

HADJI SHARIF RADJID ABIRIN, PETITIONER, VS. COMMISSION ON ELECTIONS, THE MUNICIPAL BOARD OF CANVASSERS OF PARANG, SULU AND PERSHING TANTALIE, RESPONDENTS.

G.R. No. L-36157. August 29, 1980

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

This is an election protest, brought up from the COMELEC to this Court for review.

Private respondent Pershing Tantalie was proclaimed on November 8, 1971 as the elected Mayor of Parang, Sulu, in the 1971 local elections by the respondent Municipal Board of Canvassers. In a petition dated November 23, 1971 filed with the Commission on Elections on December 8, 1971, herein petitioner, the Liberal Party candidate for the Office of the Mayor, contested the election of respondent Tantalie and prayed for the annulment of the results of the election in Precincts 5, 5-A, 6, 8, 10, 11, 12, 14, 16, 18, 24, and 34, of said municipality on grounds of fraud and terrorism committed by armed goons and policemen and that the election returns were prepared by members of the Board of Inspectors at gunpoint

Private respondent filed a motion to dismiss the petition on the ground that petitioner never objected to the inclusion of the returns from said precincts during the canvass before the Municipal Board of Canvassers and therefore the Commission on Elections has no appellate jurisdiction to review the action of the said board in including the questioned returns in the canvass. In the opposition to the motion to dismiss, petitioner claimed that objections were made by his representatives but said objections were not recorded in the minutes of canvassing. Respondent Commission on Elections denied the motion to dismiss since the grounds alleged therein are not indubitable but required evidence in support thereof.

After hearing, however, the Commission on Elections in its Resolution No. RR-1189[1] dated November 13, 1972, dismissed the petition of Hadji Shariff Rajid Abirin and confirmed the action of the Municipal Board of Canvassers of Parang, Sulu, in proclaiming Pershing Tantalie as the winning candidate for Mayor of said municipality. It found out that indeed petitioner not only failed to establish that he has objected to the inclusion of the returns in question, but has virtually admitted, thru counsel, during the hearing before the Commission on Elections on November 10, 1972 that he had not actually questioned said returns before the Board of Canvassers. In dismissing the case, the Commission on Elections followed the ruling in *Sultan Rasuman Dipatuan vs. Commission on Elections*[2] wherein it was held that parties cannot raise for the first time any question not originally set up by them before the Board of Canvassers.

The motion for reconsideration having been denied, the present petition for review on certiorari was instituted before this Court on January 23, 1973, raising the issue as to whether or not under Republic Act No. 6388, otherwise known as the Election Code of 1971, the Commission on Elections merely exercises appellate jurisdiction over acts of Board of Canvassers.

Considering, however, that the term of office of Mayor of Parang, Sulu, the position disputed by petitioner and

private respondent had by this time expired, the case is now moot and academic. An election case involving the local elections of 1971 has no longer any legal standing after the new election for municipal officials took place on January 30, 1980 as the term of those proclaimed elected in 1971 already expired.[3] It will serve no useful purpose, therefore for this tribunal to make any pronouncement on the matter as We have ruled in the case of Bitangcol vs. Court of Appeals.[4]

WHEREFORE, the petition is dismissed for being moot and academic.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] pp. 17-20, Rollo.

[2] 47 SCRA 258.

[3] Kotiko vs. Commission on Elections, 73 SCRA 126.

[4] 76 SCRA 95.

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