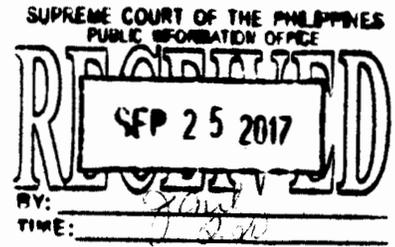




Republic of the Philippines  
Supreme Court  
Manila



FIRST DIVISION

DENMARK S. VALMORES,  
Petitioner,

G.R. No. 217453

Present:

- versus -

SERENO, C.J., Chairperson,  
LEONARDO-DE CASTRO,  
DEL CASTILLO,  
PERLAS-BERNABE, and  
CAGUIOA, JJ.

DR. CRISTINA ACHACOSO, in  
her capacity as Dean of the College  
of Medicine, and DR. GIOVANNI  
CABILDO, Faculty of the  
Mindanao State University,  
Respondents.

Promulgated:

JUL 19 2017

X-----X

DECISION

CAGUIOA, J.:

Before the Court is a petition for *mandamus*<sup>1</sup> filed under Rule 65 of the Rules of Court (Petition), seeking the enforcement of Commission on Higher Education (CHED) Memorandum<sup>2</sup> dated November 15, 2010 (2010 CHED Memorandum) by herein respondents Dr. Cristina Achacoso (Achacoso) and Dr. Giovanni Cabildo (Cabildo) (collectively, “respondents”). Respondents are being sued in their respective capacities as Dean and faculty member of the Mindanao State University (MSU)-College of Medicine.<sup>3</sup>

*Antecedent Facts*

The facts culled from the records follow.

Petitioner Denmark S. Valmores (Valmores) is a member of the Seventh-day Adventist Church,<sup>4</sup> whose fundamental beliefs include the strict

<sup>1</sup> Rollo, pp. 3-26.  
<sup>2</sup> Id. at 55.  
<sup>3</sup> Id. at 8.  
<sup>4</sup> Id. at 9.

observance of the Sabbath as a sacred day.<sup>5</sup> As such, petitioner Valmores joins the faithful in worshipping and resting on Saturday, the seventh day of the week, and refrains from non-religious undertakings from sunset of Friday to sunset of Saturday.<sup>6</sup>

Prior to the instant controversy, petitioner Valmores was enrolled as a first-year student at the MSU-College of Medicine for Academic Year 2014-2015.<sup>7</sup> To avoid potential conflict between his academic schedule and his church's Saturday worship, petitioner Valmores wrote a letter<sup>8</sup> to respondent Achacoso, requesting that he be excused from attending his classes in the event that a regular weekday session is rescheduled to a Saturday. At the same time, petitioner Valmores expressed his willingness to make up for any missed activity or session due to his absence.<sup>9</sup>

Between the months of June to August 2014, some of petitioner Valmores' classes and examinations were moved from weekdays to Saturdays.<sup>10</sup> In one instance, petitioner Valmores was unable to take his Histo-Pathology laboratory examination held on September 13, 2015, a Saturday.<sup>11</sup> Respondent Cabildo was his professor for the said subject.<sup>12</sup> Despite his request for exemption, no accommodation was given by either of the respondents. As a result, petitioner Valmores received a failing grade of 5 for that particular module and was considered ineligible to retake the exam.<sup>13</sup>

Thereafter, several pastors and officers of the Seventh-day Adventist Church sent a letter<sup>14</sup> to respondent Achacoso, requesting for a possible audience with the members of the MSU school board. In addition, the church, through Pastor Hanani P. Nietes, issued a Certification<sup>15</sup> dated September 15, 2014 in connection with petitioner Valmores' request for exemption.

The Certification dated September 15, 2014 reads in part:

This is to certify that **DENMARK S. VALMORES** is a bona fide member of the Seventh-day Adventist Church affiliated at Balongis, Balulang, Cagayan de Oro City.

As Seventh-day Adventists, we uphold our observance of the Saturday Sabbath as a day of worship and rest from labor, observing the sacredness of the Lord's day from sunset Friday to sunset Saturday. We do away

<sup>5</sup> Id. at 9; Fundamental Belief No. 20, Fundamental Beliefs of Seventh-day Adventists, id. at 36-37.

<sup>6</sup> Id. at 10.

<sup>7</sup> Id. at 41-42.

<sup>8</sup> Id. at 43.

<sup>9</sup> Id.

<sup>10</sup> Id. at 53.

<sup>11</sup> Id. at 64.

<sup>12</sup> See id. at 11.

<sup>13</sup> Id. at 64.

<sup>14</sup> Id. at 44.

<sup>15</sup> Id. at 46.

[with] secular activities like working in the office or field/**attending classes/participating/attending non-religious functions during Saturday.**

This certification is issued to support his request for exemption from all his Sabbath (from sunset Friday to sunset Saturday) classes, exams, and **other non-religious activities.**<sup>16</sup>

On September 19, 2014, petitioner Valmores again wrote a letter<sup>17</sup> to respondent Achacoso to seek reconsideration regarding his situation, reiterating his willingness to take make-up classes or their equivalent in order to complete the requirements of his course.

Despite the foregoing communications, petitioner Valmores' requests fell on deaf ears.<sup>18</sup>

Hence, aggrieved by respondents' lack of consideration, petitioner Valmores elevated the matter before the CHED.<sup>19</sup> In an Indorsement dated January 6, 2015, the CHED Regional Office, Region X, through Mr. Roy Roque U. Agcopra, Chief Administrative Officer, referred the matter directly to the President of MSU as well as respondent Achacoso and requested that the office be advised of the action thus taken.<sup>20</sup>

In response, Dr. Macapado Abaton Muslim (Dr. Muslim), President of MSU, instructed respondent Achacoso to enforce the 2010 CHED Memorandum.<sup>21</sup> In doing so, Dr. Muslim sent a copy of the said memorandum to respondent Achacoso with the following marginal note in his own handwriting:

Urgent!

For: Dean Cristina Achacoso  
College of Medicine

You are hereby enjoined to enforce this CHED memo re the case of MR. DENMARK S. VALMORES.

Thanks.<sup>22</sup>

Despite the foregoing correspondence, petitioner Valmores' request still went unheeded. Thus, in a Letter<sup>23</sup> dated March 25, 2015, petitioner Valmores, this time through his counsel on record, sought reconsideration from respondent Achacoso for the last time and manifested his intention to resort to appropriate legal action should no action be taken.

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<sup>16</sup> Id.

<sup>17</sup> Id. at 45.

<sup>18</sup> See id. at 14.

<sup>19</sup> Id.

<sup>20</sup> Id. at 50.

<sup>21</sup> Id. at 15, 51.

<sup>22</sup> Id.

<sup>23</sup> Id. at 52-54.

Notwithstanding the lapse of several months, no written or formal response was ever given by respondent Achacoso.<sup>24</sup>

Hence, the present Petition.

Petitioner Valmores brings his cause before the Court based on his constitutional right to freedom of religion, which he argues was violated by respondents when they refused to enforce the 2010 CHED Memorandum, as follows: (i) by refusing to excuse petitioner Valmores from attending classes and taking examinations on Saturdays, and (ii) by disallowing petitioner Valmores to take make-up examinations in order to comply with the academic requirements of his course.<sup>25</sup>

Respondents, on the other hand, chiefly base their defense on the fact that MSU had other students who were able to graduate from their College of Medicine despite being members of the Seventh-day Adventist Church.<sup>26</sup> On this claim, respondents argued that petitioner Valmores' case was not "unique" as to merit exceptional treatment.<sup>27</sup> Respondents likewise claimed that the Certification dated September 15, 2014 submitted by petitioner Valmores was not the certification contemplated by the 2010 CHED Memorandum and therefore there was no corresponding duty on their part to enforce the same.<sup>28</sup> Lastly, respondents posited that the changes in schedule were not unreasonable as they were due to unexpected declarations of holidays as well as unforeseen emergencies of the professors in their respective hospitals.<sup>29</sup>

Petitioner Valmores, in his Reply,<sup>30</sup> reiterated his prayer for the issuance of a writ of *mandamus* against respondents and prayed for the immediate resolution of the dispute.

#### *Issue*

The threshold issue is simple: whether *mandamus* lies to compel respondents to enforce the 2010 CHED Memorandum in the case of petitioner Valmores.

#### *The Court's Ruling*

The Petition is impressed with merit.

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<sup>24</sup> Id. at 15-16.

<sup>25</sup> Id. at 16.

<sup>26</sup> Id. at 63, 65.

<sup>27</sup> See id. at 65.

<sup>28</sup> See id. at 64.

<sup>29</sup> Id.

<sup>30</sup> Id. at 81-96.

*Strict adherence to the doctrine of hierarchy of courts is not absolute*

Before disposing of the substantial issue, although not raised by respondents in their Comment, a procedural matter warrants discussion.

Under Rule 65 of the Rules, a petition for *mandamus* is directed against a tribunal, corporation, board, officer or person who unlawfully neglects the performance of an act specifically enjoined by law or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled.<sup>31</sup> If the petition relates to an act or omission of a board, officer, or person, the same must be filed with the Regional Trial Court exercising jurisdiction over the territorial area as may be defined by the Court.<sup>32</sup>

In the case at bench, petitioner Valmores questions the acts of respondents in their capacities as Dean and faculty member of MSU-College of Medicine. As such, by directly filing the Petition with the Court instead of the proper regional trial court, as required by the Rules, petitioner Valmores was in error.

Strict adherence to the judicial hierarchy of courts has been a long-standing policy of the courts in determining the appropriate forum for initiatory actions.<sup>33</sup> While this Court has concurrent jurisdiction with the inferior courts to issue corrective writs of *certiorari*, prohibition, and *mandamus*, a party's choice of forum is by no means absolute.<sup>34</sup>

Needless to say, however, such rule is not without exception. Recently, in *Maza v. Turla*,<sup>35</sup> the Court emphasized that it possesses full discretionary power to take cognizance and assume jurisdiction over petitions filed directly with it for exceptionally compelling reasons or if warranted by the nature of the issues involved in the dispute. Citing *The Diocese of Bacolod v. Commission on Elections*,<sup>36</sup> the Court held therein that a direct resort is allowed in the following instances, *inter alia*: (i) when there are genuine issues of constitutionality that must be addressed at the most immediate time; (ii) when the questions involved are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice; and (iii) when the circumstances require an urgent resolution.

The above exceptions are all availing in this case.

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<sup>31</sup> RULES OF COURT, Rule 65, Sec. 3.

<sup>32</sup> *Id.*, Sec. 4.

<sup>33</sup> See *Ouano v. PGTT International Investment Corp.*, 434 Phil. 28, 34 (2002).

<sup>34</sup> *Id.*

<sup>35</sup> G.R. No. 187094, February 15, 2017, pp. 11-12.

<sup>36</sup> 751 Phil. 301, 331, 333-334 (2015).

The freedom of religion enjoys a preferred status among the rights conferred to each citizen by our fundamental charter.<sup>37</sup> In this case, no less than petitioner Valmores' right to religious freedom is being threatened by respondents' failure to accommodate his case.<sup>38</sup> In this regard, when confronted with a potential infringement of fundamental rights, the Court will not hesitate, as it now does, to overlook procedural lapses in order to fulfill its foremost duty of satisfying the higher demands of substantial justice.

The Court is also aware of petitioner Valmores' plea for the expedient resolution of his case, as he has yet to enroll in the MSU-College of Medicine and continue with his studies.<sup>39</sup> Plainly enough, to require petitioner Valmores to hold his education in abeyance in the meantime that he is made to comply with the rule on hierarchy of courts would be unduly burdensome. It is a known fact that education is a time-sensitive endeavor, where premium is placed not only on its completion, but also on the timeliness of its achievement. Inevitably, justice in this case must take the form of a prompt and immediate disposition if complete relief is to be accorded.

In a related matter, the Rules also require the exhaustion of other plain, speedy, and adequate remedies in the ordinary course of law before a petition for *mandamus* is filed.<sup>40</sup> In this case, petitioner Valmores had exerted all efforts to obtain relief from respondents, as clearly evidenced by the letters and other communications on record. Likewise, after respondents' repeated failure to enforce the 2010 CHED Memorandum, petitioner Valmores elevated the matter before the CHED, which in turn directly indorsed the matter to the President of MSU. Thus, prior to resorting to the instant Petition, the Court finds that petitioner Valmores had satisfactorily complied with the requirement of availing himself of other remedies under Rule 65.

On these premises, the Court finds sufficient bases to relax the foregoing procedural rules in the broader interest of justice.

*The freedom of religion vis-à-vis the  
2010 CHED Memorandum*

Religion as a social institution is deeply rooted in every culture; it predates laws and survives civilizations. In the Philippines, the 1935, 1973, and 1987 Constitutions were crafted in full acknowledgment of the contributions of religion to the country through the enactment of various benevolent provisions.<sup>41</sup> In its present incarnation, our fundamental law, by

<sup>37</sup> See *Spouses Imbong v. Ochoa, Jr.*, 732 Phil. 1, 99-100 and 179 (2014).

<sup>38</sup> See *rollo*, pp. 19-21.

<sup>39</sup> *Id.* at 93-94.

<sup>40</sup> RULES OF COURT, Rule 65, Sec. 3.

<sup>41</sup> *Spouses Imbong v. Ochoa, Jr.*, *supra* note 37, at 167.

“imploring the aid of Almighty God,” makes manifest the State’s respect and recognition of the collective spirituality of the Filipino.<sup>42</sup> Such recognition is embodied in Section 5, Article III of the Constitution:

SEC. 5. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

In *Centeno v. Villalon-Pornillos*,<sup>43</sup> the Court discussed the two-fold nature of the free-exercise clause enshrined in the cited provision:

[T]he constitution embraces two concepts, that is, freedom to believe and freedom to act. The first is absolute but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society. The freedom to act must have appropriate definitions to preserve the enforcement of that protection. In every case, the power to regulate must be so exercised, in attaining a permissible end, as not to unduly infringe on the protected freedom.

Whence, even the exercise of religion may be regulated, at some slight inconvenience, in order that the State may protect its citizens from injury. Without doubt, a State may protect its citizens from fraudulent solicitation by requiring a stranger in the community, before permitting him publicly to solicit funds for any purpose, to establish his identity and his authority to act for the cause which he purports to represent. The State is likewise free to regulate the time and manner of solicitation generally, in the interest of public safety, peace, comfort, or convenience.<sup>44</sup>

In a nutshell, the Constitution guarantees the freedom to believe absolutely, while the freedom to act based on belief is subject to regulation by the State when necessary to protect the rights of others and in the interest of public welfare.<sup>45</sup>

Today, religion has transcended mere rubric and has permeated into every sphere of human undertaking. As a result, religious freedom, to a limited extent, has come under the regulatory power of the State.

In 2010, the CHED institutionalized the framework for operationalizing Section 5, Article III of the 1987 Constitution vis-à-vis the academic freedom of higher education institutions (HEIs), pursuant to its statutory power to formulate policies, priorities, and programs on higher education in both public and private HEIs.<sup>46</sup>

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<sup>42</sup> See *id.*

<sup>43</sup> 306 Phil. 219 (1994).

<sup>44</sup> *Id.* at 232.

<sup>45</sup> *Ebralinag v. The Division Superintendent of Schools of Cebu*, G.R. Nos. 95770 and 95887, March 1, 1993, 219 SCRA 256, 270.

<sup>46</sup> Republic Act (RA) No. 7722, entitled AN ACT CREATING THE COMMISSION ON HIGHER EDUCATION, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES otherwise known as “Higher Education Act of 1994,” approved on May 18, 1994.

In the 2010 CHED Memorandum, the CHED laid down guidelines for the exemption of teachers, personnel, and students from participating in school or related activities due to compliance with religious obligations, as follows:

**FOR : ALL CHED REGIONAL OFFICE DIRECTORS AND OFFICERS-IN-CHARGE**

**SUBJECT : REMEDIAL WORK FOR TEACHERS, PERSONNEL AND STUDENTS TO BE EXCUSED DUE TO COMPLIANCE WITH RELIGIOUS OBLIGATIONS**

**DATE : November 15, 2010**

x x x x

Our fundamental Law explicitly provides under Section 5 of the Bill of Rights that “The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.” In this regard, the Commission is obligated to ensure that all higher education institutions render proper respect and compliance to this constitutional right, while at the same time acknowledging the exercise of their academic freedom also guaranteed under the Constitution.

The Commission therefore clarifies that in implementing the aforementioned policy, [higher education institutions] shall be enjoined to: (1) excuse students from attendance/participation in school or related activities if such schedule conflicts with the exercise of their religious obligations, and (2) allow faculty, personnel and staff to forego attendance during academic and related work and activities scheduled on days which would conflict with the exercise of their religious freedom. Instead, the affected students, faculty, personnel and staff may be allowed to do remedial work to compensate for absences, within the bounds of school rules and regulations without their grades being affected, or with no diminution in their salaries or leave credits or performance evaluation/assessment, provided they submit a certification or proof of attendance/participation duly signed by their pastor, priest, minister or religious leader for periods of absence from classes, work or school activities.

For your guidance and strict compliance.<sup>47</sup>

Transposing the foregoing to this case, petitioner Valmores beseeches the Court to direct respondents to enforce the 2010 CHED Memorandum, thus allowing him to continue taking up his medical studies at MSU.

*The enforcement of the 2010 CHED Memorandum is compellable by writ of mandamus*

*Mandamus* is employed to compel the performance of a ministerial duty by a tribunal, board, officer, or person.<sup>48</sup> Case law requires that the

<sup>47</sup> 2010 CHED Memorandum, *rollo*, p. 55.

<sup>48</sup> See *University of San Agustin, Inc. v. Court of Appeals*, 300 Phil. 819, 830 (1994).

petitioner should have a right to the thing demanded and that it must be the imperative duty of the respondent to perform the act required; such duty need not be absolutely expressed, so long as it is clear.<sup>49</sup> In this regard, a duty is considered ministerial where an officer is required to perform an act not requiring the exercise of official discretion or judgment in a given state of facts.<sup>50</sup> Conversely, if the law imposes a duty upon a public officer and gives him the right to decide *how* or *when* the duty shall be performed, such duty is discretionary.<sup>51</sup>

MSU is an HEI created by legislative charter under Republic Act No. 1387, as amended, and was established “to better implement the policy of the Government in the intensification of the education of the Filipino youth, especially among the Muslims and others belonging to the national minorities.”<sup>52</sup> Thus, respondents herein, as faculty members of MSU, fall under the policy-making authority of the CHED and therefore bound to observe the issuances promulgated by the latter.

The crux of the dispute therefore lies in the interpretation of the 2010 CHED Memorandum, the contents of which are again reproduced below for closer scrutiny:

**SUBJECT: REMEDIAL WORK FOR TEACHERS, PERSONNEL  
AND STUDENTS TO BE EXCUSED DUE TO  
COMPLIANCE WITH RELIGIOUS OBLIGATIONS**

X X X X

Our fundamental Law explicitly provides under Section 5 of the Bill of Rights that “The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.” In this regard, **the Commission is obligated to ensure that all higher education institutions render proper respect and compliance to this constitutional right**, while at the same time acknowledging the exercise of their academic freedom also guaranteed under the Constitution.

The Commission therefore clarifies that in implementing the aforementioned policy, [higher education institutions] **shall be enjoined to: (1) excuse students from attendance/participation in school or related activities if such schedule conflicts with the exercise of their religious obligations**, and (2) allow faculty, personnel and staff to forego attendance during academic and related work and activities scheduled on days which would conflict with the exercise of their religious freedom. Instead, **the affected students, faculty, personnel and staff may be allowed to do remedial work to compensate for absences**, within the bounds of school rules and regulations without their grades being affected, or with no diminution in their salaries or leave credits or performance evaluation/assessment, **provided they submit a certification or proof of attendance/participation duly signed by their pastor, priest, minister**

<sup>49</sup> Id.

<sup>50</sup> See *Mateo v. Court of Appeals*, 273 Phil. 507, 513 (1991).

<sup>51</sup> *Carolino v. Senga*, G.R. No. 189649, April 20, 2015, 756 SCRA 55, 70-71.

<sup>52</sup> RA No. 1893, Sec. 1. RA No. 1893 amended RA No. 1387, further amended by RA No. 3791 and RA No. 3868.



**or religious leader for periods of absence from classes, work or school activities.**

**For your guidance and strict compliance.**<sup>53</sup> (Emphasis supplied)

Analyzed, the following are derived:

- (i) HEIs are **enjoined** to excuse students from attending or participating in school or related activities, if such schedule conflicts with the students' exercise of their religious obligations;
- (ii) to compensate for absences, students **may** be allowed to do remedial work, which in turn should be within the bounds of school rules and regulations and without affecting their grades; and
- (iii) to be entitled to exemption, affected students must submit a certification of attendance duly signed by their respective minister.

At once, a plain reading of the memorandum reveals the ministerial nature of the duty imposed upon HEIs. Its policy is crystal clear: a student's religious obligations takes precedence over his academic responsibilities, consonant with the constitutional guarantee of free exercise and enjoyment of religious worship. Accordingly, the CHED imposed a positive duty on all HEIs to exempt students, as well as faculty members, from academic activities in case such activities interfere with their religious obligations.

Although the said memorandum contains the phrase "within the bounds of school rules and regulations," the same relates only to the requirement of remedial work, which, based on the language used, is merely optional on the part of the HEI. Neither can such phrase be said to have conferred discretion as the use of the words "shall be enjoined" and "strict compliance" denote a mandatory duty on the part of the HEI to excuse its students upon submission of the certification prescribed in the same memorandum.

Clearly, under the 2010 CHED Memorandum, HEIs do not possess absolute discretion to grant or deny requests for exemption of affected students. Instead, the memorandum only imposes minimum standards should HEIs decide to require remedial work, *i.e.*, that the same is within the bounds of school rules and regulations and that the grades of the students will not be affected.

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<sup>53</sup> 2010 CHED Memorandum, *rollo*, p. 55.

To evade liability, respondents, without delving into the specifics, made the blanket assertion that the Certification dated September 15, 2014 submitted by petitioner Valmores was improper:

8. That the Petitioner did submit a certification of his church that he is baptized as Seventh day Adventist which is clearly not the intention by the CHED memorandum (sic).<sup>54</sup>

Against such deficient claim, petitioner Valmores argues that the said certification issued by Pastor Hanani P. Nietes on behalf of the Seventh-day Adventist Church was sufficient to satisfy the requirement in the 2010 CHED Memorandum.<sup>55</sup> The Court agrees.

As a condition for exemption, the 2010 CHED Memorandum simply requires the submission of “a certification or proof of attendance/participation duly signed by their pastor, priest, minister or religious leader for periods of absence from classes, work or school activities.”<sup>56</sup> Again, the salient portions of the Certification dated September 15, 2014 reads:

As Seventh-day Adventists, we uphold our observance of the Saturday Sabbath as a day of worship and rest from labor, observing the sacredness of the Lord’s day from sunset Friday to sunset Saturday. We do away with secular activities like working in the office or field/attending classes/participating/attending non-religious functions during Saturday.

This certification is issued to support his request for exemption from **all his Sabbath (from sunset Friday to sunset Saturday) classes, exams,** and other non-religious activities.<sup>57</sup> (Emphasis in the original omitted; emphasis supplied)

The cited certification needs little or no interpretation: petitioner Valmores, as a *bona fide* member of the Seventh-day Adventist Church, is expected to miss “**all** his Sabbath x x x classes [and] exams” due to his observance of the Sabbath day as a day of worship. There is nothing in the 2010 CHED Memorandum that prohibits the certification from being issued *before* the period of absence from class. Even then, the Certification dated September 15, 2014 is broad enough to cover both past and future Sabbath days for which petitioner Valmores would be absent.

It is likewise well to note that respondents, by placing the sufficiency of the Certification dated September 15, 2014 in issue, in effect admitted the ministerial nature of the duty imposed upon HEIs. By raising such defense, respondents admitted to the existence of a concomitant duty to exempt and that such duty on their part would have been called for had petitioner Valmores submitted a correct certification.

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<sup>54</sup> Id. at 64.

<sup>55</sup> Id. at 90-91.

<sup>56</sup> Id. at 55.

<sup>57</sup> Id. at 46.

Significantly, respondents never even asserted, much less mentioned, their right to academic freedom in any of their submissions before the Court. Neither was there any resistance to exempt petitioner Valmores from the CHED Regional Office, Region X, or Dr. Muslim, the President of MSU, grounded on MSU's institutional independence. In fact, that Dr. Muslim explicitly ordered respondent Achacoso to enforce the 2010 CHED Memorandum<sup>58</sup> further underscores the ministerial nature of the duty of HEIs to exempt affected students.

Thus, to recapitulate, once the required certification or proof is submitted, the concerned HEI is enjoined to exempt the affected student from attending or participating in school-related activities if such activities are in conflict with their religious obligations. As to whether HEIs will require remedial work or not, the Court finds the same to be already within their discretion, so long as the remedial work required is within the bounds of school rules and regulations and that the same will not affect the grades of the concerned students.

For these reasons, the Court finds that respondents were duty bound to enforce the 2010 CHED Memorandum insofar as it requires the exemption of petitioner Valmores from academic responsibilities that conflict with the schedule of his Saturday worship. Their failure to do so is therefore correctible by *mandamus*.

*Respondents violated Petitioner  
Valmores' right to freedom of religion*

The importance of education cannot be overstated. The Court has, on many occasions, ruled that institutions of higher learning are bound to afford its students a fair opportunity to complete the course they seek to pursue, barring any violation of school rules by the students concerned.<sup>59</sup> In erudite fashion, the Court, in *Regino v. Pangasinan Colleges of Science and Technology*,<sup>60</sup> discussed:

Education is not a measurable commodity. It is not possible to determine who is "better educated" than another. Nevertheless, a student's grades are an accepted approximation of what would otherwise be an intangible product of countless hours of study. The importance of grades cannot be discounted in a setting where education is generally the gate pass to employment opportunities and better life; such grades are often the means by which a prospective employer measures whether a job applicant has acquired the necessary tools or skills for a particular profession or trade.

Thus, students expect that upon their payment of tuition fees, satisfaction of the set academic standards, completion of academic requirements and observance of school rules and regulations, the school

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<sup>58</sup> Id. at 51.

<sup>59</sup> *Regino v. Pangasinan Colleges of Science and Technology*, 485 Phil. 446, 461 (2004).

<sup>60</sup> Id.

would reward them by recognizing their “completion” of the course enrolled in.<sup>61</sup>

In the landmark case of *Ebralinag v. The Division Superintendent of Schools of Cebu*,<sup>62</sup> the Court gave weight to the religious convictions of students who were members of Jehovah’s Witnesses that refused to participate in their school’s flag ceremony. Therein, the Court held that the expulsion of the affected students based on their religious beliefs would run against the State’s duty to protect and promote the right of all its citizens to quality education and to make such education accessible to all:

We are not persuaded that by exempting the Jehovah’s Witnesses from saluting the flag, singing the national anthem and reciting the patriotic pledge, this religious group which admittedly comprises a “small portion of the school population” will shake up our part of the globe and suddenly produce a nation “untaught and uninculcated in and unimbued with reverence for the flag, patriotism, love of country and admiration for national heroes” (*Gerona vs. Sec. of Education*, 106 Phil. 2, 24). After all, what the petitioners seek only is exemption from the flag ceremony, not exclusion from the public schools where they may study the Constitution, the democratic way of life and form of government, and learn not only the arts, sciences, Philippine history and culture but also receive training for a vocation or profession and be taught the virtues of “patriotism, respect for human rights, appreciation for national heroes, the rights and duties of citizenship, and moral and spiritual values[”] (Sec. 3[2], Art. XIV, 1987 Constitution) as part of the curricula. Expelling or banning the petitioners from Philippine schools will bring about the very situation that this court had feared in *Gerona*. Forcing a small religious group, through the iron hand of the law, to participate in a ceremony that violates their religious beliefs, will hardly be conducive to love of country or respect for duly constituted authorities.

x x x x

Moreover, the expulsion of members of Jehovah’s Witnesses from the schools where they are enrolled will violate their right as Philippine citizens, under the 1987 Constitution, to receive free education, for it is the duty of the State to “protect and promote the right of all citizens to quality education x x x and to make such education accessible to all” (Sec. 1, Art. XIV).

In *Victoriano vs. Elizalde Rope Workers’ Union*, 59 SCRA 54, 72-75, we upheld the exemption of members of the Iglesia ni Cristo, from the coverage of a closed shop agreement between their employer and a union because it would violate the teaching of their church not to join any labor group:

“x x x It is certain that not every conscience can be accommodated by all the laws of the land; but when general laws conflict with scruples of conscience, exemptions ought to be granted unless some ‘compelling

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<sup>61</sup> Id. at 460-461.

<sup>62</sup> Supra note 45.

state interests' intervenes." (Sherbert vs. Berner, 374 U.S. 398, 10 L. Ed. 2d 965, 970, 83 S. Ct. 1790.)"

We hold that a similar exemption may be accorded to the Jehovah's Witnesses with regard to the observance of the flag ceremony out of respect for their religious beliefs, however "bizarre" those beliefs may seem to others. x x x If they quietly stand at attention during the flag ceremony while their classmates and teachers salute the flag, sing the national anthem and recite the patriotic pledge, we do not see how such conduct may possibly disturb the peace, or pose "a grave and present danger of a serious evil to public safety, public morals, public health or any other legitimate public interest that the State has a right (and duty) to prevent" (German vs. Barangan, 135 SCRA 514, 517).<sup>63</sup>

Here, in seeking relief, petitioner Valmores argues that he is bound by his religious convictions to refrain from all secular activities on Saturdays, a day that is deemed holy by his church.

On the other hand, respondents' refusal to excuse petitioner Valmores from Saturday classes and examinations fundamentally rests only on the fact that there were other Seventh-day Adventists who had successfully completed their studies at the MSU-College of Medicine.<sup>64</sup> Respondents, in their Comment, stated thus:

14. That there are many successful doctors who are members of the Seventh day Adventist and surely they have sacrificed before they succeeded in their calling as many Filipinos who shone in their respective fields of study.

15. That we ask ourselves, is the case of Mr. Valmores unique in (sic) its own? Certainly it is not because we have had students who are member (sic) of the Seventh-Day Adventist and our College did not have a problem with them. x x x<sup>65</sup>

Without more, respondents' bare arguments crumble against constitutional standards. As discussed above, the Bill of Rights guarantees citizens the freedom to act on their individual beliefs and proscribes government intervention unless necessary to protect its citizens from injury or when public safety, peace, comfort, or convenience requires it.<sup>66</sup> Thus, as faculty members of the MSU-College of Medicine, respondents herein were duty-bound to protect and preserve petitioner Valmores' religious freedom.

Even worse, respondents suggest that the "sacrifices" of other students of the common faith justified their refusal to give petitioner Valmores exceptional treatment. This is *non-sequitur*. Respondents brush aside petitioner Valmores' religious beliefs as if it were subject of compromise; one man's convictions and another man's transgressions are theirs alone to

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<sup>63</sup> Id. at 271-273.

<sup>64</sup> *Rollo*, pp. 64-65.

<sup>65</sup> Id.

<sup>66</sup> *Ebralinag v. The Division Superintendent of Schools of Cebu*, supra note 45, at 271, 273.

bear. That other fellow believers have chosen to violate their creed is irrelevant to the case at hand, for in religious discipline, adherence is always the general rule, and compromise, the exception.

While in some cases the Court has sustained government regulation of religious rights, the Court fails to see in the present case how public order and safety will be served by the denial of petitioner Valmores' request for exemption. Neither is there any showing that petitioner Valmores' absence from Saturday classes would be injurious to the rights of others. Precisely, the 2010 CHED Memorandum was issued to address such conflicts and prescribes the action to be taken by HEIs should such circumstance arise.

What is certain, as gathered from the foregoing, is that respondents' concerted refusal to accommodate petitioner Valmores rests mainly on extra-legal grounds, which cannot, by no stretch of legal verbiage, defeat the latter's constitutionally-enshrined rights. That petitioner Valmores is being made by respondents to choose between honoring his religious obligations and finishing his education is a patent infringement of his religious freedoms. As the final bulwark of fundamental rights, this Court will not allow such violation to perpetuate any further.

### *Conclusion*

Every person is free to tread the far territories of their conscience, no matter where they may lead – for the freedom to believe and act on one's own convictions and the protection of such freedom extends to all people, from the theistic to the godless. The State must, as a matter of duty rather than consequence, guarantee that such pursuit remains unfettered.

As representatives of the State, educational institutions are bound to safeguard the religious freedom of their students. Thus, to such end, our schools carry the responsibility to restrict its own academic liberties, should they collide with constitutionally preferred rights.

**WHEREFORE**, the Petition is **GRANTED**. Respondents Dr. Cristina Achacoso and Dr. Giovanni Cabildo are **DIRECTED** to enforce the Commission on Higher Education Memorandum dated November 15, 2010 in the case of petitioner Denmark S. Valmores.

**SO ORDERED.**

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

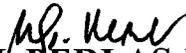
WE CONCUR:



**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**ESTELA M. BERLAS-BERNABE**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

