack of legal basis and for violation of Section 335 of Republic Act No. 7160, the Local Government Code of 1991 (Code) which provides:

"SEC. 335. Prohibitions Against Expenditures for Religious or Private Purposes. – No public money or property shall be appropriated or applied for religious or private purposes."

Atty. Leonardo M. Ragaza, Jr., Provincial Attorney of the Province of Laguna, justified the propriety of the appropriations for Study Now Pay Later and Hospitalization of Indigents, invoking the following provisions of the Code, to wit:

- (1) Section 468 (2)(j) which provides that the Sanggunian shall enact annual and supplemental appropriations of the provincial government and appropriate funds for specific programs, project, services and activities of the province, x x x in order to promote the general welfare of the province and its inhabitants.
- (2) Section 468(4)(iv) which states that the Sanggunian shall approve ordinance to establish a scholarship fund for the poor but deserving students in schools located within its jurisdiction or for students residing within the province.
- (3) Section 468 (4)(vi) of the same Code which states that the Sanggunian shall provide for the care of paupers x x x.

OPINION : The appropriation of public funds for Study Now Pay Later and Hospitalization of Indigents can be allowed in budget review, considering the following statutory bases:

children and youth below eighteen (18) years of age; subject to availability of funds, establish and support the operation of centers and facilities for said needy and disadvantaged person; and facilitate efforts to promote the welfare of families below the poverty threshold, the disadvantaged, and the exploited;

xxx xxx."
(underscoring supplied)

In the first instance, free hospitalization to indigents should be provided through a government hospital.

However, per information gathered from the Provincial Budget Officer of Laguna, the Memorandum of Agreement executed by the Province and BPH was not approved by the Sanggunian. Hence, the funds for the hospitalization of Indigent was converted to grant. The mechanism adopted was to channel the funds through the DSWD with its project "Aid to Individuals on Crisis Situation."

The subject appropriations are not in violation of Section 335 of the Code as they may be considered as an exercise of the police power of a municipal government as enunciated in the Supreme Court decision in the case of *Binay v. Domingo*, to wit:

"Municipal corporations exercise such power under the general welfare clause. The power is broad and has been said to be commensurate with but not to exceed the duty to provide for the real needs of the people in their health, safety, comfort and convenience and consistently as may be with private rights. xxx.

The care for the poor is generally recognized as a public duty. The support for the poor has long been an accepted exercise of police power in the promotion of the common good.

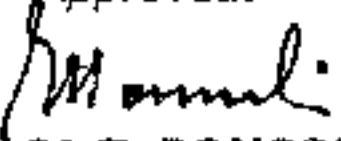
There is no violation of the equal protection clause in classifying paupers as subject of legislation. Paupers may be reasonably classified. Different groups may receive varying treatment. Precious to the hearts of our legislators, down to our local councilors, in the welfare of the paupers. Thus, statutes have been passed giving rights and benefits to the disabled, emancipating the tenant-farmer from the bondage of the soil, housing the urban poor, et.." (SC Decision En Banc G.R. No. 92389 dated September 11, 1991)

REFERENCE: Memorandum of the Secretary dated 28 September 2001 to DBM RO-IV

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary