

LUCAS V. CAUTON, PETITIONER, VS. COMMISSION ON ELECTIONS AND PABLO SANIDAD, RESPONDENTS.

G.R. No. L-25467. April 27, 1967

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

In the national elections held on November 9, 1965, petitioner Lucas V. Cauton and respondent Pablo Sanidad, along with Godofredo S. Reyes, were candidates for the office of Representative in the second congressional district of Ilocos Sur.

During the canvass by the Provincial Board of Canvassers of Ilocos Sur of the votes cast for the candidates for Representative in the second congressional district of Ilocos Sur, and particularly after the Board had opened the envelopes containing the copies of the election returns from each of the election precincts in the municipalities of Candon, San-tiago and Sta. Cruz that were presented by the Provincial Treasurer of Ilocos Sur to the Board, respondent Sanidad brought to the attention of the Board the fact that the entries of votes for the candidates for Representative in those copies of the election returns that came from the envelopes presented by the provincial treasurer differed from the entries appearing in the copies of the returns from the same election precincts that were in the possession of the Liberal Party.

Respondent Sanidad filed a petition with the Commission on Elections praying for the opening of the ballot boxes in all the precincts of Candon, Santiago and Sta. Cruz, in order to retrieve the election returns deposited therein so that those election returns might be used in the canvass of the votes cast for the candidates for Representative in the second district of Ilocos Sur, and that in the meantime the Provincial Board of Canvassers of Ilocos Sur be ordered to refrain from proclaiming the winning candidate for the office of Representative in said district. The Commission on Elections issued the restraining order prayed for by respondent Sanidad and set his petition for hearing.

After hearing, the Commission on Elections found "that it had been clearly established that the copies of the election returns for the Municipal Treasurer, for the Commission on Elections and for the Provincial Treasurer for the municipality of Santa Cruz have uniform alterations in the entries of the votes cast for representative showing different number of votes compared with the Liberal Party copies, while the copies of the election returns for the Commission on Elections and the Provincial Treasurer for the municipalities of Candon and Santiago have likewise uniform alterations and showing different numbers compared with the Liberal Party copies x x x." [1] The copies of the election returns that were furnished the municipal treasurers of Candon and Santiago were never verified because the municipal treasurers of those two municipalities did not comply with the subpoena duces tecum issued by the Commission on Elections directing them to bring to the Commission the copies of the election returns of the precincts in their respective municipalities that were in their possession.

On December 22, 1965, respondent Commission on Elections issued an order providing, among others, that

"x x x to enable the aggrieved party to establish discrepancy between copies of the election returns provided by

law in the aforementioned precincts for the purpose of obtaining judicial remedy under the provisions of Section 163 of the Revised Election Code, the Commission RESOLVED x x x to direct immediately the opening of the ballot boxes of the municipalities of Candon, Sta. Cruz and Santiago which are now impounded and under the custody of the Zone Commander of the 1st PC Zone in Camp Olivas, San Fernando, Pampanga solely for the purpose of re-trieving therefrom the corresponding election returns, copies for the ballot box, in all the precincts of said municipalities."

Pursuant to the instructions of respondent Commission, contained in the resolution of December 22, 1965, the ballot boxes from all the precincts in the municipalities of Candon, Sta. Cruz and Santiago were opened by the Chief of the Law Enforcement Division of the Commission, Atty. Fernando Gorospe Jr., in the presence of witnesses, and the envelopes containing the election returns found inside the ballot boxes were taken and brought to Manila on December 23, 1965.

On the same date, December 23, 1965, herein petitioner, Lucas V. Cauton, filed before this Court a petition for certiorari and prohibition with preliminary injunction, praying that the resolution of the respondent Commission on Elections dated December 22, 1965 ordering the opening of the ballot boxes used in all the precincts of Candon, Sta. Cruz and Santiago in the elections of November 9, 1965 be annulled and set aside. The petition further prays that the Commission on Elections be restrained from opening the envelopes containing the election returns found in the aforementioned ballot boxes and be ordered to return the said envelopes to the corresponding ballot boxes. In his petition, petitioner alleges that the respondent Commission on Elections acted without or in excess of its jurisdiction in issuing the resolution of December 22, 1965. This Court gave due course to the petition, but did not issue the writ of preliminary injunction prayed for. This petition is now the case before Us.

Upon instructions by respondent Commission on Elections, on December 28, 1965, the envelopes that were taken from the ballot boxes were opened and the election returns were taken out and their contents examined and recorded by a committee appointed by the Commission. This was done in a formal hearing with notice to the parties concerned.

Respondent Pablo C. Sanidad filed his answer to the instant petition on January 5, 1966, admitting some of the allegations and denying others, and maintaining that the Commission on Elections had acted well within the bounds of its authority in issuing the order of December 22, 1965. Respondent Commission on Elections also filed its answer on January 5, 1966, maintaining that it has authority under the law to order the opening of the ballot boxes as stated in its resolution of December 22, 1965.

In the meantime, on the basis of the discrepancies in the entries of the votes for the candidates for Representative, between the election returns taken out of the ballot boxes that were opened by order of the Commission on Elections and the election returns submitted by the Provincial Treasurer of Ilocos Sur to the Provincial Board of Canvassers of Ilocos Sur, respondent Pablo C. Sanidad filed a petition with the Court of First Instance of Ilocos Sur, docketed as Election Case No. 16-N, for a recount of the votes in all the precincts of Candon, Sta. Cruz and Santiago, pursuant to the provisions of Section 163 of the Revised Election Code.

On February 14, 1966, petitioner filed before this Court an urgent motion, in this case, praying for the issuance of an order enjoining the Court of First Instance of Ilocos Sur (Branch II-Narvacan) from further proceeding with Election Case No. 16-N, above-mentioned, pending final decision of the instant case, upon the ground that the recount of the ballots in that case in the court below would render the instant case moot and academic. This motion was denied by this Court in a resolution dated February 17, 1966.

The principal issue in the present case revolves on the legality of the resolution of the respondent Commission on

Elections, dated December 22, 1965, which orders the opening of the ballot boxes used in all the precincts in the municipalities of Candon, Sta. Cruz and Santiago, Ilocos Sur, during the elections of November 9, 1965 for the purpose of retrieving there-from the corresponding election returns, copies for the ballot box, "to enable the aggrieved party to establish discrepancy between copies of the election returns provided by law in the aforementioned precincts for the purpose of obtaining judicial remedy under the provisions of Section 163 of the Revised Election Code."

It is the stand of the petitioner that respondent Commission on Elections is without jurisdiction to issue, or has acted in excess of jurisdiction in issuing, the resolution in question, so that said resolution is null and void and should not be given legal force and effect. The petitioner contends that under Section 157 of the Revised Election Code the Commission on Elections has authority to order the opening of the ballot boxes "only in connection with an investigation conducted for the purpose of helping in the prosecution of any violation of the election laws or for purely administrative purpose but not when the sole purpose is, as in this case, to assist a party in trying to win the election x x x." The petitioner further contends that "the mere fact that the copies of the returns in the precincts in question in the possession of the Liberal Party do not tally with the returns involving the same precincts in the possession of the Provincial Treasurer, the Commission on Elections and the Nacionalista Party as well does not legally support the validity of the resolution of the respondent Commission in question x x x." [2]

We cannot sustain the stand of the petitioner. We believe that in issuing the resolution in question the Commission on Elections simply performed a function as authorized by the Constitution, that is, to "have exclusive charge of the enforcement and administration of all laws relative to the conduct of elections and x x x exercise all other functions which may be conferred upon it by law." The Commission has the power to decide all administrative questions affecting elections, except the question involving the right to vote.[3] This Court in a line of decisions has ruled that the Commission on Elections has the power to investigate and act on the propriety or legality of the canvass of election returns made by the board of canvassers.[4] In the case of *Albano v. Arran*, L-19260, January 31, 1962, this Court, through Mr. Justice J.B.L. Reyes, held as follows:

"The suspension of the proclamation of the winning candidate pending an inquiry into irregularities brought to the attention of the Commission on Elections was well within its administrative jurisdiction, in view of the exclusive authority conferred upon it by the Constitution (Art. X) for the administration and enforcement of all laws relative to elections. The Commission certainly had the right to inquire whether or not discrepancies existed between the various copies of election returns for the precincts in question, and suspend the canvass in the meantime so the parties could ask for a recount in case of variance x x x."

What the respondent Commission on Elections did in the case now before Us is just what is contemplated in the abovequoted ruling of this Court. The power of the Commission on Elections in this respect is simply administrative and supervisory - intended to secure the proclamation of the winning candidate based on the true count of the votes cast. When the Commission on Elections exercises this power the purpose is not for the Commission to help a candidate win the election but to bring about the canvass of the true results of the elections as certified by the boards of election inspectors in every precinct. The object of the canvass is to determine the result of the elections based on the official election returns. In order that the result of the canvass would reflect the true expression of the people's will in the choice of their elective officials, the canvass must be based on true, genuine, correct, nay untampered, election returns. It is in this proceeding that the Commission on Elections exercises its supervisory and administrative power in the enforcement of laws relative to the conduct of elections, by seeing to it that the canvass is based on the election returns as actually certified by the members of the boards of inspectors. Once the Commission on Elections is convinced that the election returns in the hands of the board of canvassers do not constitute the proper basis in ascertaining the true result of the elections, it should be its concern, nay its duty, to order the taking of such steps as may be necessary in order that the proper basis for the

canvass is obtained or made available.

The election law requires the board of inspectors to prepare four copies of the election return in each precinct - one to be deposited in the ballot box, one to be delivered to municipal treasurer, one to be sent to the provincial treasurer, and one to be sent to the Commission on Elections. In the case of the canvass of the election returns for candidates for provincial or national offices, the election returns received by the provincial treasurer from the boards of inspectors are used. It is the duty of the provincial treasurer to turn over to the provincial board of canvassers the election returns received by him from the boards of inspectors. If the Commission on Elections is duly informed and it so finds, in appropriate proceedings, that the election returns in the hands of the provincial treasurer are tampered, then the Commission should afford the candidate adversely affected by the tampering an opportunity to show that there exist authentic copies of the same election returns which are not tampered. A recourse may be had to the copies received by the Commission on Elections and to the copies received by the municipal treasurer. If it is shown, that the copies in the hands of the Commission on Elections and of the municipal treasurer are similarly tampered as the copies in the hands of the provincial treasurer, then it becomes evident that all the three copies of the election returns outside the ballot box do not constitute a reliable basis for a canvass. The only copies left to be checked, whether they are also tampered or not, are the ones inside the ballot boxes. Certainly, the Commission on Elections, in the exercise of its power to administer and enforce the laws relative to the conduct of elections, may order the opening of the ballot boxes to ascertain whether the copy inside each ballot box is also tampered like the three copies outside the ballot box, corresponding to each precinct. The Commission on Elections may do this on its own initiative, or upon petition by the proper party. Once it is found that the copy of the election return inside the ballot box is untampered, the Commission on Elections would then have accomplished two things, namely: (1) secured a basis for the prosecution for the violation of the laws relative to elections, and (2) afforded the party aggrieved by the alteration of the election returns outside the ballot box a basis for a judicial recount of the votes as provided for in Section 163 of the Revised Election Code. Thus, the Commission on Elections has thereby made available the proper and reliable basis for the canvass of the votes that will lead to the proclamation by the board of canvassers of the true winner in the elections. In so doing the Commission on Elections, as we have said, had performed its constitutional duty of administering and enforcing the laws relative to the conduct of elections with a view to promoting clean and honest elections - the very purpose for which the Commission on Elections was created by constitutional mandate.

In the case now before us, the Commission on Elections issued the questioned resolution "After hearing the arguments of the petitioner and the opposition thereto and considering that it has been clearly established that the copies of the election returns for the Municipal Treasurer, for the Commission on Elections and for the Provincial Treasurer for the municipality of Sta. Cruz have uniform alteration in the entries of the votes cast for representative showing different number of votes compared with the Liberal Party copies, while the copies of the election returns for the Commission on Elections and the Provincial Treasurer for the municipalities of Candon and Santiago have likewise uniform alterations and showing different numbers compared with the Liberal Party copies x x x." [5] Indeed, in the face of this finding by the Commission on Elections, which indicates a clear violation of the election law, and which indicates an attempt to procure the proclamation of the winner in the elections for representative in the second congressional district of Ilocos Sur by the use of tampered election returns, can the Commission on Elections be remiss in the performance of its duties as a constitutional body committed with the exclusive charge of the enforcement and administration of all laws relative to the conduct of elections? The Revised Election Code gives to the Commission on Elections the direct and immediate supervision over provincial, municipal and city officials designated by law to perform duties relative to the conduct of elections - and included among these officials are members of the provincial board of canvassers. [6] The provincial board of canvassers is enjoined by law to canvass all the votes cast for representative on the basis of the

election returns produced by the provincial treasurer.[7] The Commission on Elections has a duty to enforce this law, and it has the duty to see to it that the election re-turns to be used for canvassing must be genuine and authentic, not falsified or tampered with. Where the election returns produced by the provincial treasurer have been shown to have been tampered, and all the other copies outside the ballot boxes have also been shown to have been tampered or falsified, it is cer-tainly within the power of the Commission on Elections to issue such order as would ascertain the existence of the genuine, authentic and untampered election ret-urns, and thus open the way for the summary recount of the votes, in accordance with law, for the purposes only of the canvass of the votes and the proclamation of the candidate found to have obtained the highest number of votes. In the case now before Us, it is found by the Commission on Elections that no other copies can be had except those deposited in the ballot boxes. Hence, the necessity for the Commission to order the retrieving of the copies of the election returns from the ballot boxes. An order to this effect does not affect the right to vote or the validity of any vote cast, so that it is perfectly within the power of the Commission on Elections to issue such an order in the exercise of its exclusive power to administer and enforce the laws re-lative to the conduct of elections. It would indeed be absurd to say that the Commission on Elections has a legal duty to perform and at the same time it is denied the necessary means to perform said duty.

The purpose of the Revised Election Code is to protect the integrity of elections and to suppress all evils that may vitiate its purity and defeat the will of the voters.[8] The purity of the elections is one of the most fundamental requisites of popular government.[9] The Commission on Elections, by constitutional mandate, must do everything in its power to secure a fair and honest canvass of the votes cast in the elections. In the performance of its duties, the Commission must be given a considerable latitude in adopting means and methods that will insure the accomplishment of the great objective for which it was created - to promote free, orderly, and honest elections. The choice of means taken by the Commission on Elections, unless they are clearly illegal or constitute grave abuse of discretion, should not be interfered with.[10] Technicalities, which are not conducive to free, orderly and honest elections, but on the contrary may defeat the will of the sovereign people as expressed, in their votes, should not be al-lowed to hamper the Commission on Elections in the per-formance of its duties. To sustain the petitioner in the present case is to deny the Commission on Elections the power to retrieve the copies of the election returns from the ballot boxes in order that the true number of votes cast for a candidate may be known and thus permit a canvass on the basis of election returns that are patently falsified. We cannot, and We must not, sanc-tion the stand of petitioner.

As We have adverted to, the Commission on Elect-ions has the power to inquire whether there exist dis-crepancies among the various copies of the election returns.[11] Of all the copies prepared by the board of inspectors the copy least susceptible to being tampered with is the one deposited in the ballot box. Where the three copies outside the ballot boxes appear to have been uniformly altered, there is no plausible reason why the copy deposited in the ballot box may not be used to determine whether discrepancies exist in the various copies. Inasmuch as the Commission on Elect-ions has the right to determine whether said discre-pancies exist, it must also have the right to consult said returns, which cannot be done unless the ballot boxes are opened. It is noteworthy that the Revised Election Code does not provide that it is the courts that have the power to order the opening of the bal-lot box in a situation like this.

Section 157 of the Revised Election Code, on which petitioner herein relies in support of his stand in the present case, authorizes the opening of the bal-lot box whenever it is the subject of an official in-vestigation. It provides:

"The municipal treasurer shall keep the boxes unopened in his possession in a secure place and under his responsibility for three months, unless they are the sub-ject of an official investigation, or a competent court or tribunal shall demand them sooner, or the competent authority shall order their preservation for a long-er time in connection with any pending contest or investigation."

Under this section, the ballot boxes may be opened in case there is an election contest. They may also be opened even if there is no election contest when their contents have to be used as evidence in the prosecution of election frauds.[12] Moreover, they may be opened when they are the subject of any official investigation which may be ordered by a competent court or other competent authority.[13] The "competent authority" must include the Commission on Elections which is charged with the administration and enforcement of the laws relative to the conduct of elections. In the instant case, the Commission on Elections found that it has been clearly established that the election returns outside the ballot boxes, in all the precincts in the municipalities of Candon, Santiago and Sta. Cruz, have been tampered with. It is within the power of the Commission to order the investigation of that apparent anomaly that has connection with the conduct of elections. The investigation may be in connection with the prosecution for the violations of the election laws and at the same time to ascertain the condition of the election returns inside the ballot boxes as compared with the election returns outside the ballot boxes, for the same precincts. The opening of the ballot boxes may, therefore, be prayed for by a candidate who is prejudiced by the apparent falsification of the election returns outside the ballot boxes, and in ordering the opening of the ballot boxes the purpose of the Commission is not to help a particular candidate win an election but to properly administer and enforce the laws relative to the conduct of elections.

From what has been said We hold that the order of December 22, 1965, being questioned by the petitioner in the present case, was perfectly within the power of the Commission on Elections to issue.

WHEREFORE, the petition for certiorari and prohibition in the present case is dismissed, with costs against the petitioner.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Sanchez, and Castro, JJ., concur.

[1] As quoted from the resolution of the Commission on Elections dated December 22, 1965.

[2] Words in quotation marks are as quoted from petitioner's memorandum.

[3] Article X, Section 2, Constitution of the Philippines.

[4] *Mintu v. Enage*, L-1834, December 31, 1947; *Ramos v. Comelec*, 80 Phil., 722; *Abendante v. Relato*, L-6813, November 5, 1953; *Lacson v. Comelec*, L-16261, December 28, 1959; *Santos v. Comelec*, L-16413, January 26, 1960; *Javier v. Commission on Elections, etc.*, L-22248, January 30, 1965.

[5] As quoted from resolution of December 22, 1965, emphasis supplied.

[6] Section 3, Revised Election Code.

[7] Section 160, Revised Election Code.

[8] *Camerino v. Gonzales*, L-14129, July 31, 1962.

[9] *People v. Cueto*, 39 Phil., 258.

[10] *Sumulong v. Commission on Elections*, 73 Phil., 288.

[11] *Albano v. Arranz*, L-19260, January 31, 1962.

[12] *Provincial Fiscal of Nueva Ecija v. Gutierrez David*, 59 Phil., 637.

[13] *Board of Inspectors v. Piccio*, 81 Phil., 577.

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