

**ELLAN MARIE P. CIPRIANO, A MINOR REPRESENTED BY HER
FATHER ROLANDO CIPRIANO, (AND OTHER YOUTH OF THE LAND
AFFECTED AND SIMILARLY SITUATED), PETITIONERS, VS.
COMMISSION ON ELECTI...**

G.R. No. 158830. August 10, 2004

Ponente: PUNO, J.

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PUNO, J.:

May the Commission on Elections (COMELEC), on its own, in the exercise of its power to enforce and administer election laws, look into the qualifications of a candidate and cancel his certificate of candidacy on the ground that he lacks the qualifications prescribed by law? This is the issue that needs to be resolved in this petition for certiorari filed by Ellan Marie P. Cipriano, the duly elected SK Chairman of Barangay 38, Pasay City, whose certificate of candidacy was cancelled by the COMELEC *motu proprio* on the ground that she was not a registered voter in the barangay where she intended to run.

On June 7, 2002, petitioner filed with the COMELEC her certificate of candidacy as Chairman of the Sangguniang Kabataan (SK) for the SK elections held on July 15, 2002.[1]

On the date of the elections, July 15, 2002, the COMELEC issued Resolution No. 5363 adopting the recommendation of the Commission's Law Department to deny due course to or cancel the certificates of candidacy of several candidates for the SK elections, including petitioners. The ruling was based on the findings of the Law Department that petitioner and all the other candidates affected by said resolution were not registered voters in the barangay where they intended to run.[2]

Petitioner, nonetheless, was allowed to vote in the July 15 SK elections and her name was not deleted from the official list of candidates. After the canvassing of votes, petitioner was proclaimed by the Barangay Board of Canvassers the duly elected SK Chairman of Barangay 38, Pasay City.[3] She took her oath of office on August 14, 2002.[4]

On August 19, 2002, petitioner, after learning of Resolution No. 5363, filed with the COMELEC a motion for reconsideration of said resolution. She argued that a certificate of candidacy may only be denied due course or cancelled via an appropriate petition filed by any registered candidate for the same position under Section 78 of the Omnibus Election Code in relation to Sections 5 and 7 of Republic Act (R.A.) No. 6646. According to petitioner, the report of the Election Officer of Pasay City cannot be considered a petition under Section 78 of the Omnibus Election Code, and the COMELEC cannot, by itself, deny due course to or cancel one's certificate of candidacy. Petitioner also claimed that she was denied due process when her certificate of candidacy was cancelled by the Commission without notice and hearing. Petitioner further argued that the COMELEC *en banc* did not have jurisdiction to act on the cancellation of her certificate of candidacy on the first instance because it is the Division of the Commission that has authority to decide election-related cases, including pre-proclamation controversies. Finally, she contended that she may only be removed by a petition for *quo warranto* after her

proclamation as duly-elected SK Chairman.[5]

On October 7, 2002, the COMELEC issued Resolution No. 5781,[6] resolving petitioner's motion for reconsideration. It cited its previous resolution, Resolution No. 5584, in relation to Resolution No. 4801. The Commission stated in Resolution No. 5584 its policy on proclaimed candidates found to be ineligible for not being registered voters in the place where they were elected. It explained:

A portion of Resolution No. 5584 explained the procedure adopted by the Commission in denying due course the certificate of candidacy of a candidate. It reads:

Under COMELEC Resolution No. 4801, Election Officers were given the duty to: (1) verify whether all candidates for barangay and sangguniang kabataan positions are registered voters of the barangay where they filed their certificates of candidacy; and (2) examine the entries of the certificates of candidacy and determine on the basis of said entries whether the candidate concerned possesses all the qualifications of a candidate.

Further, Election Officers are mandated to report by registered mail and by rush telegram to the Law Department of this Commission the names of candidates who are not registered voters in the place where they seek to run for public office within three (3) days from the last day for filing of certificates of candidacy. The names of these candidates, however, shall still be included in the certified lists of candidates until the Commission directs otherwise.

By virtue of the said report, the Law Department makes a recommendation to the Commission En Banc, and the latter, by virtue of an En Banc Resolution either gives due course to or denies/cancels the certificates of candidacy of the said candidates.

Verily, the administrative inquiry of the Commission on the eligibility of candidates starts from the time they filed their certificates of candidacy. The candidates, by virtue of the publication of COMELEC Resolution No. 4801 on May 25, 2002 in the Manila Standard and Manila Bulletin are deemed to have constructive notice of the said administrative inquiry. Thus, the Commission, by virtue of its administrative powers, may motu proprio deny/cancel the certificates of candidacy of candidates who are found to be not registered voters in the place where they seek to run for public office.

Any registered candidate for the same office may also file a verified petition to deny due course to or cancel a certificate of candidacy pursuant to Section 69 (nuisance candidate) or Sec. 78 (material misrepresentation in the certificate of candidacy) of the Omnibus Election Code either personally or through a duly authorized representative within five (5) days from the last day for filing of certificate of candidacy directly with the Office of the Provincial Election Supervisor or with the Office of the Election Officer concerned.

Hence, as long as the Election Officer reported the alleged ineligibility in accordance with COMELEC Resolution No. 4801, or the petition to deny due course to or cancel a certificate of candidacy was filed within the reglementary period, the fact that the Resolution of this Commission, denying due course to or canceling the certificate of candidacy of an ineligible candidate, was not promulgated or did not arrive prior to or on the day of the elections is therefore of no moment. The proclamation of an ineligible candidate is not a bar to the exercise of this Commission's power to implement the said Resolution of the Commission En Banc because it already acquired the jurisdiction to determine the ineligibility of the candidates who filed their certificates of candidacy even before elections by virtue of either the report of the Election Officer or the petition to deny due course to or cancel the certificate of candidacy filed against them.

On the matter of petitions for disqualification, the provisions of COMELEC Resolution No. 4801 are likewise clear: (1) 'A verified petition to disqualify a candidate on the ground of ineligibility or under Section 68 of the Omnibus Election Code may be filed at anytime before proclamation of the winning candidate by any registered voter or any candidate for the same office,' (2) 'All disqualification cases filed on the ground of ineligibility shall survive, although the candidate has already been proclaimed.'

Clearly, by virtue of the above-quoted provisions, the proclamation of a candidate who is found to be disqualified is also not a bar to the Commission's power to order a proclaimed candidate to cease and desist from taking his oath of office or from assuming the position to which he was elected.

By way of contrast, in case of proclaimed candidates who were found to be ineligible only after they were elected and proclaimed, the provisions of Section 253 of the Omnibus Election Code are clear: The remedy of losing candidates is to file a petition for quo warranto before the metropolitan or municipal trial court. This is logical – The Commission did not acquire jurisdiction over these proclaimed candidates prior to election (i.e., There was no report from the Election Officer regarding their ineligibility and no petition to deny due course to or cancel certificate of candidacy and/or petition for disqualification was filed against them.) Thus, the Commission has no jurisdiction to annul their proclamation on the ground of ineligibility, except in cases wherein the proclamation is null and void for being based on incomplete canvass.

Thus, the Commission ruled:

Premises considered, the Commission, RESOLVED, as it hereby RESOLVES, to establish a policy as follows:

ON PROCLAIMED CANDIDATES FOUND TO BE INELIGIBLE FOR BEING NOT REGISTERED VOTERS IN THE PLACE WHERE THEY WERE ELECTED.

(a) For a proclaimed candidate whose certificate of candidacy was denied due course to or cancelled by virtue of a Resolution of the Commission En Banc albeit such Resolution did not arrive on time.

- To DIRECT the Election Officers concerned to implement the resolution of the Commission deleting the name of the candidate whose certificate of candidacy was denied due course;

- To DIRECT the candidate whose name was ordered deleted to cease and desist from taking his oath of office or from assuming the position to which he was elected, unless a temporary restraining order was issued by the Supreme Court; and

- To RECONVENE the Board of Canvassers for the purpose of proclaiming the duly-elected candidates and correcting the Certificate of Canvass of Proclamation.[7]

The Commission further stated:

Considering that there are queries as to the status of the proclamation of disqualified candidates as an offshoot of Resolution No. 5584, the same was amended by virtue of Resolution No. 5666, the dispositive portion of which now reads:

Considering the above-quoted provision, the Commission RESOLVED, as it hereby RESOLVES, to APPROVE the recommendation of Commissioner Sadain to amend Resolution No. 5584 promulgated on 10 August 2002 with modification.

Accordingly, Resolution No. 5584 shall now read as follows:

I

ON PROCLAIMED CANDIDATES FOUND TO BE INELIGIBLE FOR BEING NOT REGISTERED VOTERS IN THE PLACE WHERE THEY WERE ELECTED XXX XXX

(a)

xxx

(b)

xxx

(c)

xxx

(d)

For both (a) and (b), in the event that the disqualified candidate is proclaimed the winner despite his disqualification or despite the pending disqualification case filed before his proclamation, but which is subsequently resolved against him, the proclamation of said disqualified candidate is hereby declared void from the beginning, even if the dispositive portion of the resolution disqualifying him or canceling his certificate of candidacy does not provide for such an annulment.[8]

Hence, petitioner filed the instant petition seeking:

(a)

To declare illegal and unconstitutional the COMELEC Resolution No. 5363 promulgated on 15 July 2002 and COMELEC Resolution No. 5781 promulgated on October 7, 2002 and any other COMELEC actions and resolutions which are intended to summarily oust and remove petitioner as SK Chairman of Barangay 38, Pasay City without any notice, inquiry, election protest, petition for quo warranto, investigation and hearing, and therefore a clear violation of due process of law.

(b)

To declare illegal the aforesaid COMELEC Resolutions sitting en banc which does not have authority to decide election related case, including pre-proclamation controversies, in the first instance, in consonance to this Honorable Court's ruling in the cases of Sarmiento vs. COMELEC, G.R. No. 87308, August 29, 1989 and Garvida vs. Sales, G.R. No. 124893, April 18, 1997.

(c)

To declare unconstitutional Sections 6 and 7 of R.A. 9164 and also to declare the age of membership and its officers of the KK or SK organization from 15 to 21 years old in accordance with Sec. 39 (f) and Sec. 423 (b) and other provisions of R.A. 7160 otherwise known as Local Government Code of 1991.

(d)

If Sections 6 and 7 of R.A. 9164 are sustained as constitutional to direct all SK Officers and Members who are now more than 18 years old to cease and desist from continuously functioning as such SK Officers and Members and to vacate their respective SK Officers position, as they are no longer members of the Sangguniang Kabataan organization or Katipunan ng Kabataan organization for being over age upon attaining the age of 18 years old.

e)

To direct respondents to pay the salary, allowance and other benefits of the petitioner as SK Chairperson of Barangay 38, Pasay City.[9]

Stripped of the non-essentials, the only issue in this case is the validity of Resolution No. 5363 of the COMELEC.

Petitioner argues that she was deprived of due process when the COMELEC issued Resolution No. 5363 canceling her certificate of candidacy. She claims that the resolution was intended to oust her from her position as SK Chairman without any appropriate action and proceedings.

The COMELEC, on the other hand, defends its resolution by invoking its administrative power to enforce and administer election laws. Thus, in the exercise of such power, it may *motu proprio* deny or cancel the certificates of candidacy of candidates who are found to be unqualified for the position they are seeking. The Commission further contends that the publication of COMELEC Resolution No. 4801 governing the conduct of the Barangay and SK elections in two newspapers of general circulation is sufficient notice to the candidates regarding the Commission's administrative inquiry into their certificates of candidacy.

The petition is impressed with merit.

The COMELEC is an institution created by the Constitution to govern the conduct of elections and to ensure that the electoral process is clean, honest, orderly, and peaceful. It is mandated to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall."^[10] As an independent Constitutional Commission, it is clothed with the three powers of government - executive or administrative, legislative, and quasi-judicial powers. The administrative powers of the COMELEC, for example, include the power to determine the number and location of polling places, appoint election officials and inspectors, conduct registration of voters, deputize law enforcement agencies and government instrumentalities to ensure free, orderly, honest, peaceful and credible elections; register political parties, organization or coalitions, accredit citizens' arms of the Commission, prosecute election offenses, and recommend to the President the removal or imposition of any other disciplinary action upon any officer or employee it has deputized for violation or disregard of its directive, order or decision. It also has direct control and supervision over all personnel involved in the conduct of election.^[11] Its legislative authority is found in its power to promulgate rules and regulations implementing the provisions of the Omnibus Election Code or other laws which the Commission is required to enforce and administer.^[12] The Constitution has also vested it with quasi-judicial powers when it was granted exclusive original jurisdiction over all contests relating to the elections, returns and qualifications of all elective regional, provincial and city officials; and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.^[13]

Aside from the powers vested by the Constitution, the Commission also exercises other powers expressly provided in the Omnibus Election Code, one of which is the authority to deny due course to or to cancel a certificate of candidacy. The exercise of such authority, however, must be in accordance with the conditions set by law.

The COMELEC asserts that it is authorized to *motu proprio* deny due course to or cancel a certificate of candidacy based on its broad administrative power to enforce and administer all laws and regulations relative to the conduct of elections.

We disagree. The Commission may not, by itself, without the proper proceedings, deny due course to or cancel a certificate of candidacy filed in due form. When a candidate files his certificate of candidacy, the COMELEC has a ministerial duty to receive and acknowledge its receipt. This is provided in Sec. 76 of the Omnibus Election Code, thus:

Sec. 76. Ministerial duty of receiving and acknowledging receipt. - The Commission, provincial election supervisor, election registrar or officer designated by the Commission or the board of election inspectors under the succeeding section shall have the ministerial duty to receive and acknowledge receipt of the certificate of candidacy.

The Court has ruled that the Commission has no discretion to give or not to give due course to petitioner's certificate of candidacy.^[14] The duty of the COMELEC to give due course to certificates of candidacy filed in

due form is ministerial in character. While the Commission may look into patent defects in the certificates, it may not go into matters not appearing on their face. The question of eligibility or ineligibility of a candidate is thus beyond the usual and proper cognizance of said body.[15]

Nonetheless, Section 78 of the Omnibus Election Code allows any person to file before the COMELEC a petition to deny due course to or cancel a certificate of candidacy on the ground that any material representation therein is false. It states:

Sec. 78. Petition to deny due course to or cancel a certificate of candidacy. - A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by any person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after notice and hearing, not later than fifteen days before the election.

Under Rule 23 of the COMELEC Rules of Procedure, the petition shall be heard summarily after due notice.

It is therefore clear that the law mandates that the candidate must be notified of the petition against him and he should be given the opportunity to present evidence in his behalf. This is the essence of due process. Due process demands prior notice and hearing. Then after the hearing, it is also necessary that the tribunal shows substantial evidence to support its ruling. In other words, due process requires that a party be given an opportunity to adduce his evidence to support his side of the case and that the evidence should be considered in the adjudication of the case.[16] In a petition to deny due course to or cancel a certificate of candidacy, since the proceedings are required to be summary, the parties may, after due notice, be required to submit their position papers together with affidavits, counter-affidavits, and other documentary evidence in lieu of oral testimony. When there is a need for clarification of certain matters, at the discretion of the Commission en banc or Division, the parties may be allowed to cross-examine the affiants.[17]

Contrary to the submission of the COMELEC, the denial of due course or cancellation of one's certificate of candidacy is not within the administrative powers of the Commission, but rather calls for the exercise of its quasi-judicial functions. Administrative power is concerned with the work of applying policies and enforcing orders as determined by proper governmental organs.[18] We have earlier enumerated the scope of the Commission's administrative functions. On the other hand, where a power rests in judgment or discretion, so that it is of judicial nature or character, but does not involve the exercise of functions of a judge, or is conferred upon an officer other than a judicial officer, it is deemed quasi-judicial.[19]

The determination whether a material representation in the certificate of candidacy is false or not, or the determination whether a candidate is eligible for the position he is seeking involves a determination of fact where both parties must be allowed to adduce evidence in support of their contentions. Because the resolution of such fact may result to a deprivation of one's right to run for public office, or, as in this case, one's right to hold public office, it is only proper and fair that the candidate concerned be notified of the proceedings against him and that he be given the opportunity to refute the allegations against him. It should be stressed that it is not sufficient, as the COMELEC claims, that the candidate be notified of the Commission's inquiry into the veracity of the contents of his certificate of candidacy, but he must also be allowed to present his own evidence to prove that he possesses the qualifications for the office he seeks.

In view of the foregoing discussion, we rule that Resolution No. 5363 and Resolution No. 5781, canceling petitioner's certificate of candidacy without proper proceedings, are tainted with grave abuse of discretion and therefore void.

We need not rule on the question raised by petitioner as regards the constitutionality of Sections 6 and 7 of

Republic Act No. 9164 lowering the age of membership in the SK as it is not the *lis mota* of this case.

IN VIEW WHEREOF, COMELEC Resolution No. 5363 promulgated on July 15, 2002 and COMELEC Resolution No. 5781 issued on October 7, 2002 are hereby SET ASIDE.

SO ORDERED.

Davide, Jr., C.J., Panganiban, Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, and Chico-Nazario, JJ., concur.
Sandoval-Gutierrez, J., on leave.

- [1] Annex “E,” Petition, Rollo, p. 73.
- [2] Annex “A,” Petition, Rollo, pp. 53-56.
- [3] Annex “F,” Petition, Rollo, p. 74.
- [4] Annex “G,” Petition, Rollo, p. 75.
- [5] Annex “B,” Petition, Rollo, pp. 57-62.
- [6] Annex “C,” Petition, Rollo, pp. 63-71.
- [7] Rollo, pp. 67-69.
- [8] Rollo, p. 70.
- [9] Petition, Rollo, pp. 6-7.
- [10] Sec. 2 (1), Article IX C, 1987 Constitution.
- [11] Sec. 2, Article IX C, 1987 Constitution; Sandoval vs. Comelec, 323 SCRA 403 (2000).
- [12] Sec. 52(c), Omnibus Election Code.
- [13] Sec. 2 (2), Article IX C, 1987 Constitution.
- [14] Abcede vs. Hon. Imperial, 103 Phil. 136 (1958).
- [15] Sanchez vs. Del Rosario, 111 Phil. 733 (1961).
- [16] Sandoval vs. Comelec, *supra*.
- [17] Saya-ang, Sr. vs. COMELEC, et al., G.R. No. 155087, November 28, 2003.
- [18] Ople vs. Torres, 293 SCRA 150 (1998).
- [19] Sandoval vs. Comelec, *supra*.

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