EDILWASIF T. BADDIRI, PETITIONER, VS. COMMISSION ON ELECTIONS, ALKADAR T. LOONG, NIJAR I. HASSAN AND THE PROVINCIAL BOARD OF CANVASSERS OF SULU, RESPONDENTS.

G.R. NO. 165677. June 08, 2005

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is a petition for certiorari with prayer for the issuance of a temporary restraining order and writ of preliminary injunction to nullify the questioned Resolutions promulgated on July 8, 2004 and October 1, 2004 by the Commission on Elections (COMELEC), First Division, and COMELEC en banc, respectively. The COMELEC affirmed the Ruling of the Provincial Board of Canvassers of the Province of Sulu which granted the Petition for Correction of Manifest Error filed by respondent Loong, resulting in the exclusion of petitioner from the list of the four winning candidates for Board Member, Sangguniang Panlalawigan, First District of the Province of Sulu.

The factual antecedents[1] are as follows:

Petitioner Baddiri, private respondents Alkhadar T. Loong and Nijar Hassan were candidates for Board Member, Sangguniang Panlalawigan, First District of the Province of Sulu in the May 10, 2004 elections.

On May 17, 2004, during the proceedings of the Provincial Board of Canvassers of Sulu, respondent Loong became aware of a manifest error of 2,000 excess votes in favor of petitioner Baddiri in the Certificate of Canvass of Votes for Local Positions for the Municipality of Patikul, Province of Sulu after tallying petitioner's votes based on the Statement of Votes. Baddiri was credited with 4,873 instead of 2,873 votes in said Certificate of Canvass.

To support Loong's stand, the Municipal Board of Canvassers of Patikul, Sulu, executed an Affidavit on May 17, 2004, which stated, among others:

> - That, in the preparation of Certificate of Canvass as supported by Statements of Votes per Precincts for the said municipality, the Board committed an honest ERROR in the total votes garnered by candidate Edil[wasif] Bad[d]iri for member of Sangguniang Panlalawigan of Sulu;
>
> - That, in the said Certificate of Canvass, the total votes indicated as garnered by said candidate is 4,783, but [in] the supporting five (5)-sheet Statements of Votes by Precincts, the total votes so garnered by said Edil[wasif] Bad[d]iri is only 2, 783.[2]

On May 17, 2004, Loong filed a Petition for Correction of Manifest Error with the Provincial Board of Canvassers of Sulu. On May 18, 2004, Baddiri filed an Opposition.

On May 19, 2004, the Provincial Board of Canvassers of Sulu granted the Petition for Correction of Manifest Error in its Ruling, thus:

> . . .
>
> WE, the undersigned Chairman and Members of the Board of Canvassers of Sulu Province, after deliberating on the objection to the inclusion/exclusion of Correction of Manifest Error
>
> ELECTION RETURNS/COC NUMBER 000094
> OF PRECINCT NUMBER/CITY/MUNICIPALITY Patikul
>
> of the City/Municipality of _____ and admitting the supporting evidence consisting of:
>
> EXHIBIT ___ Affidavit of the MBOC admitting that they erred in the addition of votes in the SOV where Edil Baddiri was given an additional votes of 2,000—Candidate E. Baddiri opposed the Petition alleging that the board [having] canvassed the COC for Patikul [the same] should no longer be reappreciated by the board.
>
> The board rules to grant the petition to correct manifest error considering that there is no proclamation yet and that this is allowed by the rules.[3]

On the basis of the corrected Certificate of Canvass from the Municipality of Patikul, Sulu, respondent Loong placed third with 20,660 votes; Nijar Hassan placed fourth with 20,558 votes; while petitioner Baddiri placed sixth with 19,578 votes and would not make it to the four-member Board of the Sangguniang Panlalawigan, First District of the Province of Sulu.

Petitioner filed an Appeal dated May 20, 2004 with the COMELEC docketed as SPC No. 04-159. To protect his interest as the candidate who placed fourth as Board Member, Nijan I. Hassan filed a Motion to Intervene before the COMELEC, which motion was granted.

In its Resolution promulgated on July 8, 2004, the COMELEC, First Division, dismissed petitioner's appeal for lack of merit. The dispositive portion of the Resolution reads:

> WHEREFORE, premises considered, the Commission [First Division] RESOLVED as it hereby RESOLVES to DISMISS the Appeal for lack of merit. Accordingly, the Ruling of the Provincial Board of Canvassers of the Province of Sulu, granting the petition for the correction of manifest errors filed by Appellee Loong is hereby AFFIRMED in toto.
>
> The Provincial Board of Canvassers of Sulu is hereby directed:
>
> - To immediately RECONVENE with proper notice to the parties and;
>
> - to prepare a Certificate of Canvass and Proclamation for candidate Nijar I. Hassan, as the 4[th] winning Member, Sangguniang Panlalawigan, Province of Sulu, by including in the computation of votes the corrected Municipal Certificate of Canvass for the Municipality of Patikul, Sulu.
>
> SO ORDERED.[4]

Petitioner filed a motion for reconsideration, which was denied for lack of merit by the COMELEC en banc in its Resolution dated October 1, 2004. The dispositive portion of the Resolution states:

> IN VIEW OF THE FOREGOING, the instant Motion for Reconsideration is hereby DENIED for LACK OF MERIT.
>
> ACCORDINGLY, the 8 July 2004 Resolution of the First Division is hereby AFFIRMED in toto. The Provincial Board of Canvassers of Sulu is hereby DIRECTED to (i) RECONVENE after giving due notice to the concerned parties, (ii) CORRECT the error in the Certificate of Canvass of Patikul, Sulu as well as the Statement of Votes by City/Municipality with Serial No. 00003 with respect to the votes of Provincial Board candidate [Edilwasif] T. Baddiri, and thereafter proclaim the 4th winning candidate for the Sangguniang

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> Panlalawigan of Sulu, First District.
>
> Let the Provincial Board of Canvassers of Sulu implement this Resolution with dispatch.
>
> FINALLY, this case is hereby referred to the Law Department for investigation of the alleged inadvertence of the Municipal Board of Canvassers of Patikul that resulted in the manifest error subject of this petition in order to determine if there is a possible violation of the Omnibus Election Code and other pertinent laws, rules and regulations.
>
> SO ORDERED.[5]

Hence, this petition wherein petitioner alleges, thus:

> RESPONDENT COMELEC ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO HAVING ACTED WITHOUT OR IN EXCESS OF JURISDICTION FOR PROMULGATING THE QUESTIONED RESOLUTIONS IN COMELEC CASE NO. SPC 04-159 BASED ON THE FOLLOWING GROUNDS:
>
> (A) RESPONDENT COMELEC BLATANTLY DISREGARDED THE ESTABLISHED RULES ON JURISDICTION TO THE PREJUDICE OF PETITIONER AND THE ELECTORATE OF SULU;
>
> (B) THERE WERE SIMPLY NO MANIFEST ERRORS TO SPEAK OF IN THIS CASE;
>
> (C) RESPONDENT COMELEC PATENTLY IGNORED CLEAR EVIDENCE ADMITTED BY RESPONDENT PROVINCIAL BOARD OF CANVASSERS OF SULU IN FAVOR OF PETITIONER;
>
> (D) THE BELATED OBJECTION OF RESPONDENT LOONG IS A CLEAR CASE OF INEXCUSABLE AND INCURABLE ESTOPPEL, NOT TO MENTION A PALPABLE DISOBEDIENCE OF ESTABLISHED COMELEC PROCEDURES;
>
> (E) RESPONDENT PROVINCIAL BOARD OF CANVASSERS OF SULU ISSUED A RULING IN VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS OF LAW.[6]

The main issues in this case are the following: (1) Whether or not there was manifest error in the Certificate of Canvass of Votes from the Municipality of Patikul, Sulu; (2) whether or not the Provincial Board of Canvassers of Sulu had jurisdiction over the Petition for Correction of Manifest Error filed by respondent Loong; and (3) whether or not the COMELEC gravely abused its discretion in affirming the Ruling of the Provincial Board of Canvassers of Sulu.

First Issue: Whether or not there was manifest error in the Certificate

of Canvass of Votes from the Municipality of Patikul, Sulu

Petitioner argues that there were no manifest errors in the Certificate of Canvass of Votes from the Municipality of Patikul. He states that under Section 32 of COMELEC Resolution No. 6669,[7] there is manifest error in the tabulation or tallying of the results during the canvassing where:

> - A copy of the election returns or certificate of canvass was tabulated more than once;
>
> - Two or more copies of the election returns of one precinct, or two or more copies of certificate of canvass were tabulated separately;
>
> - There was a mistake in the copying of the figures from the election returns to the statement of votes by precinct or from the municipal/city Certificate of Canvass to the Statement of Votes by Municipality; or from the Provincial/City Certificate of Canvass to the SOV by province/city;

- Returns from non-existent precinct were included in the canvass; or

- There was a mistake in the addition of the votes of any candidate.

Petitioner asserts that none of the above enumerated manifest errors appeared in the Certificate of Canvass of Votes from the Municipality of Patikul.

On the other hand, the COMELEC, First Division, held that it is clear that the manifest error committed in this case falls under subparagraph 5, Section 32 of COMELEC Resolution No. 6669. It found that there was manifest error in the addition of votes for Baddiri resulting in the addition of 2000 votes in his favor. The Certificate of Canvass of Votes from the Municipality of Patikul, Sulu, reflected 4,873 votes in favor of petitioner, but the supporting Statement of Votes by Precincts showed that the correct total votes garnered by him is only 2,873, as admitted by the members of the Municipal Board of Canvassers of the said municipality. The COMELEC held thus:

> . . .
>
> [I]t is very clear under said Section 32, particularly subparagraph 5 [of Resolution No. 6669], that "there is manifest error in the tabulation or tallying of the results during the canvassing where: xxx (5) there was a mistake in the addition of the votes of any candidate."
> The records reveal that there was "a mistake in the addition of [2,000] votes in favor of [petitioner] Baddiri in the CoC from the Municipality of Patikul, Sulu. The Statement of Votes per Precinct reveals that [petitioner] obtained the following:
>
> Annex "E" - 736 votes
>
> Annex "F" - 496 votes
>
> Annex "G" - 803 votes
>
> Annex "H" - 377 votes
>
> Annex "I" 461 votes
>
> 2,873 votes
>
> and not 4,873 votes.[8]

The factual finding of the COMELEC, which is supported by substantial evidence, is binding on the Court. Hence, petitioner's contention that there were no manifest errors in the said Certificate of Canvass is without merit.

Second Issue: Whether or not the Provincial Board of Canvassers of

Sulu had jurisdiction over the petition for correction

Petitioner, citing Section 31[9] of COMELEC Resolution No. 6669, contends that if there was a manifest error in the municipal certificate of canvass, the Municipal Board of Canvassers of Patikul which prepared the document is the appropriate canvassing body that had jurisdiction to correct the error and not the Provincial Board of Canvassers of Sulu.

The provision of law cited by petitioner is not in point because it refers to "Pre-proclamation cases not allowed in the election for President, Vice-President, Senator, Member of the House of Representatives and Party-List."

The pertinent rule on the matter is Section 7, Rule 27 of the COMELEC Rules of Procedure, thus:

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> Sec. 7. Correction of Errors in Tabulation or Tallying of Results by the Board of Canvassers.— (a) Where it is clearly shown before proclamation that manifest errors were committed in the tabulation or tallying of election returns, or certificates of canvass, during the canvassing as where . . . (3) there was a mistake in the adding or copying of the figures into the certificate of canvass or into the statement of votes by precinct, . . . the board may motu proprio, or upon verified petition by any candidate, political party, organization or coalition of political parties, after due notice and hearing, correct the errors committed. (Emphasis supplied.)

In the aforecited provision of law, the Board of Canvassers may correct manifest errors committed under the circumstances enumerated therein before proclamation of the winning candidate. In this case, therefore, either the Municipal Board of Canvassers of Patikul, Sulu or the Provincial Board of Canvassers of Sulu has jurisdiction to take cognizance of respondent Loong's Petition For Correction of Manifest Error. Since the canvassing proceedings for the subject position were already before respondent Provincial Board of Canvassers of Sulu and the petition for correction was filed before it, respondent Provincial Board of Canvassers correctly took cognizance of the petition.

Consequently, petitioner's argument that there was violation of due process when the petition for correction was filed only after the municipal canvass and was brought before a different body (the respondent Provincial Board of Canvassers) since he was prevented from contesting the claim before the very body that is supposed to have committed it, is without merit. It must also be pointed out that petitioner was able to contest the claim because he filed an Opposition to the Petition for Correction of Manifest Error with the Provincial Board of Canvassers.

As regards petitioner's allegation that the petition for correction is unverified, it has long been enunciated that the COMELEC has discretion to liberally construe its Rules.[10] It may suspend its Rules or any portion thereof in the interest of justice.[11]

Petitioner further contends that the belated objection of respondent Loong is a clear case of estoppel creating serious doubt on the validity of the belated claims made.

The Court disagrees.

Section 7, Rule 27 of the COMELEC Rules of Procedure clearly states that the petition for correction may be filed at any time before the proclamation of a winner.[12] Respondent Loong filed the petition for correction during the proceedings of the Provincial Board of Canvassers; hence, it was filed before the proclamation of the winning candidates. The petition was, therefore, filed on time.

With regard to the validity of the claims, the COMELEC en banc stated:

> We have examined the original copy of the Statement of Votes by Precincts ("SOVP") (copy for the Commission) of the municipality of Patikul and we found the same to be in order and there were no signs of tampering or alteration....
>
> Thus, the correct total votes garnered by Baddiri in the municipality of Patikul is only 2,873, as admitted by the members of the Municipal Board of Canvassers (MBOC) of the said municipality, and not 4,873 as reflected in the Certificate of Canvass by the MBOC.[13]

In view of the foregoing, the COMELEC First Division and COMELEC en banc did not gravely abuse their discretion in issuing their respective Resolutions.

WHEREFORE, the petition is DISMISSED. The Resolution of the COMELEC, First Division, promulgated on July 8, 2004 and the Resolution of the COMELEC en banc, promulgated on October 1, 2004, are hereby AFFIRMED.

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No costs.

SO ORDERED.

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

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[1] COMELEC (First Division) Resolution, Rollo, pp. 34-36.

[2] Id. at 34-35.

[3] Rollo, p. 56.

[4] Id. at 39-40.

[5] Id. at 31-32.

[6] Id. at 9.

[7] GENERAL INSTRUCTIONS FOR MUNICIPAL/CITY/PROVINCIAL AND DISTRICT BOARDS OF CANVASSERS IN CONNECTION WITH THE MAY 10, 2004 ELECTIONS.

[8] Rollo, p. 37.

[9] Section 31. Pre-proclamation cases not allowed in the election for President, Vice-President, Senator, Member of the House of Representatives and Party-List.—For purposes of the election for President, Vice-President, Senator, member of the House of Representatives and Party-List, no pre-proclamation case shall be allowed on matters relating to the preparation, transmission, receipt, custody and appreciation of the election returns or the certificates of canvass, as the case may be. However, this does not preclude the authority of the appropriate canvassing body motu proprio or upon written complaint of an interested person to correct manifest errors in the election returns of certificates of canvass.

[10] COMELEC Rules of Procedure, Rule 1, Sec. 3. Construction.-- These rules shall be liberally construed in order to promote the effective and efficient implementation of the objectives of ensuring the holding of free, orderly, honest, peaceful and credible elections and to achieve just, expeditious and inexpensive determination and disposition of every action and proceeding brought before the Commission.

[11] COMELEC Rules of Procedure, Rule 1, Sec. 4. Suspension of the Rules. – In the interest of justice and in order to obtain speedy disposition of all matters pending before the Commission, these rules or any portion thereof may be suspended by the Commission.

[12] Bince, Jr. v. Commission on Elections, G.R. Nos. 111624-25, March 9, 1995, 242 SCRA 273, 285.

[13] Rollo, p. 31.

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