

WALDEN F. BELLO AND LORETTA ANN P. ROSALES, PETITIONERS, VS. COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. 191998. December 07, 2010

Ponente: BRION, J.

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BRION, J.:

We resolve the three (3) consolidated^[1] special civil actions for certiorari, mandamus and prohibition that commonly aim to disqualify respondent Juan Miguel "Mikey" Arroyo as the nominee of the Ang Galing Pinoy Party-List (AGPP) in the May 10, 2010 elections.

The Factual Antecedents

The common factual antecedents, gathered from the pleadings, are briefly summarized below.

On November 29, 2009, AGPP filed with the Commission on Elections (COMELEC) its Manifestation of Intent to Participate in the May 10, 2010 elections. Subsequently, on March 23, 2010, AGPP filed its Certificate of Nomination together with the Certificates of Acceptance of its nominees.^[2]

On March 25, 2010, the COMELEC issued Resolution No. 8807^[3] which prescribed the rules of procedure applicable to petitions to disqualify a party-list nominee for purposes of the May 10, 2010 elections.^[4]

Section 6 of the Resolution provides that the party-list group and the nominees must submit documentary evidence^[5] to duly prove that the nominees truly belong to the marginalized and underrepresented sector/s, and to the sectoral party, organization, political party or coalition they seek to represent. It likewise provides that the COMELEC Law Department shall require party-list groups and nominees to make the required documentary submissions, if not already complied with prior to the effectivity of the Resolution, not later than three (3) days from the last day of filing of the list of nominees.^[6]

Under Section 10 of the same Resolution, the COMELEC may *motu proprio* effect the disqualification of party-list nominees who violate any of the limitations mentioned in Section 7 of the Resolution.^[7] Section 8 of Rule 32 of the COMELEC Rules of Procedure also states that the COMELEC may cancel *motu proprio* the registration of any party registered under the party-list system for failure to comply with applicable laws, rules or regulations of the Commission. Pursuant to COMELEC Resolution No. 8646,^[8] in relation to Section 6 of Resolution No. 8807, the deadline for submitting the requirements mentioned in Section 6 of the latter Resolution was on March 29, 2010.^[9]

On March 25, 2010, petitioners Liza L. Maza, Saturnino C. Ocampo, and Bayan Muna Party-List, represented by Teodoro Casiño, (collectively referred to as certiorari petitioners) filed with the COMELEC a petition for disqualification^[10] against Arroyo, pursuant to Resolution No. 8696,^[11] in relation with Sections 2 and 9 of Republic Act (RA) No. 7941^[12] (the Party-List System Act).^[13]

The certiorari petitioners argued that not only must the party-list organization factually and truly represent the

marginalized and the underrepresented; the nominee must as well be a Filipino citizen belonging to the marginalized and underrepresented sectors, organizations and parties, citing in this regard the case of *Ang Bagong Bayani-OFW Labor Party v. COMELEC*[14] . On this basis, the certiorari petitioners concluded that Arroyo cannot be considered a member of the marginalized and underrepresented sector, particularly, the sector which the AGPP represents - tricycle drivers and security guards - because he is not only a member of the First Family, but is also (a) an incumbent member of the House of Representatives; (b) the Chairman of the House's Energy Committee; and, (c) a member of key committees in the House, namely: Natural Resources, Aquaculture, Fisheries Resources, Ethics and Privileges, Justice, National Defense and Security, Public Works and Highways, Transportation and Ways and Means.[15]

In his Answer, Arroyo counter-argued that the COMELEC had no jurisdiction over issues involving the qualifications of party-list nominees; Section 9 of RA 7941 merely requires that the party-list nominee must be a bonafide member of the party or organization which he seeks to represent at least ninety (90) days preceding the day of the election.[16]

When the COMELEC published on March 26, 2010 its initial "List of Political Parties/Sectoral Organizations/Coalitions Participating in the May 10, 2010 elections with their respective Nominees," Arroyo was listed as AGPP's first nominee.

On March 30, 2010, the petitioner Bayan Muna Party-List, represented by Neri Colmenares, filed with the COMELEC another petition for disqualification against Arroyo.[17] It alleged that Arroyo is not qualified to be a party-list nominee because he (a) does not represent or belong to the marginalized and underrepresented sector; (b) has not been a bona fide member of AGPP ninety (90) days prior to the May 10, 2010 elections; (c) is a member of the House of Representatives; and that (d) AGPP is not a legitimate and qualified party-list group and has no authority to nominate him.[18]

In his Answer, Arroyo reiterated that the COMELEC does not have jurisdiction over cases involving the qualifications of party-list nominees. He stated as well that he is a bonafide member of AGPP at least ninety (90) days prior to the elections.[19]

Meanwhile, on April 6, 2010, petitioners Walden F. Bello and Loretta Ann P. Rosales (mandamus petitioners) wrote the COMELEC Law Department a letter requesting for a copy of the documentary evidence submitted by AGPP, in compliance with Section 6 of Resolution No. 8807. On the same day, the COMELEC Law Department replied that as of that date, the AGPP had not yet submitted any documentary evidence required by Resolution No. 8807.[20]

Through a letter dated April 7, 2010, the mandamus petitioners requested the COMELEC and its Law Department to act, consistently with Section 10 of Resolution No. 8807, and declare the disqualification of the nominees of AGPP for their failure to comply with the requirements of Section 6 of Resolution No. 8807.[21] They also wrote the COMELEC on April 20, 2010, reiterating their letter-request dated April 7, 2010. The COMELEC failed to respond to both letters.[22]

The COMELEC Second Division Ruling

In its May 7, 2010 Joint Resolution, the COMELEC Second Division dismissed the petitions for disqualification against Arroyo.[23] It noted that Section 9 of RA 7941 merely requires the nominee to be "a bona fide member [of the party or organization which he seeks to represent for] at least ninety (90) days preceding the day of the elections." [24] It found that Arroyo (a) became a member of the party on November 20, 2009; (b) actively participated in the undertakings of AGPP and adhered to its advocacies; and, (c) actively supported and advanced

the projects and programs of the AGPP by regularly attending its meetings, livelihood and skills program, and farmers' day activities.[25]

The COMELEC en banc Ruling

The COMELEC en banc refused to reconsider the Second Division's ruling in its July 19, 2010 consolidated resolution.[26] It held, among others, that a Filipino citizen, in order to qualify as a party-list nominee, only needs to be a bona fide member of the party or organization which he seeks to represent, for at least ninety (90) days preceding the day of the election, and must likewise be at least twenty-five (25) years of age on the day of the election.[27] The COMELEC en banc also held that Section 6 of Resolution No. 8807 is ultra vires, since the requirement that a nominee belong to the marginalized and underrepresented sector he seeks to represent is not found in RA 7941.[28] Thus, it concluded that Arroyo possessed all the requirements mandated by Section 9 of RA 7941.[29]

On May 7, 2010, the mandamus petitioners filed with this Court their Petition for Mandamus and Prohibition with Application for Temporary Restraining Order and/or Preliminary Injunction,[30] docketed as G.R. No. 191998.[31] They sought to compel the COMELEC to disqualify motu proprio the AGPP nominees for their failure to comply with Section 6 of Resolution No. 8807, and to enjoin the COMELEC from giving due course to the AGPP's participation in the May 10, 2010 elections.

On July 23 and 29, 2010, the certiorari petitioners elevated their case to this Court via two (2) separate petitions for certiorari,[32] docketed as G.R. Nos. 192769[33] and 192832,[34] to annul the COMELEC Second Division's

May 7, 2010 joint resolution and the COMELEC en banc's July 19, 2010 consolidated resolution that dismissed their petitions for disqualification against Arroyo as AGPP's nominee.

In the interim, AGPP obtained in the May 10, 2010 elections the required percentage of votes sufficient to secure a single seat. This entitled Arroyo, as AGPP's first nominee, to sit in the House of Representatives.[35]

On July 21, 2010, the COMELEC, sitting as the National Board of Canvassers, proclaimed Arroyo as AGPP's duly-elected party-list representative in the House of Representatives.[36] On the same day, Arroyo took his oath of office, as AGPP's Representative, before Court of Appeals Presiding Justice Andres B. Reyes. His name was, thereafter, entered in the Roll of Members of the House of Representatives.[38]

On July 28 and 29, 2010, two (2) separate petitions for quo warranto[39] were filed with the House of Representatives Electoral Tribunal (HRET) questioning Arroyo's eligibility as AGPP's representative in the House of Representatives. On September 7, 2010, the HRET took cognizance of the petitions by issuing a Summons directing Arroyo to file his Answer to the two petitions.[40]

The Petitions

The mandamus petitioners in G.R. No. 191998 argue that the COMELEC committed grave abuse of discretion (a) in failing to order the motu proprio disqualification of AGPP despite its failure to comply with the mandatory requirements under Section 6 of Resolution No. 8807; and, (b) in giving due course to the participation of AGPP and its nominees in the May 10, 2010 elections.

On the other hand, the certiorari petitioners in G.R. Nos. 192769 and 192832 contend in common that the COMELEC en banc gravely abused its discretion in failing to disqualify Arroyo as AGPP's nominee since: (1) he does not belong to the marginalized and underrepresented sector he claims to represent; (2) he is not a bona fide AGPP member for at least ninety (90) days preceding the May 10, 2010 elections; (3) in light of these preceding reasons, he would not be able to contribute to the formulation and enactment of appropriate legislations for the

sector he seeks to represent; and (4) his nomination and acceptance of nomination as AGPP's nominee violate AGPP's continuing undertaking upon which its petition for registration and accreditation was based and granted.

In G.R. No. 192832, the petitioner Bayan Muna Party-List also prays that the Court: (a) direct the COMELEC en banc to review all its decisions in cases for disqualification of nominees and cancellation of registration of party-list groups filed in the May 10, 2010 elections, as well as those which have not been resolved, in line with the eight-point guidelines set forth in *Ang Bagong Bayani*;^[41] and (b) order Commissioners Nicodemo T. Ferrer, Lucenito N. Tagle, Armando C. Velasco and Elias R. Yusoph to explain why they should not be cited in contempt for their open defiance of the Court's Decisions in *Ang Bagong Bayani*^[42] and *Barangay Association for National Advancement and Transparency v. COMELEC*.^[43]

The Case for the Respondents

In G.R. Nos. 192769 and 192832, Arroyo counter-argues that the petitions should be dismissed outright because upon his proclamation, oath and assumption to office as a duly elected member of the House of Representatives, the jurisdiction over issues relating to his qualifications now lies with the HRET as the sole judge of all contests relating to the election, returns, and qualifications of members of the House of Representatives.

Similarly, the COMELEC, through the Office of the Solicitor General (OSG), prays for the dismissal of the petitions in G.R. Nos. 192769 and 192832 for lack of jurisdiction in view of Arroyo's proclamation and assumption to office as a Member of the House of Representatives.

Despite notice, the OSG failed to comment on the G.R. No. 191998 petition.

We deemed the case ready for resolution on the basis of the parties' submissions.

Issues

The core issues boil down to (1) whether mandamus lies to compel the COMELEC to disqualify AGPP's nominees *motu proprio* or to cancel AGPP's registration; (2) whether the COMELEC can be enjoined from giving due course to AGPP's participation in the May 10, 2010 elections, the canvassing of AGPP's votes, and proclaiming it a winner; and (3) whether the HRET has jurisdiction over the question of Arroyo's qualifications as AGPP's nominee after his proclamation and assumption to office as a member of the House of Representatives.

Our Ruling

We dismiss the petitions.

For a writ of mandamus to issue (in G.R. No. 191998), the mandamus petitioners must comply with Section 3 of Rule 65 of the Rules of Court, which provides:

SEC. 3. Petition for mandamus. — When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

In the present case, the mandamus petitioners failed to comply with the condition that there be "no other plain, speedy and adequate remedy in the ordinary course of law." Under Section 2, in relation with Section 4, of COMELEC Resolution No. 8807 (quoted below), any interested party may file with the COMELEC a petition for

disqualification against a party-list nominee:

Section 2. Grounds for Disqualification. - Any nominee (a) who does not possess all the qualifications of a nominee as provided for by the Constitution, existing laws or (b) who commits any act declared by law to be grounds for disqualification may be disqualified from continuing as a nominee.

Section 4. When to file Petition. - The petition under item (a) of Section 2 shall be filed five (5) days after the last day for filing of the list of nominees, while under item (b) thereof shall be filed any day not later than the date of proclamation.

Furthermore, under Section 6 of RA 7941, any interested party may file a verified complaint for cancellation of registration of a party-list organization:

SEC. 6. Refusal and/or Cancellation of Registration. - The COMELEC may motu proprio or upon verified complaint of any interested party, remove or cancel, after due notice and hearing, the registration of any national, regional or sectoral party, organization or coalition on any of the following grounds:

- (1) It is a religious sect or denomination, organization or association organized for religious purposes;
- (2) It advocates violence or unlawful means to seek its goal;
- (3) It is a foreign party or organization;
- (4) It is receiving support from any foreign government, foreign political party, foundation, organization, whether directly or through any of its officers or members or indirectly through third parties for partisan election purposes;
- (5) It violates or fails to comply with laws, rules or regulations relating to elections;
- (6) It declares untruthful statements in its petition;
- (7) It has ceased to exist for at least one (1) year; or
- (8) It fails to participate in the last two (2) preceding elections or fails to obtain at least two per centum (2%) of the votes cast under the party-list system in the two (2) preceding elections for the constituency in which it has registered.

These provisions effectively provide the "plain, speedy and adequate remedy" that the mandamus petitioners should have taken. Specifically, they should have filed the proper petition for disqualification, pursuant to Section 2(b) of Resolution No. 8807, any day not later than the date of proclamation.

As to the remedy of filing a complaint for cancellation of registration, we note that neither Section 6 of RA 7941 nor Section 8, Rule 32 of the COMELEC Rules of Procedure specifies the period within which a complaint for cancellation of registration should be filed. Whether or not the mandamus petitioners can still file a petition for cancellation of AGPP's registration at this point in time, however, is a question we are not prepared to rule upon; in fact, we need not resolve this question since it is not raised here and has not been argued by the parties.

We note that in lieu of filing the above formal petition that Resolution No. 8807 and RA 7941 provide, the mandamus petitioners opted to confine themselves to writing letters to ask the COMELEC to act in accordance with

Section 10 of Resolution No. 8807. While these moves are technically objections to Arroyo and to the AGPP's registration, they cannot in any way be considered formal petitions for disqualification, unlike the present petition which is a formal petition (whose clear intent is similarly to disqualify Arroyo), Unfortunately for the mandamus petitioners, a petition for mandamus is not the correct remedy under the circumstances as the immediately applicable remedy is a petition for disqualification or for cancellation filed with the COMELEC, as pointed out above.

In filing the present petition, the mandamus petitioners also violated the rule on the exhaustion of administrative

remedies. The rule on exhaustion of administrative remedies provides that a party must exhaust all administrative remedies to give the administrative agency an opportunity to decide and thus prevent unnecessary and premature resort to the courts.[44] While this is not an ironclad rule as it admits of exceptions,[45] the mandamus petitioners failed to show that any of the exceptions apply. The filing of a petition for mandamus with this Court, therefore, was premature. It bears stressing that mandamus, as an extraordinary remedy, may be used only in cases of extreme necessity where the ordinary forms of procedure are powerless to afford relief.[46]

Thus, we find the mandamus aspect of G.R. No. 191998 improperly filed under the standards of Section 3, Rule 65 of the Rules of Court.

Even the substantive merits of the mandamus petition in G.R. No. 191998, i.e., its patent intent to disqualify Arroyo, fail to persuade for the reasons more fully discussed below, in relation with the certiorari petitions in G.R. Nos. 192769 and 192832.

As to the prohibition aspect of G.R. No. 191998 - i.e., to prevent the COMELEC from canvassing AGPP's votes, and from proclaiming it a winner - we find that this has been mooted by the supervening participation, election and proclamation of AGPP after it secured the required percentage of votes in the May 10, 2010 elections. The prohibition issue has been rendered moot since there is nothing now to prohibit in light of the supervening events. A moot case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon (in this case, the prevention of the specified acts) can no longer be done. Under the circumstances, we have to recognize the futility of the petition and to dismiss it on the ground of mootness since we cannot provide the mandamus petitioners any substantial relief.[47]

We move on to the principal issue raised by the certiorari petitions in G.R. Nos. 192769 and 192832 - whether jurisdiction over Arroyo's qualifications as AGPP nominee should now properly be with the HRET since Arroyo has been proclaimed and has assumed office as Member of the House of Representatives Electoral Tribunal,[48] the Court said:

This issue is far from novel and is an issue previously ruled upon by this Court. The consistent judicial holding is that the HRET has jurisdiction to pass upon the qualifications of party-list nominees after their proclamation and assumption of office; they are, for all intents and purposes, "elected members" of the House of Representatives although the entity directly voted upon was their party. In *Abayon v. House of Representatives Electoral Tribunal*, the Court said:

But, although it is the party-list organization that is voted for in the elections, it is not the organization that sits as and becomes a member of the House of Representatives. Section 5, Article VI of the Constitution, identifies who the "members" of that House are:

Sec. 5. (1). The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations. (Underscoring supplied)

Clearly, the members of the House of Representatives are of two kinds: "members x x x who shall be elected from legislative districts" and "those who x x x shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations." This means that, from the Constitution's point of view, it is the party-list representatives who are "elected" into office, not their parties or organizations. These representatives are elected, however, through that peculiar party-list system that the Constitution authorized and that Congress by law established where the voters cast their votes for the organizations or parties to which such party-list

representatives belong.

Once elected, both the district representatives and the party-list representatives are treated in like manner. They have the same deliberative rights, salaries, and emoluments. They can participate in the making of laws that will directly benefit their legislative districts or sectors. They are also subject to the same term limitation of three years for a maximum of three consecutive terms.

It may not be amiss to point out that the Party-List System Act itself recognizes party-list nominees as "members of the House of Representatives" thus:

Sec. 2. Declaration of Policy. - The State shall promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to the marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives. Towards this end, the State shall develop and guarantee a full, free and open party system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives by enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible. (Underscoring supplied)

As this Court also held in *Bantay Republic Act or BA-RA 7941 v. Commission on Elections*, a party-list representative is in every sense "an elected member of the House of Representatives." Although the vote cast in a party-list election is a vote for a party, such vote, in the end, would be a vote for its nominees, who, in appropriate cases, would eventually sit in the House of Representatives.

The Court also held in the same case that:

In the cases before the Court, those who challenged the qualifications of petitioners Abayon and Palparan claim that the two do not belong to the marginalized and underrepresented sectors that they ought to represent. The Party-List System Act provides that a nominee must be a "bonafide member of the party or organization which he seeks to represent." It is for the HRET to interpret the meaning of this particular qualification of a nominee - the need for him or her to be a bona fide member or a representative of his party-list organization—in the context of the facts that characterize petitioners Abayon and Palparan's relation to Aangat Tayo and Bantay, respectively, and the marginalized and underrepresented interests that they presumably embody.

x x x x

What is inevitable is that Section 17, Article VI of the Constitution provides that the HRET shall be the sole judge of all contests relating to, among other things, the qualifications of the members of the House of Representatives. Since, as pointed out above, party-list nominees are "elected members" of the House of Representatives no less than the district representatives are, the HRET has jurisdiction to hear and pass upon their qualifications. By analogy with the cases of district representatives, once the party or organization of the party-list nominee has been proclaimed and the nominee has taken his oath and assumed office as member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to his qualifications ends and the HRET's own jurisdiction begins.

Similarly applicable is our ruling in *Perez v. Commission on Elections*[49] where we acknowledged that the Court does not have jurisdiction to pass upon the eligibility of the private respondent who was already a member of the House of Representatives. We said:

As already stated, the petition for disqualification against private respondent was decided by the First Division of the COMELEC on May 10 1998. The following day, May 11, 1998, the elections were held. Notwithstanding

the fact that private respondent had already been proclaimed on May 16, 1998 and had taken his oath of office on May 17, 1998, petitioner still filed a motion for reconsideration on May 22, 1998, which the COMELEC en banc denied on June 11, 1998. Clearly, this could not be done. Sec. 6 of R.A. No. 6646 authorizes the continuation of proceedings for disqualification even after the elections if the respondent has not been proclaimed. The COMELEC en banc had no jurisdiction to entertain the motion because the proclamation of private respondent barred further consideration of petitioner's action. In the same vein, considering that at the time of the filing of this petition on June 16, 1998, private respondent was already a member of the House of Representatives, this Court has no jurisdiction over the same. Pursuant to Art. VI, §17 of the Constitution, the House of Representatives Electoral Tribunal has the exclusive original jurisdiction over the petition for the declaration of private respondent's ineligibility. As this Court held in *Lazatin v. House of Representatives Electoral Tribunal*:

The use of the word "sole" emphasizes the exclusive character of the jurisdiction conferred. The exercise of the power by the Electoral Commission under the 1935 Constitution has been described as "intended to be as complete and unimpaired as if it had remained originally in the legislature." Earlier, this grant of power to the legislature was characterized by Justice Malcolm "as full, clear and complete." Under the amended 1935 Constitution, the power was unqualifiedly reposed upon the Electoral Tribunal and it remained as full, clear and complete as that previously granted the legislature and the Electoral Commission. The same may be said with regard to the jurisdiction of the Electoral Tribunals under the 1987 Constitution.[50]

In the present case, it is not disputed that Arroyo, AGPP's first nominee, has already been proclaimed and taken his oath of office as a Member of the House of Representatives. We take judicial notice, too, of the filing of two (2) petitions for quo warranto against Arroyo, now pending before the HRET. Thus, following the lead of Abayon and Perez, we hold that the Court has no jurisdiction over the present petitions and that the HRET now has the exclusive original jurisdiction to hear and rule upon Arroyo's qualifications as a Member of the House of Representatives.

In light of these conclusions, we see no need to further discuss the other issues raised in the certiorari petitions.

WHEREFORE, we RESOLVE to DISMISS the petition in G.R. No. 191998 for prematurity and mootness. The petitions in G.R. Nos. 192769 and 192832 are likewise DISMISSED for lack of jurisdiction. No pronouncement as to costs.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Nachura, Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, and Sereno, JJ., concur.
Velasco, Jr., J., on official leave.

[*]On official leave, per Special Order No. 916 dated November 24, 2010.

[1] Per our October 12, 2010 Resolution.

[2] Rollo (GR. No. 192769), p. 106.

[3] Rules on Disqualification Cases Against Nominees of Party-List Groups/Organizations Participating in the May 10, 2010 Automated National and Local Elections. [4] Rollo (GR. No. 192769), p. 107. [5] Which may include but not limited to the following:

- Track record of the party-list group/organization showing active participation of the nominee/s in the undertakings of the party-list group/organization for the advancement of the marginalized and

underrepresented sector/s, the sectoral party, organization, political party or coalition they seek to represent;

- Proofs that the nominee/s truly adheres to the advocacies of the party-list group/organizations (prior declarations, speeches, written articles, and such other positive actions on the part of the nominee/s showing his/her adherence to the advocacies of the party-list group/organizations);
- Certification that the nominee/s is/are a bonafide member of the party-list group/ organization for at least ninety (90) days prior to the election; and
- In case of a party-list group/organization seeking representation of the marginalized and underrepresented sector/s, proof that the nominee/s is not only an advocate of the party-list/organization but is/are also a bonafide member/s of said marginalized and underrepresented sector.

[6] COMELEC Resolution No. 8646 provides that March 26, 2010 is the last day for party-list groups to submit the names of the party's nominees.

[7]Section 7. Limitations to party-list nominations. - The following are the limitations to the list of nominees filed by a registered party.

- A person may be nominated by one (1) party in one (1) list only;
- Only persons who have given their consent in writing and under oath may be named in the list;
- The list shall not include any candidate for any elective office in the same election, or has lost his bid for an elective office in the immediately-preceding election; and
- No change of name or alteration of the order of nominees shall be allowed after the list has been submitted to the Commission, except in valid substitution.

[8] Calendar of Activities and Periods of Prohibited Acts in Connection with the May 10, 2010 National and Local Elections.

[9] Supra note 6.

[10] Docketed as SPA No. 10-001 (DCN).

[11] Rules on Disqualification Cases Filed in Connection with the May 10, 2010 Automated National and Local Elections, promulgated on November 11, 2009.

[12] Entitled "An Act Providing for the Election of Party-List Representatives through the Party-List System, and Appropriating Funds Therefor."

[13] Rollo (G.R. No.192769), p. 38.

[14] G.R. Nos. 147589 and 147613, June 26, 2001, 359 SCRA 698.

[15] Rollo (GR. No. 192769), p. 38.

[16] Id. at 39.

[17] Docketed as SPA No. 10-003 (DCN).

[18] Rollo (G.R. No. 192832), pp. 55-56.

[19] Id. at 56.

[20] Rollo (G.R. No. 191998), p. 6.

[21] Ibid

[22] Id. at 6-7.

[23] Rollo (G.R. No. 192769), pp. 37-43.

[24] Hat 41-42.

[25] Id. at 42-43.

[26] Id. at 60-88. The Consolidated Resolution was penned by Commissioner Nicodemo Ferrer; and concurred in by Commissioners Elias R. Yusoph, Lucenito N. Tagle and Armando C. Velasco; while Commissioners Rene V. Sarmiento and Gregorio Y. Larrazabal dissented. Chairman Jose A.R. Melo, on the other hand, abstained from voting.

[27] Id, at 71.

[28] Ibid.

[29] Id. at 72.

[30] Under Rule 65 of the Rules of Court.

[31] Rollo (G.R. No. 191998), pp. 3-15.

[32] Under Rule 64 of the Rules of Court.

[33] Rollo (G.R. No. 192769), pp. 3-34.

[34] Rollo (G.R. No. 192832), pp. 3-50.

[35] Rollo (G.R. No. 192769), p. 125. Proclamation dated July 21, 2010, Annex "1" of Arroyo's Comment.

[36] On May 31, 2010, the COMELEC issued NBC Resolution No. 10-009, proclaiming AGPP as one of the winning party-list organizations in the May 10, 2010 elections, having obtained 269,009 votes and entitled to one (1) seat in the House of Representatives. See http://comelee.files.wordpress.com/2010/07/nbc_res_IO-009.pdf (last visited November 19, 2010).

[37] Id. at 126. Oath of Office dated July 21, 2010, Annex "2" of Arroyo's Comment.

[38] Id. at 127. Certification dated July 21, 2010, Annex "3" of Arroyo's Comment.

[39] Id. at 108. HRET Case No. 10-060, entitled *uRisa Hontiveros-Baraquel, Petitioner v. Juan Miguel 'Mikey' Arroyo, Respondent*," and HRET Case No. 10-061, entitled *"Danilo Antipasado, Petitioner v. Juan 'Mikey' Arroyo and AngGatingPinoy, Respondents."*

[40] Ibid.

[41] Supra note 14.

[42] Ibid.

[43] GR.No. 179295, April 21, 2009, 586 SCRA211.

[44] Republic of the Phils, v. Express Telecommunication Co., Inc., 424 Phil. 372, 399 (2002).

[45] These exceptions are:

1. when there is a violation of due process;
2. when the issue involved is purely a legal question;
3. when the administrative action is patently illegal amounting to lack or excess of jurisdiction;
4. when there is estoppel on the part of the administrative agency concerned;
5. when there is irreparable injury;
6. when the respondent is a department secretary whose acts as an alter ego of the President bears the implied and assumed approval of the latter;
7. when to require exhaustion of administrative remedies would be unreasonable;
8. when it would amount to a nullification of a claim;
9. when the subject matter is a private land in land case proceedings;
10. when the rule does not provide a plain, speedy and adequate remedy; and
11. when there are circumstances indicating the urgency of judicial intervention. (*Buston-Arendain v. Gil*, G.R. No. 172585, June 26, 2008, 555 SCRA 561, 573.)

[46] *ACWS, Ltd. v. Dumlao*, 440 Phil. 787, 803 (2002).

[47] *Quizon v. Commission on Elections*, G.R. No. 177927, February 15, 2008, 545 SCRA 635, 640.

[48] G.R. No. 189466, February 11, 2010.

[49] 375 Phil. 1106(1999).

[500] *Id.* at 1115-1116.

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