

EN BANC

[G.R. No. 153888, July 09, 2003]

ISLAMIC DA'WAH COUNCIL OF THE PHILIPPINES, INC., HEREIN REPRESENTED BY PROF. ABDULRAFIH H. SAYEDY, PETITIONER, VS. OFFICE OF THE EXECUTIVE SECRETARY OF THE OFFICE OF THE PRESIDENT OF THE PHILIPPINES, HEREIN REPRESENTED BY HON. ALBERTO G. ROMULO, EXECUTIVE SECRETARY, AND THE OFFICE ON MUSLIM AFFAIRS, HEREIN REPRESENTED BY ITS EXECUTIVE DIRECTOR, HABIB MUJAHAB HASHIM, RESPONDENTS.

DECISION

CORONA, J.:

Before us is a petition for prohibition filed by petitioner Islamic Da'wah Council of the Philippines, Inc. (IDCP) praying for the declaration of nullity of Executive Order (EO) 46, s. 2001 and the prohibition of herein respondents Office of the Executive Secretary and Office of Muslim Affairs (OMA) from implementing the subject EO.

Petitioner IDCP, a corporation that operates under Department of Social Welfare and Development License No. SB-01-085, is a non-governmental organization that extends voluntary services to the Filipino people, especially to Muslim communities. It claims to be a federation of national Islamic organizations and an active member of international organizations such as the Regional Islamic Da'wah Council of Southeast Asia and the Pacific (RISEAP)^[1] and The World Assembly of Muslim Youth. The RISEAP accredited petitioner to issue halal^[2] certifications in the Philippines. Thus, among the functions petitioner carries out is to conduct seminars, orient manufacturers on halal food and issue halal certifications to qualified products and manufacturers.

Petitioner alleges that, on account of the actual need to certify food products as halal and also due to halal food producers' request, petitioner formulated in 1995 internal rules and procedures based on the Qur'an^[3] and the Sunnah^[4] for the analysis of food, inspection thereof and issuance of halal certifications. In that same year, petitioner began to issue, for a fee, certifications to qualified products and food manufacturers. Petitioner even adopted for use on its halal certificates a distinct sign or logo registered in the Philippine Patent Office under Patent No. 4-2000-03664.

On October 26, 2001, respondent Office of the Executive Secretary issued EO 46^[5] creating the Philippine Halal Certification Scheme and designating respondent OMA to oversee its implementation. Under the EO, respondent OMA has the exclusive authority to issue halal certificates and perform other related regulatory activities.

On May 8, 2002, a news article entitled "OMA Warns NGOs Issuing Illegal 'Halal' Certification" was published in the Manila Bulletin, a newspaper of general

circulation. In said article, OMA warned Muslim consumers to buy only products with its official halal certification since those without said certification had not been subjected to careful analysis and therefore could contain pork or its derivatives. Respondent OMA also sent letters to food manufacturers asking them to secure the halal certification only from OMA lest they violate EO 46 and RA 4109.^[6] As a result, petitioner lost revenues after food manufacturers stopped securing certifications from it.

Hence, this petition for prohibition.

Petitioner contends that the subject EO violates the constitutional provision on the separation of Church and State.^[7] It is unconstitutional for the government to formulate policies and guidelines on the halal certification scheme because said scheme is a function only religious organizations, entity or scholars can lawfully and validly perform for the Muslims. According to petitioner, a food product becomes halal only after the performance of Islamic religious ritual and prayer. Thus, only practicing Muslims are qualified to slaughter animals for food. A government agency like herein respondent OMA cannot therefore perform a religious function like certifying qualified food products as halal.

Petitioner also maintains that the respondents violated Section 10, Article III of the 1987 Constitution which provides that "(n)o law impairing the obligation of contracts, shall be passed." After the subject EO was implemented, food manufacturers with existing contracts with petitioner ceased to obtain certifications from the latter.

Moreover, petitioner argues that the subject EO violates Sections 15 and 16 of Article XIII of the 1987 Constitution which respectively provide:

ROLE AND RIGHTS OF PEOPLE'S ORGANIZATIONS

Sec. 15. The State shall respect the role of independent people's organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.

People's organizations are *bona fide* associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure.

Sec. 16. The rights of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate, the establishment of adequate consultation mechanisms.

According to petitioner, the subject EO was issued with utter haste and without even consulting Muslim people's organizations like petitioner before it became effective.

We grant the petition.

OMA was created in 1981 through Executive Order No. 697 (EO 697) "to ensure the integration of Muslim Filipinos into the mainstream of Filipino society *with due*

regard to their beliefs, customs, traditions, and institutions."^[8] OMA deals with the societal, legal, political and economic concerns of the Muslim community *as a "national cultural community" and not as a religious group*. Thus, bearing in mind the constitutional barrier between the Church and State, the latter must make sure that OMA does not intrude into purely religious matters lest it violate the non-establishment clause and the "free exercise of religion" provision found in Article III, Section 5 of the 1987 Constitution.^[9]

Freedom of religion was accorded preferred status by the framers of our fundamental law. And this Court has consistently affirmed this preferred status, well aware that it is "designed to protect the broadest possible liberty of conscience, to allow each man to believe as his conscience directs, to profess his beliefs, and to live as he believes he ought to live, consistent with the liberty of others and with the common good."^[10]

Without doubt, classifying a food product as halal is a religious function because the standards used are drawn from the Qur'an and Islamic beliefs. By giving OMA the exclusive power to classify food products as halal, EO 46 encroached on the religious freedom of Muslim organizations like herein petitioner to interpret for Filipino Muslims what food products are fit for Muslim consumption. Also, by arrogating to itself the task of issuing halal certifications, the State has in effect forced Muslims to accept its own interpretation of the Qur'an and Sunnah on halal food.

To justify EO 46's intrusion into the subject religious activity, the Solicitor General argues that the freedom of religion is subservient to the police power of the State. By delegating to OMA the authority to issue halal certifications, the government allegedly seeks to protect and promote the muslim Filipinos' right to health, and to instill health consciousness in them.

We disagree.

Only the prevention of an immediate and grave danger to the security and welfare of the community can justify the infringement of religious freedom.^[11] If the government fails to show the seriousness and immediacy of the threat, State intrusion is constitutionally unacceptable. In a society with a democratic framework like ours, the State must minimize its interference with the affairs of its citizens and instead allow them to exercise reasonable freedom of personal and religious activity.

In the case at bar, we find no compelling justification for the government to deprive Muslim organizations, like herein petitioner, of their religious right to classify a product as halal, even on the premise that the health of Muslim Filipinos can be effectively protected by assigning to OMA the exclusive power to issue halal certifications. The protection and promotion of the Muslim Filipinos' right to health are already provided for in existing laws and ministered to by government agencies charged with ensuring that food products released in the market are fit for human consumption, properly labeled and safe. *Unlike EO 46, these laws do not encroach on the religious freedom of Muslims.*

Section 48(4) of the Administrative Code of 1987 gives to the National Meat Inspection Commission (NMIC) of the Department of Agriculture (DOA) the power to inspect slaughtered animals intended for human consumption to ensure the safety

of the meat released in the market. Another law, RA 7394, otherwise known as "The Consumer Act of 1992," gives to certain government departments the duty to protect the interests of the consumer, promote his general welfare and to establish standards of conduct for business and industry.^[12] To this end, a food product, before its distribution to the market, is required to secure the Philippine Standard Certification Mark after the concerned department inspects and certifies its compliance with quality and safety standards.^[13]

One such government agency designated by RA 7394 is the Bureau of Food and Drugs (BFD) of the Department of Health (DOH). Under Article 22 of said law, BFD has the duty to promulgate and enforce rules and regulations fixing and establishing a reasonable definition and standard of identity, a standard of quality and a standard of fill of containers for food. The BFD also ensures that food products released in the market are not adulterated.^[14]

Furthermore, under Article 48 of RA 7394, the Department of Trade and Industry (DTI) is tasked to protect the consumer against deceptive, unfair and unconscionable sales acts or practices as defined in Article 50.^[15] DTI also enforces compulsory labeling and fair packaging to enable the consumer to obtain accurate information as to the nature, quality and quantity of the contents of consumer products and to facilitate his comparison of the value of such products.^[16]

With these regulatory bodies given detailed functions on how to screen and check the quality and safety of food products, the perceived danger against the health of Muslim and non-Muslim Filipinos alike is totally avoided. Of great help are the provisions on labeling of food products (Articles 74 to 85)^[17] of RA 7394. In fact, through these labeling provisions, the State ably informs the consuming public of the contents of food products released in the market. Stiff sanctions are imposed on violators of said labeling requirements.

Through the laws on food safety and quality, therefore, the State *indirectly* aids Muslim consumers in differentiating food from non-food products. The NMIC guarantees that the meat sold in the market has been thoroughly inspected and fit for consumption. Meanwhile, BFD ensures that food products are properly categorized and have passed safety and quality standards. Then, through the labeling provisions enforced by the DTI, Muslim consumers are adequately apprised of the products that contain substances or ingredients that, according to their Islamic beliefs, are not fit for human intake. These are the non-secular steps put in place by the State to ensure that the Muslim consumers' right to health is protected. The halal certifications issued by petitioner and similar organizations come forward as the *official religious approval* of a food product fit for Muslim consumption.

We do not share respondents' apprehension that the absence of a central administrative body to regulate halal certifications might give rise to schemers who, for profit, will issue certifications for products that are not actually halal. Aside from the fact that Muslim consumers can actually verify through the labels whether a product contains non-food substances, we believe that they are discerning enough to know who the reliable and competent certifying organizations in their community are. Before purchasing a product, they can easily avert this perceived evil by a diligent inquiry on the reliability of the concerned certifying organization.

WHEREFORE, the petition is **GRANTED**. Executive Order 46, s. 2001, is hereby declared **NULL AND VOID**. Consequently, respondents are prohibited from enforcing the same.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Panganiban, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

Puno, J., concur with the opinion of J., Vitug.

Vitug, J., please see Separate Opinion.

Quisumbing, Sandoval-Gutierrez, J., on official leave

[1] According to the petitioner, RISEAP is a federation of Muslim organizations in non-Muslim countries where Muslims are minorities in Asia and the Pacific.

[2] Halal is a Muslim term that means lawful food, things, manners and actions allowed by God for mankind and enjoined upon the believers (Petition, p. 6; Rollo, p. 8). It is a term that means "to slaughter for food" (WEBSTER'S THIRD INTERNATIONAL DICTIONARY, 1986 Ed., p. 1021).

[3] The book composed of writings accepted by Muslims as revelations made to Mohammad by Allah and the divinely authorized basis for the religious, social, civil, commercial, military, and legal regulations of the Islamic world (WEBSTER'S THIRD INTERNATIONAL DICTIONARY, 1986 Ed., p. 1255).

[4] The body of Islamic custom and practice based on Mohammad's words and deeds (WEBSTER'S THIRD INTERNATIONAL DICTIONARY, 1986 Ed., p. 2292).

[5] **EXECUTIVE ORDER NO. 46**

**AUTHORIZING THE OFFICE ON MUSLIM AFFAIRS TO UNDERTAKE
PHILIPPINE HALAL CERTIFICATION**

WHEREAS, it is the policy of the State to protect and promote the Filipino' right to health and instill health consciousness among them;

xxx xxx xxx

WHEREAS, the establishment of a Philippine Halal Certification Scheme for food and non-food products will contribute toward:

1. The establishment of a national standards and certification scheme for halal food and non-food products and a national standards and accreditation scheme for establishments;
2. The opening of new markets and the development of strong consumer awareness of, and confidence in, Philippine halal food and non-food products;