

MELITON C. GERONIMO, PETITIONER, VS. COMMISSION ON ELECTIONS AND JULIAN C. PENDRE, RESPONDENTS.

G.R. No. L-52413. September 26, 1981

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This petition for certiorari and mandamus seeks to set aside the resolution of the respondent Commission on Elections dated January 19, 1980 disqualifying the herein petitioner, Meliton C. Geronimo, from running for mayor of Baras, Rizal, in the January 30, 1980 local elections, and denying due course to his certificate of candidacy.

Petitioner Meliton C. Geronimo, a retired lieu-tenant colonel of the Philippine Air Force, was a candidate for mayor under the banner of the Nacionalista Party.

Private respondent Julian C. Pendre was the secretary of the Kilusang Bagong Lipunan (KBL) chapter in Baras, Rizal, and an official candidate of the KBL as member of the Sangguniang Bayan of said municipality.

The record shows that on December 31, 1979, herein petitioner wrote three letters addressed to the chairman of the KBL chapter in Baras, wherein he and his group manifested their intention to run for the elective positions of mayor, vice-mayor and members of the Sangguniang Bayan of Baras, Rizal, under the banner of the KBL. The said letters are as follows:

"Katipunan St.

Bgy. San Jose

Baras, Rizal

December 31, 1979

"The Chairman

KILUSANG BAGONG LIPUNAN PARTY (KBL)

Baras Chapter

Baras, Rizal

"Dearest Sir:

"Our communication refers to the information that we received from no less than the Chairman of the Provincial Chapter of the Kilusang Bagong Lipunan Party of Rizal, Honorable Governor Isidro S. Rodriguez that we are a little bit delayed in applying and or informing him in entering the race of all elective positions this coming election, to be held on January 30, 1980.

"In view of the fact our sincerity and intentions to run for the elective posts mentioned, we appeal for the local

KBL Chapter to reconsider our request to hold in abeyance the proclamation of Mayoral, Vice Mayoral and members of the Sangguniang Bayan and give due consideration to our appeal, if the KBL local chapter has already formed and selected the final line-up for the elective local positions, until finally decided by Arbitration Committee.

"We will therefore await for the final decision of said committee, and or resolution to that effect.

"With our warmest regards.

Very truly yours,

(SGD.) MELITON C. GERONIMO

Lt. Col., PAF (Ret.)

cc: The Provincial Chairman, KBL

Pasig, Metro Manila" [p. 24, rec.;

underscoring supplied].

"Katipunan St.

Bgy. San Jose

Baras, Rizal

December 31, 1979

"The Chairman

KILUSANG BAGONG LIPUNAN PARTY (KBL)

Baras Chapter

Baras, Rizal

Dearest Sir:

"Enclosed herewith you will find a copy of our formal letter informing your goodself of our intention and availability as candidates, with complete line-up down to the Sanggunian level, under the banner of the KILUSANG BAGONG LIPUNAN PARTY (KBL) our party, and also in compliance to the suggestion and recommendation our beloved Governor Rodriguez, in the presence of Secretary Pete Reyes, last December 30, 1979.

"We humbly apologize for the delay of submitting our attached request to you, in view of the fact that we are not aware or officially informed that there was already existing Secretariat of our local party, as a matter of fact, during our inquiry to known leaders of our town, they cannot inform us who are the leaders of our party or the Secretariat and it was only during our conference or dialogue with our beloved and respected Governor Rodriguez, in the presence of Secretary Pete Reyes, informed us that it was you who is acting Chairman of our local party, KBL and therefore this will sufficiently the reason of the delay of submitting to you our availability for the elective post. Further, enclosed herewith is our letter of application for our candidacy submitted directly to the Provincial Chairman of our Party, for your reference and information.

"We, extend to you the greetings of the Season and More Power to you.

Very truly yours,

(SGD.) MELITON C. GERONIMO

Lt. Col., PAF (Ret.)

Enclosure (Xerox copy stated above)

cc: Chairman of the Provincial KBL

Party" [p. 25, rec.; underscoring
supplied].

"Katipunan St.

Bgy. San Jose

Baras, Rizal

December 31, 1979

"The Local Chairman

KILUSANG BAGONG LIPUNAN PARTY

Baras Chapter

Baras, Rizal

"ATTENTION: ATTY. ALIPIO GOLPEO

Dear Sir:

"This communication refers to our intention to seek the mayoralty and Vice-mayorship and members of the Sanggunian Bayan of our town, Baras, Rizal, under the KILUSANG BAGONG LIPUNAN PARTY (KBL).

"We, as loyal members of the former Nacionalista Party and now loyal party members of the KBL party and concerned citizens of Baras, Rizal, wish to inform you officially that as of now we intend declare our candidacy and availability to run on all local elective posts, hereunder are the declared candidates for

"Mayor - Lt. Col. Meliton C. Geronimo

"Vice Mayor - Mr. Rafael S. Ortanez

"Sanggunian Bayan - to be submitted on or before the January 4, 1980.

"In view of the above we therefore request you to submit the abovenamed individuals and final line-up for the Sanggunian Bayan for indorsement and approval of the Provincial Chapter of our party, the KILUSANG BAGONG LIPUNAN PARTY (KBL). You may be aware of the fact that no less than the Chairman of the Commission on Elections, has made it known that active campaign and or intention of any individual to run or seek any elective posts should move or start their campaign on the 29th of December, 1979 and therefore in compliance and obedience thereto the Commission's Order, we did form our line-up for referral and consideration of the party, and indorsement to the Provin-cial Chapter for its consideration and approval.

"We request of your immediate action required thereat so that we can act accordingly particularly the requirements, re: filling of the Certificate of Candidacy before the dateline as required by the Comelec.

"We anticipate for your imme-diate and personal attention to our request and greetings of the Season and More Power to You.

Very truly yours,

(SGD.) MELITON C. GERONIMO

Lt. Col., PAF (Ret.)"

[p. 26, rec.; italics supplied].

Upon receipt of the aforequoted letters, the KBL Baras Chapter, through its secretary, private respondent herein, informed the petitioner on January 3, 1980 that the final and complete line-up of the KBL official candidates had already been chosen by the local KBL chapter through the Municipal Convention which was held on December 30, 1979, in accordance with the rules and regulations of the KBL.

On January 4, 1980, after his receipt of the aforesaid January 3, 1980 letter of the KBL Baras Chapter turning down his request to be the official KBL mayoralty candidate, petitioner filed his certificate of candidacy for the same position under the Nacionalista Party (p. 21, rec.).

On January 9, 1980, herein private respondent filed a petition with the COMELEC, which was docketed therein as PDC Case No. 23, praying for the cancellation of the certificate of candidacy of herein petitioner, respondent therein, and for his disqualification as candidate for the elective position of mayor on the ground that he had changed party affiliation from the KILUSANG BAGONG LIPUNAN (KBL) to the Nacionalista Party in violation of Section 10, Article XII(C) of the 1973 Constitution and Section 4 of Batas Pambansa Blg. 52. The said petition also sought to cancel the certificate of candidacy of, and to disqualify, the other members of petitioner's group from the other elective municipal positions (Annex B, Petition for Certiorari and Mandamus, p. 17, rec.). On the same day, herein private respondent, petitioner therein, filed a supplemental petition with the COMELEC, docketed as PDC Case No. 23-5 (Annex C, Petition, p. 22, rec.). Then, on January 15, 1980, herein petitioner [respondent therein], filed an opposition to the petition and supplemental petition of herein private respondent (Annex D, Petition, p. 30, rec.).

The COMELEC heard the case on January 15, 1980, at which hearing both petitioner and private respondent presented their evidence. On January 19, 1980, the COMELEC issued the challenged resolution declaring thus:

"8305. (PDC Case No. 23). In the matter of the verified petition, dated January 8, 1980, and supplemental petition, dated January 9, 1980, filed by Atty. Pedro N. Belmi as counsel for petitioner Julian C. Pendre, the latter being a resident of Poblacion, Baras, Rizal, seeking the disqualification of the following candidates: MELITON C. GERONIMO, for Mayor; TEODORICO R. LLAGAS, MARIO M. DUNGCA, DANILO L. GOLLA, JULIANO MANALO, JR., ANTONIO TESTON, RAYMUNDO J. ORACION, and PLACIDA FERRERA, all for Members, Sangguniang Bayan of Baras, Rizal, in the January 30, 1980 local elections, on the ground that they changed their political party affiliation from Kilusang Bagong Lipunan (KBL) to Nacionalista Party (NP), in violation of Section 10, Article XII(C) of the Constitution and 'Section 4 of Batas Pambansa Blg. 52'; Considering that from the evidence submitted in this case it appears that in a letter, December 31, 1979 (Exh. 'C' also Exh. '1-A'), of respondent Meliton C. Geronimo, addressed to the Chairman of the KBL Chapter of Baras, Rizal, he stated among others, that 'as loyal members of the former Nacionalista party and now loyal party members of the KBL party,' he and his men are seeking nomination as candidates of the KBL; that this request for nomination was denied by the KBL Chapter, in a letter of January 3, 1980, signed by the petitioner (Exh. 'D'); and that on January 4, 1980, the respondents herein filed their certificates of candidacy, stating that they are NP nominees, except Mario M. Dungca, who did not state anything about his party affiliation or nominated by the NP Chapter of Rizal on January 4, 1980 (Exh. '3'), the Commission, on motion of Commissioner Vicente M. Santiago Jr., duly seconded, RESOLVED to declare the respondent Meliton C. Geronimo violated the constitutional and statutory prohibitions of changing party affiliation within six months before the election and, therefore, he is disqualified to be a candidate (Sec. 4, Batas Pambansa Blg.

52), and his certificate of candidacy shall not be given due course (Section 2, PD 1661, as amended). With respect to the other respondents, there is no sufficient evidence showing that they changed their party affiliation from the Liberal Party, as alleged, to the NP during the prohibited period.

"UNANIMOUSLY APPROVED" (Annex A, Petition, p. 16, rec.; underscoring supplied).

A motion for reconsideration of the aforementioned resolution was filed on January 22, 1980 by herein petitioner Meliton C. Geronimo, respondent therein, praying among others that the order disqualifying him be reconsidered and that his certificate of candidacy be given due course (p. 90, rec.). Private respondent Julian C. Pendre, petitioner therein, filed on January 25, 1980 his opposition to the said motion (p. 92, rec.).

On January 28, 1980, without waiting for the resolution of the motion for reconsideration and the opposition thereto, petitioner filed the instant petition for certiorari and mandamus with this Court, and secured a restraining order on the same day directing the COMELEC to refrain from enforcing its January 19, 1980 resolution until further orders.

Required to answer the petition, respondent COMELEC, represented by the Solicitor General, and private respondent Julian C. Pendre filed on February 4, 1980 their respective answers. Also, private respondent filed on February 7, 1980 with this Court an urgent motion praying for prompt decision of the present case or that a hearing be set at the earliest time.

The records further reveal that in the local elections of January 30, 1980, petitioner obtained 2,695 votes as against his opponent, the incumbent Mayor Bayani A. Ferrera, who obtained 2,370 votes, or a margin of 325 votes (p. 104, rec.). During the canvassing of the election returns in Baras, Rizal, which started in the evening of January 30, 1980, private respondent herein and the other KBL candidates contested seven (7) out of the nineteen (19) election returns of voting centers Nos. 8, 9, 12, 14, 15, 15-B and 16.

On February 5, 1980, private respondent and the other KBL candidates filed a formal petition with the COMELEC for the suspension of the proclamation of the winning candidates and for the recounting of the ballots in voting centers Nos. 8, 9, 12, 14, 15, 15-B and 16 on account of serious irregularities discovered in seven (7) out of the nineteen (19) election returns of the aforementioned voting centers. On February 12, 1980, the COMELEC resolved to defer action on the aforesaid petition of private respondent on the ground that the same was premature and that it should be consolidated with the appeal from the ruling of the Municipal Board of Canvassers after the termination of the canvass of election returns.

On February 18, 1980, the Municipal Board of Canvassers issued a resolution denying the protest of private respondent and the other KBL candidates against the aforesaid seven (7) election returns.

Subsequently, on February 22, 1980, private respondent appealed from the resolution of the Municipal Board of Canvassers to the COMELEC. Private respondent alleged however, that he has not received any resolution of the COMELEC on said appeal.

It appears also from the records that on February 19, 1980, petitioner filed a motion dated February 18, 1980 asking this Court to issue an order to the COMELEC to proclaim him as the mayor-elect of Baras, Rizal, and to set the case for hearing. On February 29, 1980, private respondent filed an answer dated February 28, 1980 to petitioner's motion. This Court, in its resolution of February 28, 1980, required the respondents to comment on the petitioner's motion asking this Court to issue an order to the COMELEC to proclaim the petitioner as the mayor-elect of Baras, Rizal. Pursuant thereto, herein private respondent and respondent COMELEC filed their comments respectively on March 7, 1980 and March 10, 1980.

Petitioner Meliton C. Geronimo was proclaimed on February 24, 1980, which fell on a Sunday, by the Municipal

Board of Canvassers of Baras, Rizal, as the elected municipal mayor. However, the COMELEC, acting on an urgent motion to set aside the proclamation dated February 25, 1980 filed by herein petitioner, issued Resolution No. 9308 on February 26, 1980 granting the motion and setting aside the proclamation made by the Municipal Board of Canvassers of Baras. Upon receipt of the aforesaid resolution of the COMELEC, petitioner filed on February 28, 1980 an urgent motion to reconsider the resolution setting aside the proclamation made by the Board of Canvassers and for the reinstatement of the same.

On March 1, 1980, herein petitioner attempted to take his oath of office before Governor Isidro Rodriguez of the Province of Rizal. However, he was not inducted into office because there was yet no COMELEC resolution reinstating his proclamation. Instead, on March 3, 1980, petitioner took his oath of office before Municipal Judge Teodoro O. Pahimulin of Binangonan, Rizal (p. 134, rec.).

On March 11, 1980, the COMELEC issued Resolution No. 9554 reinstating the proclamation made by the Municipal Board of Canvassers of Baras on February 24, 1980 in favor of the petitioner as the winning candidate for mayor of Baras but the proclamation shall be temporary and subject to the decision of this Court on the present case filed by herein petitioner (p. 144, rec.).

The sole issue to be determined in the instant case is whether or not the respondent Commission on Elections has acted with grave abuse of discretion in disqualifying petitioner Meliton C. Geronimo from running for the office of mayor of Baras, Rizal, and in refusing to give due course to his certificate of candidacy for the said position.

The matter of disqualification of petitioner Meliton C. Geronimo is based on Section 10, Article XII(C) of the 1973 Constitution, declaring that:

"No elective public officer may change his political party affiliation during his term of office, and no candidate for any elective public office may change his political party affiliation within six months immediately preceding or following an election" (underscoring supplied).

and Batas Pambansa Blg. 52, adopting the aforesaid constitutional prohibition on political turncoatism as one of the special disqualifications of local candidates running for elective positions by providing that:

"Sec. 4. Special Disqualification. - In addition to violation of Section 10 of Article XII(C) of the Constitution and disqualifications mentioned in existing laws, which are hereby declared as disqualifications for any of the elective officials enumerated in Section 1 hereof xx x xx.

xx xx xx

"Sec. 7: xx x The Commission on Elections shall, motu proprio, or upon sworn petition of any voter, political party or candidate, after due notice and hearing, refuse to give due course to a certificate of candidacy if it is shown that the person filing the same does not possess all the necessary qualifications for the office concerned or is disqualified from running for said office as provided by law" (underlining supplied).

as well as Presidential Decree No. 1661, as amended, implementing the aforesaid constitutional provision and providing that:

"Section 1. Guest Candidate. - It shall be unlawful for any registered or accredited political party to nominate and or support as its official candidate any person belonging to another accredited or registered party when he has affiliated with the nominating party at least six (6) months before the election x x x.

"Section 2. Sanction. - The Commission on Elections shall not give due course to a certificate of candidacy filed by a guest candidate or to the nomination of a political party of a ticket which includes a guest candidate."

Petitioner contends that KBL is not a political party, so that he could not have affiliated with the KBL as a political party, and he could not have changed party affiliation from the KBL to NP; consequently, he is not guilty of violating the constitutional and statutory prohibitions on turncoatism and he should not be disqualified from running for the office of mayor of Baras, Rizal.

The contention is without merit. Petitioner, in arguing that KBL is not a political party but a mere political movement or an umbrella organization, relied on the case of *Laban vs. COMELEC* (82 SCRA 196 [1978]) where this Court held that KBL is not a political party. However, political developments subsequent to the *LABAN* case showed that KBL was transformed from a mere temporary alliance into a more or less stable political organization. It bears noting, as it is significant, that in the Interim Batasang Pambansa, majority of the assemblymen are identified and identify themselves with pride as KBL members, sporting T-shirts, hats, pins labelled KBL, while the few opposition die-hards identify themselves as members of the NP or PUSYON BISAYA. Thereafter, until December, 1979, the majority members kept referring to themselves as KBL members. Likewise, the KBL members held caucuses and meetings, to discuss vital issues. The actions of these organizers and leading members established the de facto organization of the KBL since April, 1978. And the acts performed by the KBL leaders, not the formality of registration as a party, should determine the commencement of party existence. In like manner, in cases involving illegal associations, the nature and true character of an organization are oftentimes determined by the speeches and activities of its leaders and members rather than by its constitution and by-laws (*People vs. Ramos*, CA-G.R. No. 5318, December 28, 1940, 40 O.G. 2305 [Sept. 13, 1941]).

Moreover, Section 80 of the 1965 Election Code and Section 22 of the 1971 Election Code defined a political party as "an organized group of persons pursuing the same political ideals in a government and includes its branches, and divisions." The 1978 Election Code adopted the aforementioned definition by providing in Section 199 that "any other group of persons pursuing the same political ideals in government may register with the Commission and be entitled to the same rights and privileges." Evidently, the KBL is composed of persons committed to the same political ideals and is therefore considered a political party under the aforementioned definition. As such, it was later duly accredited as a political party separate from the Nacionalista Party pursuant to Batas Pambansa Blg. 53 which became effective on December 22, 1979, providing in Section 1 thereof that "for the purpose of such accreditation a political party shall include political groups, aggregations, organizations or associations of persons pursuing the same political ideals in government," and COMELEC Resolution No. 1406 promulgated also on December 22, 1979, providing for the rules on the accreditation of political parties. And this Court has likewise declared: "That KBL had always been a political party or aggregation can, therefore, no longer be open to question. Were KBL not such a political party, block voting as was declared valid in the case of *Peralta vs. COMELEC* could not have been availed of by it, as it unquestionably did, in the 1978 elections. For block voting is voting for a political party" (*Santos vs. COMELEC*, L-52390, March 31, 1981). Similarly, in the cases of *Gabatan vs. COMELEC* (L-52381, January 26, 1980) and *Evasco vs. COMELEC* (L-52401, Resolution of January 28, 1980), this Court affirmed the disqualification of the candidates for the local elective positions of Pagsanjan and Liliw, both in Laguna, on the ground that they changed party affiliation from the KBL to the Nacionalista Party within six months immediately preceding the January 30, 1980 local elections, and in effect recognizing the existence of the KBL as a political party since April, 1978. Therefore, the status of KBL as a political party is now unquestionably a political reality.

There is no question as to petitioner's affiliation with the KBL as a political party. For it is clear from the aforementioned undisputed December 31, 1979 letters of the petitioner to the chairman of the KBL Baras Chapter, that indeed he was affiliated with the KBL. This is confirmed by his statement in one of the aforementioned letters that "now loyal party members of the KBL party" he and his men are seeking nomination as candidates for mayor, vice-mayor and members of the Sangguniang Bayan of Baras, Rizal, to run "under the Kilusang Bagong Lipunan

Party (KBL)." This is an express recognition of KBL as a political party and an admission of petitioner's affiliation with it. He even went further by requesting that his list be submitted "for indorsement and approval of the Pro-vincial Chapter of our party, the KILUSANG BAGONG LIPUNAN PARTY (KBL)." In another letter, petitioner appealed to the local KBL Chapter to hold in abeyance the proclamation of candidates for the elective local positions "if the KBL local chapter has already formed and selected the final line-up for the elective local positions, until finally decided by Arbitration Committee," thus manifesting his fervent desire to be the official candidate for mayor of Baras under the banner of the KBL. Moreover, those aforequoted letters were profuse with references to KBL as "our party." This persistent open declaration by petitioner of KBL as "our party" can only suggest his affiliation with the KBL.

It must be pointed out also that the petitioner made a categorical admission in his own petition for certiorari and mandamus that he "was a member of the KBL," but offered the lame excuse that "he never thought of it as a political party" (p. 5, Petition for Certiorari and Mandamus, p. 5, rec.). This personal belief cannot prevail over the clear manifestations of his adherence to the KBL as a political party as established by his three aforementioned letters. In addition, during the hearing of the case on January 15, 1980 before the COMELEC, petitioner, through counsel, admitted being a member of the KBL before he filed his certificate of candidacy (pp. 53, 109, rec.). It could hardly be argued then that petitioner was not affiliated with the KBL as a political party.

There being a clear showing of petitioner's affiliation with the KBL as a political party on December 31, 1979 as fully established by his three aforequoted letters and his admissions by himself or through his counsel in his pleadings and at the hearing before the COMELEC, and having subsequently affiliated with the Nacionalista Party as shown by his certificate of candidacy for municipal mayor of Baras, subscribed and sworn to on January 4, 1980 and indisputably filed on the same date, within six months immediately preceding the January 30, 1980 local elections, his political turncoatism is undeniable, thus warranting his disqualification as a candidate for the office of mayor of Baras, Rizal. This turncoatism is made more despicable by the fact that petitioner filed on January 4, 1980 his certificate of candidacy as a Nacionalista Party mayoralty candidate only after his request to be the official KBL mayoralty candidate was denied on January 3, 1980 by the local KBL chapter because it had already chosen the official candidates of the KBL for the municipality of Baras.

If his change of political color were due to honest disagreement on principles with KBL leaders, his act would have the aura of noble heroism. But his turncoatism is sheer opportunism because his change of party loyalty was simply due to the fact that he was not chosen the official candidate of the KBL.

WE cannot likewise subscribe to the argument of the petitioner that the prohibition in Section 10, Article XII(C) of the 1973 Constitution against changing party affiliation should not apply to the January 30, 1980 local elections because the holding of the elections was declared barely a month before the election date. For We have already held that "the constitutional provision against 'political turncoatism' already in force upon the effectivity of the New Constitution more than seven years ago, is clearly intended to apply to all elections held under its regime, regardless of whether the holding of said elections is declared less than the 6-month period mentioned in the provision. The stance taken by petitioner that it should not apply in the last election the holding of which was announced only a month before, is clearly not tenable, even only under the well-known legal maxim that where the law does not distinguish, We should not distinguish. No right constitutionally protected under the due process clause is involved for petitioner to complain against lack of sufficient notice because of the less than six (6) months intervening between the declaration of the holding of an election and the day of election. The Constitution speaks so unequivocally with its innovative and mandatory provision, obedience thereof must be imposed" (Santos vs. COMELEC, *supra*).

Petitioner furthermore assails P.D. No. 1661 as *ex post facto* law if applied to him; hence, unconstitutional. The

prohibition of ex post facto law has been unquestionably known as applicable only to laws or statutes which are penal in nature. WE have already ruled in the Santos case, supra, that the aforesaid P.D. No. 1661 cannot "be banned under the ex post facto law clause of the Constitution, for it merely provides for a certain disqualification of a candidate aspiring to be chosen to an elective office which, being a mere privilege, is a fit subject for reasonable statutory regulation, clearly not penal in character. As defined, ex post facto law is limited in its scope only to matters criminal in nature." Besides, P.D. No. 1661 which took effect on January 3, 1980, is only an implementation of Section 10, Article XII(C) of the 1973 Constitution and the same decree was likewise held in the aforesaid Santos case as having a prospective application contrary to the claim of the petitioner that it is retroactive in application. Petitioner ought to have been forewarned as early as 1973, that there was already a constitutional prohibition against turncoatism and having violated the same, he should now bear the consequence of his actions.

Petitioner should also be reminded that in exercising his political rights, he should at all times act in good faith, especially because he is a retired lieutenant colonel of the Philippine Air Force and a businessman. Article 19 of the New Civil Code expressly mandates that "every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith" (underscoring supplied). In the case at bar, petitioner acted in gross and evident bad faith in changing his political party affiliation from the KBL of which he was a party member, to the Nacionalista Party, immediately after the KBL Baras Chapter denied his request to be the official KBL candidate for municipal mayor, for the reason that it had already chosen the complete line-up of the KBL official candidates pursuant to its party rules. Such opportunistic and therefore contemptible attitude of the petitioner should not be tolerated. For Section 10, Article XII(C) of the 1973 Constitution was adopted primarily to stop the "virus of turncoatism" and political opportunism. Otherwise, it would defeat or render meaningless the very purpose for which the aforesaid novel constitutional provision was adopted.

WE find therefore that there was no grave abuse of discretion committed by the respondent COMELEC in issuing the challenged resolution disqualifying petitioner Geronimo from running as NP candidate for the position of mayor of Baras, Rizal, and refusing to give due course to his certificate of candidacy by reason of violation of the afore-quoted constitutional and statutory provisions expressly prohibiting turncoatism, since there was substantial evidence in support of the same. And in the absence of patent and grave abuse of discretion, We cannot set aside the COMELEC resolution complained of (*Aratuc vs. Commission on Elections*, 88 SCRA 251 [1979]).

Finally, it must be noted that there is merit in private respondent's contention that the instant case be dismissed for being premature as there was a motion for reconsideration of the questioned resolution No. 8305 filed by petitioner with respondent COMELEC which was still pending at the time of the filing of the instant petition. However, in view of the nature of this case requiring as it does a speedy and prompt disposition of the issues involved in order to determine the party legally entitled to the position of mayor, We opted to decide once and for all the issues involved herein.

WHEREFORE, THE PETITION IS HEREBY DISMISSED AND THE RESTRAINING ORDER OF JANUARY 28, 1980 IS HEREBY LIFTED. NO COSTS.

Fernando, C.J., Barredo, Aquino, Concepcion, Jr., Fernandez, Guerrero, De Castro, and Melencio-Herrera, concur.

Abad Santos, J., no part.

Teehankee, J., on official leave.

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