[G.R. No. 72119. May 29, 1987.]

VALENTIN L. LEGASPI, petitioner, vs. **CIVIL SERVICE COMMISSION,** respondent.

En Banc; Decision

CORTES, J p:

The fundamental right of the people to information on matters of public concern is invoked in this special civil action for Mandamus instituted by petitioner Valentin L. Legaspi against the Civil Service Commission. The respondent had earlier denied Legaspi's request for information on the civil service eligibilities of certain persons employed as sanitarians in the Health Department of Cebu City. These government employees, Julian Sibonghanoy and Mariano Agas, had allegedly represented themselves as civil service eligibles who passed the civil service examinations for sanitarians.

Claiming that his right to be informed of the eligibilities of Julian Sibonghanoy and Mariano Agas is guaranteed by the Constitution, and that he has no other plain, speedy and adequate remedy to acquire the information, petitioner prays for the issuance of the extraordinary writ of Mandamus to compel the respondent Commission to disclose said information.

This is not the first time that the writ of Mandamus is sought to enforce the fundamental right to information. The same remedy was resorted to in the case of Tanada et. al. vs. Tuvera et. al., (G.R. No. L-63915, April 24, 1985, 136 SCRA 27) wherein the people's right to be informed under the 1973 Constitution (Article IV, Section 6) was invoked in order to compel the publication in the Official Gazette of various presidential decrees, letters of instructions and other presidential issuances. Prior to the recognition of the right in said Constitution, the statutory right to information provided for in the Land Registration Act (Section 56, Act 496, as amended) was claimed by a newspaper editor in another Mandamus proceeding, this time to demand access to the records of the Register of Deeds for the purpose of gathering data on real estate transactions involving aliens (Subido vs. Ozaeta, 80 Phil. 383 [1948]).
The constitutional right to information on matters of public concern first gained recognition in the Bill of Rights, Article IV, of the 1973 Constitution, which states:

> Sec. 6. The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, shall be afforded the citizen subject to such limitations as may be provided by law.

The foregoing provision has been retained and the right therein provided amplified in Article III, Sec. 7 of the 1987 Constitution with the addition of the phrase, "as well as to government research data used as basis for policy development." The new provision reads:
The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

These constitutional provisions are self-executing. They supply the rules by means of which the right to information may be enjoyed (Cooley, A Treatise on the Constitutional Limitations 167 [1927]) by guaranteeing the right and mandating the duty to afford access to sources of information. Hence, the fundamental right therein recognized may be asserted by the people upon the ratification of the constitution without need for any ancillary act of the

Legislature. (Id. at, p. 165) What may be provided for by the Legislature are reason able conditions and limitations upon the access to be afforded which must, of necessity, be consistent with the declared State policy of full public disclosure of all transactions involving public interest (Constitution, Art. II, Sec. 28). However, it cannot be overemphasized that whatever limitation may be prescribed by the Legislature, the right and the duty under Art. III, Sec. 7 have become operative and enforceable by virtue of the adoption of the New Charter. Therefore, the right may be properly invoked in a Mandamus proceeding such as this one.

The Solicitor General interposes procedural objections to Our giving due course to this Petition. He challenges the petitioner's standing to sue upon the ground that the latter does not possess any clear legal right to be informed of the civil service eligibilities of the government employees concerned. He calls attention to the alleged failure of the petitioner to show his actual interest in securing this particular information. He further argues that there is no ministerial duty on the part of the Commission to furnish the petitioner with the information he seeks.

1. To be given due course, a Petition for Mandamus must have been instituted by a party aggrieved by the alleged inaction of any tribunal, corporation, board or person which unlawfully excludes said party from the enjoyment of a legal right. (Anti-Chinese League of the Philippines vs. Felix, 77 Phil. 1012 [1947]). The petitioner in every case must therefore be an "aggrieved party" in the sense that he possesses a clear legal right to be enforced and a direct interest in the duty or act to be performed.

In the case before Us, the respondent takes issue on the personality of the petitioner to bring this suit. It is asserted that, the instant Petition is bereft of any allegation of Legaspi's actual interest in the civil service eligibilities of Julian Sibonghanoy and Mariano Agas. At most there is a vague reference to an unnamed client in whose behalf he had allegedly acted when he made inquiries on the subject (Petition, Rollo, p. 3).
But what is clear upon the face of the Petition is that the petitioner has firmly anchored his case upon the right of the people to information on matters of public concern, which, by its very nature, is a public right. It has been held that: . . . when the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty, the people are regarded as the real party in interest and the relator at whose instigation the proceedings are instituted need not show that he has any legal or special interest in the result, it being sufficient to show that he is a citizen and as such interested in the execution of the laws . . . (Tanada et. al. vs. Tuvera, et. al., G.R. No. L-63915, April 24, 1985, 136 SCRA 27, 36).

From the foregoing, it becomes apparent that when a Mandamus proceeding involves the assertion of a public right, the requirement of personal interest is satisfied by the mere fact that the petitioner is a citizen, and therefore, part of the general "public" which possesses the right.
The Court had opportunity to define the word "public" in the Subido case, supra, when it held that even those who have no direct or tangible interest in any real estate transaction are part of the "public" to whom "(a)ll records relating to registered lands in the Office of the Register of Deeds shall be open . . ." (Sec. 56, Act No. 496, as amended). In the words of the Court: . . . "Public" is a comprehensive, all-inclusive term. Properly construed, it embraces every person. To say that only those who have a present and existing interest of a pecuniary character in the particular information sought are given the right of inspection is to make an unwarranted distinction. . . . (Subido vs. Ozaeta, supra at p. 387).

The petitioner, being a citizen who, as such is clothed with personality to seek redress for the alleged obstruction of the exercise of the public right. We find no cogent reason to deny his standing to bring the present suit.

2. For every right of the people recognized as fundamental, there lies a corresponding duty on the part of those who govern, to respect and protect that right. That is the very essence of the Bill of Rights in a constitutional regime. Only governments operating under fundamental rules defining the limits of their power so as to shield individual rights against its arbitrary exercise can properly claim to be constitutional (Cooley, supra. at p. 5). Without a government's acceptance of the limitations imposed upon it by the Constitution in order to uphold individual liberties, without an acknowledgment on its part of those duties exacted by the rights pertaining to the citizens, the Bill of Rights becomes a sophistry, and liberty, the ultimate illusion.

In recognizing the people's right to be informed, both the 1973 Constitution and the New Charter expressly mandate the duty of the State and its agents to afford access to official records, documents, papers and in addition, government research data used as basis for policy development, subject to such limitations as may be provided by law. The guarantee has been further enhanced in the New Constitution with the adoption of a policy of full public disclosure, this time "subject to reasonable conditions prescribed by law," in Article II, Section 28 thereof, to wit:

Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest. (Art. II, Sec. 28).

In the Tanada case, supra, the constitutional guarantee was bolstered by what this Court declared as an imperative duty of the government officials concerned to publish all important legislative acts and resolutions of a public nature as well as all executive orders and proclamations of general applicability. We granted Mandamus in said case, and in the process, We found occasion to expound briefly on the nature of said duty: . . . That duty must be enforced if the Constitutional right of the people to be informed on matters of public concern is to be given substance and reality. The law itself makes a list of what should be published in the Official Gazette. Such listing, to our mind, leaves respondents with no discretion whatsoever as to what must be included or excluded from such publication. (Tanada v. Tuvera, supra, at 39).

The absence of discretion on the part of government agencies in allowing the examination of public records, specifically, the records in the Office of the Register of Deeds, is emphasized in Subido vs. Ozaeta, supra: Except, perhaps when it is clear that the purpose of the examination is unlawful, or sheer, idle curiosity, we do not believe it is the duty under the law of registration officers to concern themselves with the motives, reasons, and objects of the person seeking access to the records. It is not their prerogative to see that the information which the records contain is not flaunted before public gaze, or that scandal is not made of it. If it be wrong to publish the contents of the records, it is the legislature and not the officials having custody thereof which is called upon to devise a remedy. . . . (Subido v. Ozaeta, supra at 388).

It is clear from the foregoing pronouncements of this Court that government agencies are without discretion in refusing disclosure of, or access to, information of public concern. This is not to lose sight of the reasonable regulations which may be imposed by said agencies in custody of public records on the manner in which the right to information may be exercised by the public. In the Subido case, We recognized the authority of the Register of Deeds to regulate the manner in which persons desiring to do so, may inspect, examine or copy records relating to registered lands. However, the regulations which the Register of Deeds may promulgate are confined to: . . . prescribing the manner and hours of examination to the end that damage to or loss of, the records may be avoided, that undue interference with the duties of the custodian of the books and

documents and other employees may be prevented, that the right of other persons entitled to make inspection may be insured . . . (Subido vs. Ozaeta, 80 Phil. 383, 387).

Applying the Subido ruling by analogy, We recognized a similar authority in a municipal judge, to regulate the manner of inspection by the public of criminal docket records in the case of Baldoza vs. Dimaano (Adm. Matter No. 1120-MJ, May 5, 1976, 71 SCRA 14). Said administrative case was filed against the respondent judge for his alleged refusal to allow examination of the criminal docket records in his sala. Upon a finding by the Investigating Judge that the respondent had allowed the complainant to open and view the subject records, We absolved the respondent. In effect, We have also held that the rules and conditions imposed by him upon the manner of examining the public records were reasonable.

In both the Subido and the Baldoza cases, We were emphatic in Our statement that the authority to regulate the manner of examining public records does not carry with it the power to prohibit. A distinction has to be made between the discretion to refuse outright the disclosure of or access to a particular information and the authority to regulate the manner in which the access is to be afforded. The first is a limitation upon the availability of access to the information sought, which only the Legislature may impose (Art. III, Sec. 6, 1987 Constitution). The second pertains to the government agency charged with the custody of public records. Its authority to regulate access is to be exercised solely to the end that damage to, or loss of, public records may be avoided, undue interference with the duties of said agencies may be prevented, and more importantly, that the exercise of the same constitutional right by other persons shall be assured (Subido vs. Ozaeta, supra).

Thus, while the manner of examining public records may be subject to reasonable regulation by the government agency in custody thereof, the duty to disclose the information of public concern, and to afford access to public records cannot be discretionary on the part of said agencies. Certainly, its performance cannot be made contingent upon the discretion of such agencies. Otherwise, the enjoyment of the constitutional right may be rendered nugatory by any whimsical exercise of agency discretion. The constitutional duty, not being discretionary, its performance may be compelled by a writ of Mandamus in a proper case.

But what is a proper case for Mandamus to issue? In the case before Us, the public right to be enforced and the concomitant duty of the State are unequivocably set forth in the Constitution. The decisive question on the propriety of the issuance of the writ of Mandamus in this case is, whether the information sought by the petitioner is within the ambit of the constitutional guarantee.

3. The incorporation in the Constitution of a guarantee of access to information of public concern is a recognition of the essentiality of the free flow of ideas and information in a democracy (Baldoza v. Dimaano, Adm. Matter No. 1120-MJ, May 5, 1976, 17 SCRA 14). In the same way that free discussion enables members of society to cope with the exigencies of their time (Thornhill vs. Alabama, 310 U.S. 88, 102 [1939]), access to information of general interest aids the people in democratic decision-making (87 Harvard Law Review 1505 [1974] by giving them a better perspective of the vital issues confronting the nation.

But the constitutional guarantee to information on matters of public concern is not absolute. It does not open every door to any and all information. Under the Constitution, access to official records, papers, etc., are "subject to limitations as may be provided by law" (Art. III, Sec. 7, second sentence). The law may therefore exempt certain types of information from public scrutiny, such as those affecting national security (Journal No. 90, September 23, 1986, p. 10; and

Journal No. 91, September 24, 1986, p. 32, 1986 Constitutional Commission). It follows that, in every case, the availability of access to a particular public record must be circumscribed by the nature of the information sought, i.e., (a) being of public concern or one that involves public interest, and, (b) not being exempted by law from the operation of the constitutional guarantee. The threshold question is, therefore, whether or not the information sought is of public interest or public concern.

a. This question is first addressed to the government agency having custody of the desired information. However, as already discussed, this does not give the agency concerned any discretion to grant or deny access. In case of denial of access, the government agency has the burden of showing that the information requested is not of public concern, or, if it is of public concern, that the same has been exempted by law from the operation of the guarantee. To hold otherwise will serve to dilute the constitutional right. As aptly observed, ". . . the government is in an advantageous position to marshall and interpret arguments against release . . ." (87 Harvard Law Review 1511 [1974]). To safeguard the constitutional right, every denial of access by the government agency concerned is subject to review by the courts, and in the proper case, access may be compelled by a writ of Mandamus.

In determining whether or not a particular information is of public concern there is no rigid test which can be applied. "Public concern" like "public interest" is a term that eludes exact definition. Both terms embrace a broad spectrum of subjects which the public may want to know, either because these directly affect their lives, or simply because such matters naturally arouse the interest of an ordinary citizen. In the final analysis, it is for the courts to determine in a case by case basis whether the matter at issue is of interest or importance, as it relates to or affects the public.

The public concern invoked in the case of Tañada v. Tuvera, supra, was the need for adequate notice to the public of the various laws which are to regulate the actions and conduct of citizens. In Subido vs. Ozaeta, supra, the public concern deemed covered by the statutory right was the knowledge of those real estate transactions which some believed to have been registered in violation of the Constitution.

The information sought by the petitioner in this case is the truth of the claim of certain government employees that they are civil service eligibles for the positions to which they were appointed. The Constitution expressly declares as a State policy that:
Appointments in the civil service shall be made only according to merit and fitness to be determined, as far as practicable, and except as to positions which are policy determining, primarily confidential or highly technical, by competitive examination. (Art. IX, B, Sec. 2. [2]).
Public office being a public trust, [Const., Art. XI, Sec: 1] it is the legitimate concern of citizens to ensure that government positions requiring civil service eligibility are occupied only by persons who are eligibles. Public officers are at all times accountable to the people even as to their eligibilities for their respective positions.

b. But then, it is not enough that the information sought is of public interest. For Mandamus to lie in a given case, the information must not be among the species exempted by law from the operation of the constitutional guarantee.

In the instant, case while refusing to confirm or deny the claims of eligibility, the respondent has failed to cite any provision in the Civil Service Law which would limit the petitioner's right to know who are, and who are not, civil service eligibles. We take judicial notice of the fact that the names of those who pass the civil service examinations, as in bar examinations

and licensure examinations for various professions, are released to the public. Hence, there is nothing secret about one's civil service eligibility, if actually possessed. Petitioner's request is, therefore, neither unusual nor unreasonable. And when, as in this case, the government employees concerned claim to be civil service eligibles, the public, through any citizen, has a right to verify their professed eligibilities from the Civil Service Commission.

The civil service eligibility of a sanitarian being of public concern, and in the absence of express limitations under the law upon access to the register of civil service eligibles for said position, the duty of the respondent Commission to confirm or deny the civil service eligibility of any person occupying the position becomes imperative. Mandamus, therefore lies.

WHEREFORE:, the Civil Service Commission is ordered to open its register of eligibles for the position of sanitarian, and to confirm or deny, the civil service eligibility of Julian Sibonghanoy and Mariano Agas for said position in the Health Department of Cebu City, as requested by the petitioner Valentin L. Legaspi.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Bidin and Sarmiento, JJ., concur.
Feliciano, J., is on leave.