

CONSUELO FA. ALVEAR, PETITIONER, VS. THE COMMISSION ON ELECTIONS, RESPONDENT.

G. R. No. 13066. April 30, 1958

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for certiorari and mandamus with preliminary injunction praying that respondent be ordered to give due course to her candidacy for senator and that the latter's resolution dated September 30, 1957 be declared null and void.

Petitioner is a qualified candidate for the office of senator, being a natural born Filipino citizen, 45 years of age, and a resident of the Philippines for not less than two years immediately prior to the last general elections. She filed her certificate of candidacy with respondent on August 13, 1957. On September 30, 1957, respondent adopted a resolution requiring, inter alia, petitioner and other candidates for various elective offices to submit on or before October 21, 1957 no less than 140,000 copies of their certificates of candidacy for distribution among the polling places throughout the country, as well as to defray the expenses incident thereto, as otherwise their candidacy will not be given due course. On October 14, 1957, petitioner registered her protest against said resolution branding it as arbitrary, discriminatory and not within the power conferred upon it by law. On October 20, 1957, respondent denied the protest. Hence this petition for review.

Respondent, answering the petition, stated that it had discretionary power not to give due course to a certificate of candidacy when in its opinion the same was not filed in good faith, and that it has adopted the resolution in question in the exercise of that discretion. It averred that the printing and distribution of copies of certificates of candidacy among all the election precincts of the Philippines for each candidate for senator costs the government around P5,000 and it is its duty to protect the public funds against a candidate who does not file his certificate of candidacy in good faith.

Under Section 37 of the Revised Election Code, the Commission on Elections has the ministerial duty to receive any certificate of candidacy and to immediately acknowledge receipt thereof. This ministerial duty respondent has complied with when it has accepted the certificate of candidacy filed by petitioner for the office of senator of the Philippines. But while petitioner seems to have all the qualifications for the office she desires to run and for which she has filed her certificate of candidacy, respondent has imposed upon her the condition of submitting to its office not less than 140,000 copies of said certificate for distribution among the polling places throughout the country for the simple reason that petitioner is presenting herself for the first time as a candidate for such position and respondent does not possess any knowledge of her background or reputation. We believe this stand to be erroneous.

Section 36 of the Revised Election Code provides that "with respect to certificates of candidacy of candidates for President, Vice-President and Senators, ten copies thereof shall be filed with the Commission on Elections which shall order the preparation and distribution of copies of the same to all the election precincts of the Philippines. *

* * " These provisions are clear. They only require a candidate to furnish the Commission on Elections with ten copies of his certificate of candidacy, but with regard to the preparation and distribution of those that may be needed by the election precincts of the Philippines, they make it the express duty of the Commission to implement. This is how we interpreted the law in a recent case.[1] After quoting the provisions of said section, this Court said: "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." Speaking further of this duty of the Commission on Elections, this Court, through Mr. Justice Concepcion, said:

"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 office mentioned in section 36 of said Code, it necessarily implies trijit 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."

This case should be differentiated from that of Ciriaco S. Garcia vs. Imperial, G. R. No. L-12930, promulgated on October 22, 1957, in that in the Garcia case the Commission found that his certificate of candidacy was 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", referring to candidate Carlos P. Garcia. And we upheld the stand of the Commission because we found that the candidate launched his candidacy to create merely confusion in the mind of the electorate and of the election inspectors, and not to win the election, which is in line with the duty of the Commission "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.

Wherefore, the aforementioned resolution of the Commission on Elections is hereby annulled, and the writ of preliminary injunction heretofore issued made permanent, without special pronouncement as to costs.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

[1] Alfredo Abcede vs. Hon. Domingo Imperial, et al., supra, p. 136.

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