



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. L-C-2001-06

SUBJECT : Local Government Compensation

ISSUE : Whether or not the reinstated SK Chairmen are entitled to receive honoraria and other benefits which they should have received had they not been removed from office.

FACTS : Messrs. Jesse Dela Cruz, Hernandez Lucero, Jimmy Danton, Reynante Cayapas, Michelle Batin, Bernard Salvador, Nole Panado, Zaldy Cervantes, Micheal Atiga, Maribel Romaluma, Maila Mallari, Gisselle Guiran, Joel Llado, Jithar Reyes, Arnel Balibal and Gither Hiponia are SK Officials who were removed as *ex-officio* Members of their respective Sangguniang Bayan (SBs) pursuant to Resolution dated 29 September 1998 issued by the SB of Narra, Palawan.

The SB of Narra appointed acting SK Chairmen in every barangay affected by the removal of the original SK Chairmen. Thus, the respective SBs granted honoraria, benefits and privileges to the Acting SK Chairmen.

The said SK officers lodged a Petition for Certiorari with Prayer for Preliminary Mandatory Injunction before the Regional Trial Court (RTC) of Palawan and Puerto Princesa City, Branch 50, to annul and set aside the Resolution of the SB of Narra, Palawan.

In a decision dated 14 October 1999, the RTC ordered the reinstatement of the above-mentioned officers and declaring the aforesaid SB Resolution null and void. The dispositive portion thereof reads:

*"FOREGOING PREMISES CONSIDERED and for reasons
aforecited the instant Special Civil Action for Certiorari is hereby
GRANTED. As prayed for, Honorable Members of the
Sangguniang Bayan of Narra, Palawan are declared to be
without jurisdiction over the persons of the petitioners and the*

Sangguniang Bayan of Narra, Palawan are declared to be without jurisdiction over the persons of the petitioners and the subject matter of the complaint of the private respondents.

Accordingly, the proceeding conducted by the respondents Honorable Members of the Sangguniang Bayan of Narra in hearing the administrative case against the petitioners are hereby ANNULLED.

Petitioners Jesse Dela Cruz, Hernandez Lucero, Jimmy Danton, Reynante Cayapas, Michelle Batin, Bernard Salvador, Nole Panado, Zaldy Cervantes, Micheal Atiga, Maribel Romaluma, Maila Mallari, Gisselle Guiran, Joel Llado, Jithar Reyes, Arnel Balibal and Gither Hiponia are ordered reinstated to their original positions as Chairman of their respective barangay Sangguniang Kabataan and as ex-officio members of the Sangguniang Barangay and Bayan. (underscoring supplied)

SK Chairman Jesse De la Cruz and the other reinstated SK Chairmen are claiming for the honoraria and other emoluments for the period they were removed from office. It is noted that the budget for Personal Services of the original SK Chairmen was already released and paid to the Acting Chairmen as such during the said period. As represented, on October 18, 1999, an appeal was made by the SB in the Court of Appeals, Manila.

OPINION : The case is still pending on appeal, under consideration by the Court of Appeals, the rule on subjudice finds application thereto.

It is settled in jurisprudence that the justiceable controversy shall be resolved by the said Court to the exclusion of other administrative bodies. In this respect, the Supreme Court held that:

"x x x where the inquiry to be made involves question of law as well as facts, where it affects a legal right, and where the decision may result in the termination or destruction of a right, the powers to be discharged are essentially judicial; (and) being judicial, such powers are vested (only) in a court or judicial tribunal." (Nitafan. David, Primer on Judicial Power, 1991 ed. Citing Pastoral v. Workmen's Compensation Commission, 2 SCRA 850; La Mallorca - Pambusco v. Ysip, 3 SCRA 241; "Y" Shipping Corporation v. Borceles, 3 SCRA 298.)

It is important to note that the dispositive portion of the RTC decision

It is important to note that the dispositive portion of the RTC decision ordered only the reinstatement of the concerned SK officials, and did not direct the payment of backwages and other benefits. It is settled in jurisprudence that a final judgment of the Court is an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the right and obligations of the parties are and which party is in the right. (Investment, Inc. vs. CA, 147 SCRA 334)

Hence, the SK Chairmen may claim their backwages only when the final judgment of the Court categorically declares that they are entitled to such payment. Be that as it may, payment thereof, once warranted, should be covered by appropriations pursuant to Section 305 (a) of R.A. No. 7160 which reads:

"Sec. 305. Fundamental Principles. – The financial affairs, transactions, and operations of local government units shall be governed by the following fundamental principles:

(a) No money shall be paid of the local treasury except in pursuance of an appropriations ordinance or law;

x x x

x x x."

REFERENCE: Memorandum of the Secretary dated 20 November 2001 to DBM RO-IV

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary