

MAUYAG B. PAPANDAYAN, JR., PETITIONER, VS. COMMISSION ON ELECTIONS AND FAHIDA P. BALT, RESPONDENTS.

G.R. No. 151891. November 18, 2002

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The petition at bar has been rendered moot for the most part by our Decision of April 16, 2002 in G. R. No. 147909, also titled Mauyag B. Papandayan, Jr. v. Commission on Elections and Fahida P. Balt (the disqualification case), which reversed the Resolutions of the Commission on Elections (COMELEC) declaring petitioner disqualified to run for the position of Mayor of Tubaran, Lanao del Sur. The void proclamation of petitioner as duly elected mayor, however, necessitated this Resolution.

Petitioner Mauyag B. Papandayan, Jr. and respondent Fahida P. Balt were among the contenders for the post of Municipal Mayor of Tubaran, Lanao del Sur in the May 14, 2001 elections. Respondent Balt sought the disqualification of petitioner before the COMELEC on the ground that he was not a resident of Tubaran.

By Resolution of May 8, 2001, the COMELEC declared petitioner disqualified and accordingly ordered that his name be stricken off the list of candidates for mayor and that all votes cast in his favor should not be counted but considered as stray. Petitioner's motion for reconsideration of the said May 8, 2001 Resolution was, by Resolution of May 12, 2001, denied.

Petitioner, however, received the highest number of votes for mayor of Tubaran in the elections held on May 14, 2001. He thus filed with this Court on May 17, 2001 the disqualification case, a petition for Certiorari with prayer for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction, praying for the annulment of the COMELEC Resolutions of May 8 and 12, 2001 disqualifying him as a candidate.

Petitioner subsequently filed on May 19, 2001 with the COMELEC a petition, docketed as SPC No. 01-039, praying that the Board of Election Inspectors (BEI) of Tubaran be ordered to count and tally the votes cast in his favor pursuant to COMELEC Resolution No. 4116 dated May 7, 2001 mandating that if the disqualification had not become final and executory on the day of the elections, the BEI shall tally and count the votes of the disqualified candidate.

Respondent Balt in turn filed a pre-proclamation case before the COMELEC against petitioner, docketed as SPC No. 01-259 (the pre-proclamation case), for exclusion of election returns.

In the interim or on May 22, 2001, this Court issued in the disqualification case a TRO enjoining the COMELEC to desist from implementing its Resolutions of May 8 and 12, 2001 disqualifying petitioner as a candidate.

By Order of May 29, 2001, the COMELEC granted the petition in SP No. 01-039 of petitioner to count and tally the ballots cast in his favor with the qualification that in the event he wins, his proclamation be suspended pending the resolution by this Court of the disqualification case. The COMELEC disposed thus:

WHEREFORE, premises considered, the Petition is hereby granted. The Board of Canvassers of Tuburan, Lanao del Sur is ordered to count and tally the ballots cast in favor of the Petitioner. However, pending the resolution of the case for certiorari filed by the Petitioner with the Supreme Court, the same board is directed to immediately suspend the proclamation of the Petitioner, if winning, as mayor of Tuburan, Lanao del Sur.[1]

Petitioner filed a motion for reconsideration of the above-said COMELEC May 29, 2001 Order in SP No. 01-039 insofar as it ordered the suspension of his proclamation, he arguing that the same constituted “an unlawful interference with process or proceedings of the High Court in [the disqualification case].” Pending the resolution by the COMELEC of petitioner’s said motion for reconsideration or on June 3, 2001, the Municipal Board of Canvassers of Tuburan proceeded with petitioner’s proclamation. Respondent Balt thus filed a motion dated June 19, 2001 for the annulment of the proclamation, which the COMELEC granted by Order of June 25, 2001, it holding that:

x x x. Clearly, the act of proclamation is in violation of the May 29, 2001 Order of this Commission (First Division). Moreover, the fact that the pre-proclamation case is also pending with the Commission, the Board should have deferred its proceedings pursuant to the provision of the Section 245 of the Omnibus Election Code as regards contested election returns, the pertinent portion which is quoted as follows:

“x x x

The board of canvassers shall not proclaim any candidate as winner unless authorized by the Commission after the latter has ruled on the objections brought to it on appeal by the losing party and any proclamation made in violation hereof shall be void ab initio, unless the contested returns will not adversely affect the results of the election.”

Wherefore, premises considered, this Commission (First Division) hereby sets aside the proclamation of Petitioner Maanyag B. Papandayan Jr., last June 3, 2001 without prejudice to the filing of appropriate charges against the members of the Board who made the illegal proclamation.[2] (Underscoring supplied).

Petitioner filed a motion for reconsideration of the COMELEC Order of June 25, 2001.

Meanwhile or on June 29, 2001, the COMELEC promulgated Resolution No. 4493 (Omnibus Resolution on Pending Cases) considering as terminated certain classes of pre-proclamation cases under which the pre-proclamation case filed by respondent Balt was classified.

By Resolution of January 30, 2002, the COMELEC, in SP No. 01-039, denied petitioner’s Motion for Reconsideration of its Order of January 25, 2001 annulling his proclamation. Citing, among other grounds, Section 6 of Republic Act No. 6646[3] which reads:

Sec. 6. Effect of disqualification case. – Any candidate who has been declared by final judgment to be disqualified shall not be voted for, and the votes cast for him shall not be counted. If for any reason a candidate is not declared by final judgment before an election to be disqualified and he is voted for and receives the winning number of votes in such election, the Court of Commission shall continue with the trial and hearing of the action, inquiry, or protest and, upon motion of the complainant or any intervenor, may during the pendency thereof order the suspension of the proclamation of such candidate whenever the evidence of his guilt is strong,

the COMELEC held that “the evidence of guilt of the petitioner is strong in view of the resolution dated May 8, 2001 of the Second Division (this Commission) disqualifying the petitioner to run as mayor in the May 14, 2001 elections, as affirmed by the Commission en banc in its resolution dated May 12, 2001.”[4] And citing Section 245 of the Omnibus Election Code, the COMELEC reiterated its directive enjoining the Municipal Board of Canvassers from proclaiming any candidate as winner in view of the pendency of the pre-proclamation case filed before it (the COMELEC) by respondent Balt.

Hence, the present petition for Certiorari filed on February 8, 2002 before this Court against the COMELEC and Baht, petitioner raising the issue of “whether the COMELEC has jurisdiction and authority to suspend [his] proclamation . . . on the ground that the evidence of his guilt of lack of residence is . . . strong,” he contending that the COMELEC May 29, 2001 Order suspending his proclamation, the June 25, 2001 Order annulling his proclamation, and the June 30, 2001 En Banc Resolution denying his Motion for Reconsideration were issued with grave abuse of discretion amounting to lack of jurisdiction.

In compliance with this Court’s Resolution of February 12, 2002, both respondents COMELEC and Baht filed their respective comments on the petition.

As earlier stated, this Court rendered in the disqualification case its Decision of April 16, 2002 reversing the COMELEC Resolutions declaring petitioner disqualified to run for mayor. Thus this Court disposed:

WHEREFORE, the petition is GRANTED and the assailed resolution of the COMELEC (Second Division), dated May 8, 2001, disqualifying petitioner Maanyag B. Papandayan, Jr. as a candidate for municipal mayor in Tubaran, Lanao del Sur, and the resolution, dated May 12, 2001, of the COMELEC en banc, denying petitioner’s motion for reconsideration, are hereby ANNULLED and SET ASIDE. The temporary restraining order heretofore issued is made PERMANENT.

Respondent Balt’s motion for reconsideration of this Court’s decision in the disqualification case was later to be denied by Resolution of June 25, 2002.

On April 30, 2002, petitioner filed a “Manifestation that the Honorable Court Already Decided the [Disqualification Case]”, he stating that “[the] decision of the Honorable Court [in the disqualification case] has in effect rendered ineffective and functus officio the orders of the COMELEC dated May 29, 2001 [suspending his proclamation], June 25, 2001 [annulling his proclamation], and January 30, 2002 [denying the motions for reconsideration] since the disqualification of the petitioner by the COMELEC has already been set aside.”

The Court agrees in part.

The grounds for the issuance of the herein assailed COMELEC Orders of June 25, 2001 and January 30, 2002 rest mainly upon the pendency before this Court of the disqualification case and partly on the pending pre-proclamation case filed by respondent Balt before the COMELEC. The COMELEC Order dated May 29, 2001 suspending the proclamation of petitioner in the event he wins the election is premised on “the pendency of the [disqualification case] in the Supreme Court.” The Order dated June 25, 2001 annulling the proclamation, in turn, is premised on its alleged “violation of the May 29, 2001 Order” and the pendency of the pre-proclamation case.

As mentioned above, the COMELEC January 30, 2002 Resolution, citing Section 6 of R. A. No. 6646, ruled that the suspension of petitioner’s proclamation was warranted since “the evidence of guilt of the petitioner is strong in view of [its] resolution dated May 8, 2001” disqualifying him and or ordering the striking off of his name as mayoral candidate.

The disqualification case having been decided by this Court in petitioner’s favor, the annulment of the herein challenged order suspending petitioner’s proclamation follows as a necessary legal consequence. Such effect is deemed read into the decision⁵ in the disqualification case notwithstanding the fact that petitioner did not specifically pray for such above-said relief.

That leaves as the only matter for consideration petitioner’s proclamation. The Court upholds, in light of Section 20 (i) of Republic Act No. 7166,⁶ the COMELEC’s assailed June 25, 2001 Order setting aside the proclamation of petitioner by the Tubaran Board of Canvassers. For, at the time of the proclamation, the COMELEC had yet to

rule on the objections interposed by the losing party. There was no showing that the contested returns would not have adversely affected the results of the election. In view, however, of above-mentioned COMELEC Resolution No. 4493 dated June 29, 2001 considering terminated certain pre-proclamation cases under which that filed by respondent Balt falls, there no longer exists any impediment to petitioner's proclamation.

WHEREFORE, the COMELEC is hereby ordered to direct the Tubaran Municipal Board of Canvassers to proclaim petitioner, Mauyag B. Papandayan, Jr., as duly elected Mayor of Tubaran, Lanao del Sur.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Corona, Callejo, Sr., and Azcuna, JJ., concur.

Austria-Martinez, J., on leave.

[1] Rollo, p. 46.

[2] Id., at 48.

[3] AN ACT INTRODUCING ADDITIONAL REFORMS IN THE ELECTORAL SYSTEM AND FOR OTHER PURPOSES

[4] Id., at 57.

5 vide Cristobal vs. Melchor, 101 SCRA 857 (1980).

6 An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for other purposes. Section 245 of the Omnibus Election Code cited by the COMELEC has been expressly repealed by Section 39, R.A. No. 7166. The portions of Section 245 of the Omnibus Election Code pertinent to this case, however, are reproduced almost verbatim in Section 20 (i), R.A. No. 7166 as follows:

(i) The board of canvassers shall not proclaim any candidate as winner unless authorized by the Commission after the latter has ruled on the objections brought to it on appeal by the losing party. Any proclamation made in violation hereof shall be void ab initio, unless the contested returns will not adversely affect the results of the election.

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