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[ G. R. No. L-13001. March 18, 1958 ]

**ALFREDO ABCEDE, PETITIONER, VS. HON. DOMINGO IMPERIAL, GAUDENCIO GARCIA, AND SIXTO BRILLANTES, COMMISSIONERS OF ELECTIONS, RESPONDENTS.**

**D E C I S I O N**

**CONCEPCION, J.:**

Prior to September 7, 1957, petitioner Alfredo Abcede tiled, with the Commission on Elections, his certificate of candidacy for the Office of the President of the Philippines, in connection with the elections to be held on November 12 of the same year. On or about said date, Abcede and other candidates were summoned by the Commission on Elections to appear before the same on September 23, 1957, "to show cause why their certificates of candidacy should be considered as filed in good faith and to be given due course," with the admonition that their failure to so appear would be sufficient ground for the Commission to consider said certificates of candidacy as not filed in good faith and not to give due course thereto. After due hearing, at which Abcede appeared and introduced evidence, the Commission issued a resolution dated October 4, 1957, ordering that the certificates of candidacy of the persons therein named, including that of said petitioner, "shall not be given due course." A reconsideration of such resolution having been denied, Abcede filed with this Court a petition for certiorari and mandamus, praying that the resolution be annulled and that his aforementioned certificate of candidacy be given due course. Upon motion of petitioner herein, this Court issued a writ of preliminary injunction ordering the respondent to refrain and desist from carrying out the resolution above referred to, pending the final disposition of the case at bar.

Insofar as petitioner herein is concerned, the action taken by the Commission on Elections is based upon the following facts, set forth in its said resolution, from which we quote:

"Alfredo Abcede was a candidate for senator in 1953, again in 1955, in both of

which his votea were nil. In this election he presents his candidacy for President of the Philippines, with the redemption of the Japanese war notes as his main program of government. It is of record that the Bureau of Posts, by Fraud Order No. 2, dated November 2, 1955, banned from the use of the Philippine mail all matters of whatever class mailed by, or addressed to, the Japanese War Notes Claims Association of the Philippines, Inc., and its agents and representatives, including Alfredo Abcede and Marciana Mesina-Abcede, which order was based on the findings of the Securities and Exchange Commission, confirmed by the Secretary of Justice, that said entity and its agents and representatives, including Alfredo Abcede, ars engaged in a scheme to obtain money from the public by means of false or fraudulent pretenses. The Commission is convinced that the certificate of candidacy of Alfredo Abcede wths filed for motives other than a *bona fide* desire to obtain a substantial number of votes of the electorate.”

In holding that it has, under these facts, the power not to give due course to petitioner’s certificate of candidacy, the Commission on Elections gave the following reasons:

“The Commission believes that while Section 37 of the Revised Election Code imposes upon the Commission the ministerial duty to receive and acknowledge certificates of candidacy, the law leaves to the Commission a measure of discretion on whether to give duo course to a particular certificate of candidacy should it find said certificate of candidacy to have been filed not *bona fide*. We also believe that a certificate of candidacy is not *bona fide* when it is filed, as a matter of caprice or fancy, by a person who is incapable of understanding the full meaning of his acts and the true significance of election and without any political organization or visible supporters behind him so that he has not even the tiniest chance to obtain the favorable indorsement of a substantial portion of the electorate, or when the one who files the same exerts no tangible effort, shown by overt acts, to pursue to a semblance of success his candidacy.

“The law requires the certificate of candidacy to be under oath in acknowledgment of its serious character as an indispensable segment in the process of election, the first step that a citizen has to take in seeking public trust and in avoiding service to the common weal. It is a solemn matter, not to be taken lightly.

“The giving due course to a certificate of candidacy is a process of no mean proportion, particularly for the offices of President and Vice President of the Philippines and Senator which involve the printing at public expense of around 136,000 copies of each certificate of candidacy; the printing of the names of the candidates in several election forms; the mailing, sorting, and distribution, of the copies of said certificates of candidacy and forms among the 34,000 polling places throughout the country; the entering of the names of the candidates by the board of inspectors in still other forms; etc. Considering all these, the Commission is satisfied with the view that Congress could not have meant to make as a ministerial duty of the Commission to give due course to every certificate of candidacy, no matter how senseless said certificate of candidacy may be, thus in effect authorizing a meaningless expenditure of a considerable amount of public funds, and in the process put added routine burden on the already heavily burdened election machinery, as well as shear off the election much of its dignity as a solemn process of democracy.

“Based on existing records of the Commission and on evidence adduced during the hearing on the certificates of candidacy mentioned above, the Commission finds, and so declares, that the said certificates of candidacy have not been filed in good faith on grounds hereunder stated.”

Section 36 of the Revised Election Code provides that “certificates of candidacy of candidates for President \* \* \* shall be filed with the Commission on Elections *which shall order the preparation and distribution of copies for the same to all the election, precincts of the Philippines* \* \* \*.”

It further provides that said certificates shall be distributed as follows:

“\* \* \* the Commission on Elections \* \* \* *shall immediately send copies thereof to the secretary of the Provincial Board of each province where the elections will be held, and the latter shall in turn immediately forward copies to all the polling places. The Commission on Elections shall communicate the names of said candidates to the secretary of the provincial board by telegraph. If the certificate of candidacy is sent by mail, it shall be by registered mail, and the date on which the package was deposited in tire post-office may be considered as the filing date thereof if confirmed by a telegram or radiogram addressed to the Commission on*

Elections on the same date.”

Moreover, pursuant to section 37 of said Code:

“The Commission on Elections, the secretary of the provincial board, and the municipal secretary, in their respective cases, shall have the ministerial duty to receive the certificates of candidacy referred to in the preceding section and to immediately acknowledge receipt thereof.”

The foregoing provisions give the Commission no discretion to give or not to give due course to petitioner’s certificate of candidacy. On the contrary, the Commission has, admittedly, the “ministerial” duty to receive said certificate of candidacy. Of what use would it be to receive it if the certificate were not to be given due course? We must not assume that Congress intended to require a useless act—that it would have imposed a mandatory duty to do something vain, futile and empty.

Moreover, in the words of section 37, the Commission “shall immediately send copies” of said certificates to the secretaries of the provincial boards. The compulsory nature of this requirement, evinced by the imperative character generally attached to the term “shall”, is stressed by the peremptory connotation of the adverb “immediately.”

Again, the Constitution fixes the qualifications for the office of the highest magistrate of the land. All possessors of such qualifications are, therefore, deemed legally fit, at least, to aspire to such office and to run therefor, provided that they file their respective certificates of candidacy within the time, at the place and in the manner provided by law, and petitioner herein has done so.

Lastly, as the branch of the *executive* department—although independent of the President—to which the Constitution has given the “exclusive charge” of the “*enforcement and administration of all laws relative to the conduct of elections,*” the power of decision of the Commission is limited to purely “*administrative questions.*” (Article X, sec. 2, Constitution of the Philippines.) It has no authority to decide matters “involving the right to vote”. It may not even pass; upon the legality of a given vote (Nacionalista. Party vs. Commission on Elections, \* 47 Off. Gaz., [6], 2851). We do not see, therefore, how it could whether, if so granted—in the vague, abstract, indeter-assert the *greater and more far-reaching authority* to determine who—among those possessing the qualifications prescribed

by the Constitution, who have complied with the procedural requirements relative to the filing of certificates of candidacy—should be *allowed* to enjoy the full benefits intended by law therefor. The question whether in order to enjoy those benefits—a candidate must be capable of “understanding the full meaning of his acts and the true significance of election,” and must have—*over a month prior to the elections* (when the resolution complained of was issued) “the tiniest chance to obtain the favorable indorsement of a substantial portion of the electorate,” is a matter of *policy, not of administration and enforcement* of the law, which policy must be determined by *Congress* in the exercise of its *legislative functions*. Apart from the absence of specific statutory grant of such general, broad power as the Commission claims to have, it is dubious minate and undefined manner necessary in order that it could pass upon the factors relied upon in said resolution (and such grant must not be deemed made, in the absence of clear and positive provision to such effect, which is absent in the case at bar)—the legislative enactment would not amount to undue delegation of legislative power. (Schechter vs. U.S., 295 U.S. 495, 79 L. ed. 1570.)

The case of Ciriaco S. Garcia vs. Imperial, L-12930 (October 22, 1957) cited in respondent’s answer is not in point. That case referred to the certificates of candidacy of Ciriaco S. Garcia of San Simon, Pampanga, Carlos C. Garcia of Iloilo City, and Eulogio Palma Garcia of Butuan City, all for the Office of the President of the Philippines, filed in September, 1957. The facts therein are set forth in the pertinent resolution of the Commission on Elections from which we quote:

“Ciriaco S. Garcia, \* \* \* admitted, \* \* \* that he had not up to the date of the hearing held any public meeting relative to his candidacy; had not posted any handbills or posters or banners announcing his candidacy; had not established any national headquarters; and had no line-up for vice-president, senators, or members of Congress, In connection with the case of Ciriaco S, Garcia, counsel for the intervenor presented documents as exhibits. \* \* \* all showing that Ciriaco S. Garcia had not shown any active interest in his candidacy. Relative to the case of Carlos C. Garcia, counsel for intervenor presented a witness, Salvador del Rosario, who testified to the effect that he knows personally said Carlos C. Garcia as a former dress maker and now maintains a bar in the city of Iloilo; that he has not done anything to promote his supposed candidacy; and that he is a brother-in-law of Atty. Tomas Vargas, a prominent Liberal Party leader in the province of Iloilo. He also submitted as evidence the telegram of the provincial commander of Iloilo reporting that said Carlos C. Garcia is not a well known person in Iloilo.

And as regards Eulogio Palma Garcia, counsel for intervenor likewise submitted a telegram of the provincial commander of Agusan to the effect that said Eulogio Palma Garcia is an unknown person in Agusan. He further pointed out that the address of said Eulogio Palma Garcia, as appearing in this certificate of candidacy, is % Tranquilino O. Calo, Jr., a nephew of ex-congressman Calo, and *official candidate of the Liberal Party for Senator.*" (Italics ours.)

The findings of the Commission were as follows:

"The Commission is convinced that the failure of Carlos C. Garcia, a bar tender, and Eulogio Palma Garcia, a person who has not even a residence of his own, to appear before the Commission, notwithstanding the mandatory statement issued them, which had been received in their behalf, to the effect that failure to appear on their part before the Commission as required would be sufficient for the Commission to consider their certificates of candidacy, as filed in bad faith, shows that *they are not actually interested in the outcome of their pretended candidacy*, and/or that they fear that their personal appearance before the Commission would not expose too clearly the true motives behind the filing of their certificates of candidacy.

"As regards Ciriaco S. Garcia, a former chief of police, with no visible property to his name, \* \* \* the Commission is likewise satisfied \* \* \* that his certificate of candidacy was filed without the least idea of actively pursuing the same, but *simply to prejudice a legitimate and bona fide candidate, President Carlos P. Garcia.*

"*Each of said three certificates of candidacy is a well fitted piece in an overall conspired scheme to fairly prejudice the candidacy of President Carlos P. Garcia.* Even the circumstances of geography and of course of names have been suitably played upon to achieve in the most effective way the desired objective of *destroying legitimate votes for the bona fide candidate.* Ciriaco S. Garcia hails from Central Luzon; Carlos C. Garcia is from Central Visayas; and Eulogio Palma Garcia is from Northern Mindanao. *The names used are such that all votes for 'Carlos Garcia', 'C. Garcia', 'P. Garcia', and 'Garcia' would be declared a stray.* The mischief aimed to be realized by the plan is too plain to be missed by any impartial mind.\* \* \*

“The Commission, \* \* \* is clear in the conclusion that all said three certificates of candidacy have been filed not for the purpose of winning the election or even to obtain a substantial number of votes for the presidency of the Philippines but *for the purpose of prejudicing the candidacy of a candidate in good faith by nullifying the votes cast for the same name and/or surname of said candidate in good faith.*

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“We reiterate here what the Commission has already said in the similar case of Re-Certificate of Candidacy of Eduardo A. Barreto. (Case No. 179):

‘The duty of the Commission under these circumstances is too plain to be mistaken. The law could not have intended nor will the Commission allow itself to be made a party to *fraud* against the *integrity* and *purity* of election. Election is not a game of mean political tricks where deceit wins a premium. It is an honest process, governed by fair rules of law and good conduct. In election as well as in any other field of fair contest, *deceit* cannot be allowed to clothe itself in legal technicalities and demand a prize. It must be condemned and never tolerated.’”  
(Italics ours.)

In other words, the candidates in question *did not really aspire to be elected* President of the Philippines. Their certificates of candidacy were filed merely for the purpose of nullifying, in effect, all votes cast in favor of “Garcia”, “C. Garcia”, and “P. Garcia”, even if the voters intended to vote for Carlos P. Garcia, the incumbent of said office. The objective was, evidently, *to prevent a faithful determination of the true will of the electorate*. Had the certificates of candidacy in question been given due course, maintained, whether or not such tax, penalty, or sum has been paid election inspectors, who would be at a loss as to whom to credit the votes cast for “Carlos Garcia”, “C. Garcia”, “P. Garcia”, and “Garcia” or whether said votes should not be counted, as stray votes. Thus, an opportunity would be created to subject the election officers throughout the Philippines to complaints, either by the opponents of the incumbent President, if the votes were credited to him, or by the Nacionalista Party, if the votes were counted in favor of either Ciriaco S. Garcia, or Carlos C. Garcia, or Eulogio Palma Garcia, or considered as stray votes. What is more, this could have led to, or given an excuse for, public disorders which may not have been altogether

unlikely, in the light of the conditions then existing. Worse, still, there would have been no means, under the law, to ascertain whether the aforementioned votes were intended for the incumbent President Carlos P. Garcia, or for the petitioners in said case. The action of the Commission therein tended, therefore, to insure free, orderly and honest elections, which is its main concern, under our fundamental law and the Revised Election Code. Such, however, is not the situation obtaining in the case at bar.

Whether or not the Commission on Elections should incur the expenses incident to the preparation and distribution of copies of the certificates of candidacy of those who, in its opinion, do not have a chance to get a substantial number of votes, is another question of *policy* for Congress, not the Commission, to settle. When the Revised Election Code imposes upon the Commission the ministerial duty to receive those certificates and provides that said Commission shall immediately prepare and distribute copies thereof to the offices mentioned in section 36 of said Code, it necessarily implies that compliance with the latter provision is, likewise, ministerial. If the Commission believes, however, that the effect thereof is to unnecessarily impose a useless burden upon the Government, then the remedy is to call the attention of Congress thereto, coupled with the corresponding proposals, recommendations, or suggestions for such amendments as may be deemed best, consistently with the democratic nature of our political system.

Needless to say, the vigilant attitude of the Commission on Elections and the efforts exerted by the same to comply with what it considers its duty, merit full and unqualified recognition, as well as commendation of the highest order. In this particular case, however, the action of the Commission as regards petitioner's certificate of candidacy is beyond the bounds of its jurisdiction, and, hence, void.

Wherefore, the aforementioned resolution of the Commission on Elections is hereby annulled, insofar as petitioner Alfredo Abcede is concerned, and the writ of preliminary injunction heretofore issued made permanent, without special pronouncement as to costs. It is so ordered.

*Paras, C. J. Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J. B. L, Endencia and Felix, JJ., concur.*

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\*85 Phil., 149.



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