



Republic of the Philippines

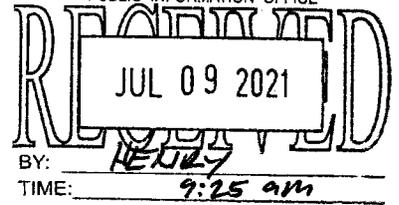
Supreme Court

Manila

EN BANC

NOTICE

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

*Please take notice that the Court en banc issued a Resolution dated JUNE 15, 2021, which reads as follows:*

**“G.R. No. 254087 (Aiza Felipe vs. Philippine Overseas Employment Agency).** – For resolution by the Court is a Petition for *Certiorari*, Injunction and Prohibition,<sup>1</sup> with prayer for the issuance of a temporary restraining order (TRO) filed by Aiza Felipe (petitioner), who claims to have been a national leader in the nursing profession. She also invokes her standing as a citizen and taxpayer in filing the petition.

Pursuant to Proclamation No. 922,<sup>2</sup> series of 2020, which declared a state of public health emergency due to the corona virus disease 2019 (Covid-19), and Proclamation No. 929,<sup>3</sup> series of 2020, which placed the entire Luzon under Enhanced Community Quarantine until April 12, 2020, respondent Philippine Overseas Employment Agency (POEA) issued Memorandum Circular (MC) No. 7-A, series of 2020, which in part provides:

In compliance with national and inter-agency directives, the deployment of Filipino health care workers shall be strictly regulated to prioritize and provide support to the health care needs of the country during the COVID-19 pandemic. Such regulation shall be lifted as soon as the pandemic is declared to be under control.

Towards this end, the POEA Employment Branch shall immediately study, coordinate with health authorities, and provide guidelines for a regulated deployment of Filipino health care workers.

Assailing the constitutionality of the MC, petitioner filed this petition directly before this Court, arguing that it violates the equal protection clause, the right to travel, the right to work overseas, and the inviolability of contracts. In particular, petitioner presents the following arguments: **(1)** the MC violates the equal protection clause as the assailed issuance rests on an invalid classification between healthcare workers with perfected

<sup>1</sup> *Rollo*, pp. 3-43.

<sup>2</sup> DECLARING A STATE OF PUBLIC HEALTH EMERGENCY THROUGHOUT THE PHILIPPINES, March 8, 2020.

<sup>3</sup> DECLARING A STATE OF CALAMITY THROUGHOUT THE PHILIPPINES DUE TO CORONA VIRUS DISEASE 2019, March 16, 2020.

employment contracts as of March 8, 2020 (later changed to August 31, 2020) who were permitted to travel, as against those without perfected contracts as of said date; (2) the MC is overbroad as it prohibits travel of healthcare workers without contracts as of August 31, 2020, without distinction as to whether or not said workers occupy positions in government or private hospitals, and it limits the activity of said workers in different jobs; and (3) the POEA has not shown a compelling state interest to restrict the right of healthcare workers to travel, to work abroad and to fulfill their contracts, as the ban was based on unfounded fear without scientific or legal basis.

Petitioner attached various Affidavits<sup>4</sup> of persons who claimed to have been affected by the deployment ban as the processing of their applications was put on hold, or they were not able to travel abroad on or before March 8, 2020 due to lack of a POEA-issued overseas employment certificate.

The Court resolves to dismiss the petition for lack of actual case or controversy.

Basic is the rule that the Court's exercise of the power of judicial review requires the following: (1) the existence of an actual case or controversy involving legal rights that are capable of judicial determination; (2) the parties raising the issue must have standing or *locus standi* to raise the constitutional issue; (3) the constitutionality must be raised at the earliest possible opportunity, thus ripe for adjudication; and (4) the matter of constitutionality must be the very *lis mota* of the case, or that constitutionality must be essential to the disposition of the case.<sup>5</sup>

"[A]n actual case or controversy is one which involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute," and "[t]o be justiciable, the case or controversy must present a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence."<sup>6</sup> This first requisite demands that "a legally demandable and enforceable right must exist as basis, and must be shown to have been violated."<sup>7</sup>

The Court finds that this requisite is absent as petitioner was not able to show how her legal rights had been violated by the assailed MC. Petitioner merely alleged in her attached affidavit that she resigned from her

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<sup>4</sup> Affidavit of Rainier Gabriel Millano, *rollo*, pp. 46-47; Affidavit of Maria Katrina A. Laccina, *id.* at 49-50; Testimony of Mark Anthony S. Beltran, *id.* at 51-52; Affidavit of Lilibeth M. Abaincia, *id.* at 55-56; Affidavit of Marilie C. Danglay, *id.* at 58-59; Affidavit of petitioner Aiza L. Felipe, *id.* at 60-61; Affidavit of Maria Victoria Mae J. Obarra, *id.* at 62-63; Affidavit of Fleshette B. Tria; *id.* at 64-65.

<sup>5</sup> See *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019.

<sup>6</sup> *Private Hospitals Association of the Philippines, Inc. v. Medialdea*, G.R. No. 234448, November 6, 2018.

<sup>7</sup> *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*, 802 Phil. 116, 140 (2016).

work in order to focus on studying the German language as she had planned to work in Germany, and that the deployment ban is causing her too much anxiety and insomnia.<sup>8</sup> She has not shown, or even alleged, that the assailed MC has prevented her from travelling and working abroad or has prevented her from performing her contractual obligations, if any. On the other hand, the attached affidavits of the other persons claiming to have been adversely affected by the deployment ban cannot cure the lack of actual case or controversy considering that these persons do not appear to be parties in this case, or that petitioner has proper authority to represent them in this petition.

The Court takes judicial notice as well of POEA Governing Board Resolution (GBR) No. 17, series of 2020, which lifted the temporary overseas deployment ban of newly hired nurses, nursing aides, and nursing assistants. Said GBR provides in part:

1. The moratorium or temporary suspension of deployment of newly hired nurses, nursing aides, and nursing assistants is hereby lifted effective immediately. *Provided*, that their deployment shall be subject to travel restrictions of the host country and execution of a Declaration signifying their knowledge and understanding of the risks involved as advised by the Philippine Government;
2. With regard to other medical and allied HCWs, the moratorium or temporary suspension shall remain effective until the POEA upon due consultation with stakeholders, the Professional Regulation Commission (PRC), and the Department of Health (DOH), lifts the moratorium with respect to them;
3. Effective 01 January 2021, the POEA shall impose an annual deployment ceiling of 5,000 new hire HCWs disaggregated by occupation until such time that the IATF may decide to increase such ceiling considering the prevalence of public health emergency caused by the COVID-19 pandemic. Taking into consideration the national demand for healthcare vis-a-vis the number of HCWs in the country, the DOLE in consultation with all concerned shall make regular assessment whether any of the identified HCWs in GBR No. 9, Series of 2020 should be removed from the framework of MCS;
4. HCWs already exempt as per existing issuances shall remain exempt from the moratorium;

Considering that petitioner claims to be a nurse, this petition has been rendered moot and academic as the ban on deployment of nurses had already been lifted, subject to a certain ceiling on annual deployment. As this Court has held:

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial

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<sup>8</sup> *Rollo*, p. 60-61.

June 15, 2021

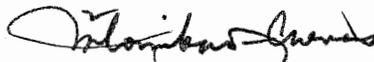
relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness. This is because the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.<sup>9</sup>

On the basis of the foregoing, the dismissal of the petition is in order. In the absence of an actual case or controversy which is ripe for adjudication, the Court finds it unnecessary to dwell on the arguments forwarded by petitioner.

In any case, the petition is also dismissible for being procedurally defective inasmuch as the verification and certification of non-forum shopping attached to it was not properly filled out and does not pertain to the instant petition but to a case of violation of *Batas Pambansa Blg. 22*. In effect, this petition totally lacks the required verification and certification against forum shopping which is a fatal error, warranting the outright dismissal of the petition pursuant to Sections 1 and 2, Rule 65 and Section 3, Rule 46 of the Rules of Court.<sup>10</sup>

**WHEREFORE**, the petition is **DISMISSED**. The prayer for the issuance of a Temporary Restraining Order is **DENIED**.” (adv2)

By authority of the Court:

  
**MARIFE M. LOMIBAO-CUEVAS**  
Clerk of Court

<sup>9</sup> *ABS-CBN Corporation v. National Telecommunications Commission*, G.R. No. 252119, August 25, 2020, citing *Peñafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration*, 728 Phil. 535, 540 (2014).

<sup>10</sup> See *Rolando Clavecilla v. Teresito Quitain and Rico Quitain*, 518 Phil. 53, 62-65 (2006).

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G.R. No. 254087  
kat 6/15/21 (URes2) 7/7/21

