

NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE COMMITTEE ON OPINIONS

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
A-989-84T7

HUDSON COUNTY BOARD OF CHOSEN  
FREEHOLDERS,

Appellant,

v.

ASSOCIATION OF HUDSON COUNTY  
NURSING SUPERVISORS, a/w  
DISTRICT 1199J, NUHHCE,  
RWDSU/AFL-CIO and PUBLIC  
EMPLOYMENT RELATIONS COMMISSION,

Respondents.

ORIGINAL FILED

NOV 15 1985

ELIZABETH McLAUGHLIN  
Clerk

Argued November 4, 1985 - Decided

NOV 15 1985

Before Judges Morton I. Greenberg  
and J. H. Coleman.

On appeal from the Public Employment  
Relations Commission.

James P. Granello argued the cause  
for appellant (Murray & Granello,  
attorneys).

Nancy Iris Oxfield argued the cause  
for respondent Association of Hudson  
County Nursing Supervisors, a/w  
District 1199J, NUHHCE, RWDSU/AFL-CIO  
(Oxfield, Cohen & Blunda, attorneys).

Robert E. Anderson, Jr., General  
Counsel, argued the cause for  
respondent Public Employment Relations  
Commission.

PER CURIAM

Respondent Association of Hudson County Nursing Supervisors (Association) has filed a petition under N.J.S.A. 34:13A-1 et seq. with the Public Employment Relations Commission (PERC) seeking to represent as a negotiations unit the full-time and regular part-time nursing supervisors employed by Hudson County at Meadowview and Pollak Hospitals. The Association is affiliated with District 1199J, National Union of Hospital and Health Care Employees (NUHHCE), RWDSU, AFL-CIO. One of the affiliates of District 1199J is United Nurses Organization which represents nonsupervisory nursing personnel at the hospitals.

Hudson County objected to the petition and a proposed representation election as it contended the representation was barred by N.J.S.A. 34:13A-5.3 which provides that no supervisor shall have the right to be represented in collective negotiations by an employee organization which admits nonsupervisory personnel to membership. The county sought an evidentiary hearing to ascertain the independence of the Association from District 1199J. The administrator of representation proceedings of PERC found the objection was premature as he credited an affidavit of the secretary-treasurer of District 1199J that nonsupervisory employees would not be admitted to

membership in the Association and nonsupervisory employees would have no role or control in the negotiation and administration of the Association's contracts. The county filed a request for review with PERC which denied relief as it agreed with the administrator. On an application for leave to appeal the Supreme Court denied a stay of the election without prejudice to the county applying to PERC for a hearing if the election was held and the Association designated as the representative of the supervisors.

The election was then held and the Association was so designated by a unanimous vote. Thereafter the county sought a hearing before PERC. It objected to the designation of the Association as it perceived an inherent conflict of interest because of the position of District 1199J with respect to representation of both supervisory and nonsupervisory employees. This objection was overruled by the administrator on October 19, 1984, and this appeal followed.

In his decision the administrator cited precedent that when, as here, the putative representative has submitted prima facie evidence that the representation by the Association will comply with N.J.S.A. 34:13A-5.3 a certificate of representative should issue. We agree with this result and accordingly affirm subject, however,

to the following comments. The administrator pointed out in his decision that it would be illegal for nonsupervisory employees to dominate the Association's contract negotiations and administration and if this happened the county could file an unfair practice charge. At oral argument before us the parties were in agreement that if the charge was sustained it would be within the power of PEPC to decertify the Association as the bargaining unit. While respondent Association candidly admitted it would be likely to oppose this remedy, we are satisfied on the basis of this concession that the dispute is premature, for we see no per se violation of N.J.S.A. 34:13A-5.3 by the affiliation of the Association with District 1199J. When and if there is an actual violation the county may seek its remedy. Clearly there has not yet been a violation as we were advised at oral argument that pending completion of these proceedings the county and the Association have deferred negotiations.

Affirmed.

I hereby certify that the foregoing  
is a true copy of the original on file  
in my office.

*Elizabeth W. Langlin*

Clerk