

N.Y. Supreme Court throws out lawsuit vs. PIDCI

Written by Administrator
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By TAMBI WYCOCO

NEW YORK (iiNNS) — The New York State Supreme Court has denied and disposed of a lawsuit filed against the Philippine Independence Day Council, Inc. (PIDCI) by two community organizations and their presidents.

The lawsuit was filed against PIDCI by United Mindoro International, Inc., Juliet Payabyab; and Philippine Community Services for Aging, Nieva Burdick earlier this year petitioning the court among other things, to render the results of PIDCI's last elections null and void and to call for new elections.

In the decision of the Supreme Court of the State of New York penned by Justice Barbara Jaffe the last three paragraphs of the decision read as follows:

“Absent any indication in the petition or motion papers that petitioners exhausted administrative remedies for resolving grievances, or that they deny or explain their failure to do so, this proceeding is premature and the petition is dismissed (See e.g., Matter of Daniels, 40 AD3d at 220 [as motion for temporary injunction opens record and gives court authority to evaluate sufficiency of underlying proceeding, court properly dismissed petition as premature given failure to exhaust remedies]; see also Suburban Scholastic Council v Section 2 of New York State Pub. High School Athletic Assn. Inc., 23 AD3d 728 [3d Dept 2005] [observing that trial court should have dismissed matter as plaintiff did not comply with corporation's constitution and by-laws in challenging determination]; Ntl. Org for Women-New York State, Inc. v Ntl Org for Women, 20013 WL 25752739 [Sup Ct, Niagara County 2003] [dismissing action as plaintiff failed to follow grievance procedure in by-laws], affd 12 AD3d 1206 [4th Dept 2004]).

Accordingly, it is hereby

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ORDERED and ADJUDGED, that the petition is denied and the proceeding is dismissed.”

At the bottom of the last page of the three-page decision the boxes checked with an X were one for “CASE DISPOSED” and the other for “DENIED.”

The decision was dated May 29, 2018 and signed by the Honorable Barbara Jaffe, Justice of the Supreme Court of the State of New York.