

DUTY TO ENERGIZE THE REPUBLIC THROUGH THE ENLIGHTENMENT OF THE YOUTH [DUTERTE YOUTH] PARTY-LIST, REPRESENTED BY [CHAIRPERSON] RONALD GIAN CARLO L. CARDEMA AND REPRESENTATIVE DUC...

G.R. No. 261123, August 20, 2024

Ponente: ROSARIO, J.

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ROSARIO, J.:

In order to safeguard the electorate's will as cast in the ballots, rules and regulations limiting the substitution of party-list nominees do not lose their mandatory character even after elections.

We jointly resolve the following related petitions:

(1)

G.R. No. 261123: Urgent Petition for Certiorari[4] filed by petitioner Duty to Energize the Republic Through the Enlightenment of the Youth (Duterte Youth) Party-List (referred to hereinafter as the Duterte Youth Party-List), represented by Ronald Gian Carlo and Ducielle Marie Cardema ("the Cardemas") in their official and personal capacities, seeking the annulment of respondent Commission on Elections (COMELEC)'s approval of the substitution of the nominees of respondent Komunidad ng Pamilya, Pasyente at Persons with Disabilities (P3PWD) Party-List, which includes first substitute nominee respondent Ma. Rowena Amelia V. Guanzon (Guanzon); and

(2)

G.R. No. 261876: Petition[5] for indirect contempt against respondent Guanzon for alleged violation of the Temporary Restraining Order (TRO)[6] issued by the Court on June 29, 2022 in G.R. No. 261123.

I

The factual antecedents as gathered from the respective memoranda of the Duterte Youth Party-List,[7] respondents P3PWD and Guanzon,[8] and the Office of the Solicitor General (OSG) on behalf of respondent COMELEC[9] are as follows:

In 2012, the COMELEC issued Resolution No. 9366,[10] which laid down the rules on withdrawal and substitution of party-list nominees, among others.

In 2015, Guanzon was appointed as Commissioner of the COMELEC to serve a term of seven years, or until February 2, 2022.[11]

On January 27, 2021, the COMELEC promulgated Resolution No. 10690[12] which amended Resolution No.

9366 by setting new deadlines for the withdrawal and substitution of nominations, and requiring party-list groups, organizations, and coalitions to publish, at their own expense, their new list of substitute nominees, within five days from the submission of said list for purposes of the 2022 National and Local Elections (NLE).

On March 23, 2021, P3PWD filed its Petition for Registration and Accreditation as a regional sectoral organization under the party-list system.[13]

On August 18, 2021, the COMELEC issued Resolution No. 10717[14] which recapped the different deadlines concerning political parties and groups or organizations participating under the party-list system for the 2022 NLE.

By the last day set by COMELEC under its Resolution No. 10695, 270 party-list groups—including Duterte Youth and P3PWD—had expressed their intent to participate in the 2022 NLE.[15]

On October 6, 2021, P3PWD submitted the following list of nominees to the COMELEC Law Department:

Nominee

Name

1[st]

Grace S. Yeneza

2[nd]

Joel R. Lopez

3[rd]

Allen Jose R. Serna

4[th]

Michelle R. Ofalla

5[th]

Guillermo R. Eugenio[16]

On November 5, 2021, P3PWD filed the withdrawal with substitution of its second to fifth nominees and published its new set of nominees in two newspapers of general circulation on November 6, 2021 pursuant to Resolution No. 10717. Thus, the new nominees of P3PWD were:

Nominee

Name

Remarks

1[st]

Grace S. Yeneza

Retained/No change

2[nd]

Ira Paulo A. Pozon

Substitute nominee

3[rd]

Marianne Heidi C. Fullon

Substitute nominee

4[th]

Peter Jonas R. David

Substitute nominee

5[th]

Lily Grace A. Tiangco

Substitute nominee[17]

In Minute Resolution No. 21-13275 dated November 24, 2021, the COMELEC En Banc approved the withdrawal with substitution of nominees of several registered party-lists, including those of P3PWD.[18]

On December 29, 2021, the COMELEC published online the Final List of Party-List Candidates for the 2022 NLE, which included P3PWD.[19]

On February 2, 2022, Chairperson Sheriff Abas, Commissioners Antonio Kho, Jr., and Guanzon retired from their respective COMELEC posts,[20] leaving the body with a total of four Commissioners.

On election day, May 9, 2022, P3PWD garnered 391,174 votes or 1.0629% of the total votes cast for party-list organizations, thus, entitling it to one seat in the House of Representatives (HOR).[21]

On May 26, 2022, the COMELEC En Banc sitting as the National Board of Canvassers (NBOC) proclaimed P3PWD entitled to one seat in the HOR. On the same day, it proclaimed first nominee, Grace S. Yeneza, entitled to sit as representative in the HOR. On May 30, 2022, Yeneza took her oath before Presiding Judge Augusto Jose Y. Arreza of the Regional Trial Court of Makati, Branch 233. On even date, copies of her Certificate of Proclamation and Oath of Office were furnished to the HOR.[22]

On June 7, 2022, second nominee Pozon resigned as a trustee, nominee, and member of P3PWD for personal reasons. Two days later, third to fifth nominees Fullon, David, and Tiangco likewise resigned. Fullon did not state her reason while David resigned due to personal reasons. Tiangco reasoned that she needed to assist her husband in their businesses. A day later, first nominee Yeneza tendered her resignation in order to personally care for her daughter who was diagnosed with stage 3 cancer in December 2021. She acknowledged that while she already took her oath of office, it would not be fair to her party constituents to carry on as their representative in Congress if she cannot give her full attention to the job.[23] Their resignation en masse was reported by various news organizations on June 14, 2022.[24]

On June 14, 2022, P3PWD filed the following before the COMELEC Law Department: (1) Letter from P3PWD Secretary-General Donnabel C. Tenorio regarding the submission of the Board of Resolution of Resignation of Party-List Nominees and Acceptance of Nominees; (2) Affidavit of Filing; (3) Board Resolution No. 2022-02 accepting the resignations of all nominees and substituting its new nominees; (4) notarized resignation letters of nominees; (5) Affidavit of Tenorio and Yeneza stating that the substitute nominees have all the qualifications and none of the disqualifications provided by law; and (6) Certificate of Nomination (CON) and Certificates of Acceptance of Nomination (CAN) of the following substitute nominees:

Nominee

Name

1[st]

Ma. Rowena Amelia V. Guanzon

2[nd]

Rosalie J. Garcia

3[rd]

Cherrie B. Belmonte-Lim

4[th]

Donnabel C. Tenorio

5[th]

Rodolfo B. Villar, Jr.[25]

On June 15, 2022, the COMELEC En Banc, voting three to one, promulgated Minute Resolution No. 22-0774,[26] which granted the withdrawal of the nominations of the previous nominees and gave due course to the above new list of nominees, subject to compliance with the publication requirement under Resolutions Nos. 10690 and 10717. The dispositive portion reads:

WHEREFORE, considering the foregoing, the Commission RESOLVED, as it hereby RESOLVES, to ADOPT, the recommendation of Atty. Maria Norina S. Tangaro-Casingal, Law Department, to APPROVE, the following, subject to the compliance of the publication requirement, to wit:

1.

To GRANT the respective Withdrawal of Nomination of Grace S. Yeneza as Nominee No. 1, Ira Paulo A. Pozon as Nominee No. 2, Marianne Heidi C. Fullon as Nominee No. 3, Peter Jonas R. David as Nominee No. 4; and Lily Grace A. Tiangco as Nominee No. 5; and

2.

To GIVE DUE COURSE to the New List of Nominees as follows:

1.

Ma. Rowena Amelia V. Guanzon

2.

Rosalie J. Garcia

3.

Cherrie B. Belmonte-Lim

4.

Donnabel C. Tenorio

5.

Rodolfo B. Villar, Jr.

Let the Law Department implement this Resolution.

SO ORDERED.[27]

On June 17, 2022, P3PWD filed a Manifestation, submitting proof of publication of its New List of Nominees in two national newspapers of general circulation on June 15 and 17, 2022, respectively.[28]

On even date, the Duterte Youth Party-List filed a Verified Opposition (to the Substitution of P3PWD Party-List Nominees) (Opposition), praying for the denial of the substitution of P3PWD's nominees arguing that the substitutions were filed beyond the deadlines set by Resolution No. 9366, as amended, and that giving due course thereto would violate Republic Act Nos. 3019[29] and 6713[30] because Guanzon was just recently a Member of the COMELEC, which approved the party-lists joining the 2022 NLE, including P3PWD.[31] Also on the same date, the COMELEC Spokesperson confirmed that the COMELEC had approved the substitution of P3PWD's nominees subject to P3PWD's compliance with publication requirements.[32]

Relying merely on the COMELEC Spokesperson's public statements, considering that the COMELEC had not yet formally released Resolution No. 22-0774,[33] and without awaiting the resolution of the Opposition, the Duterte Youth Party-List, on June 21, 2022, instituted this Petition praying for the annulment of the approval of the substitution of all nominees of P3PWD, and for the issuance of a TRO and/or writ of preliminary injunction enjoining the COMELEC from proclaiming Guanzon, and the HOR from allowing her and/or the substitute nominees to assume office during the pendency of the Petition.

On June 22, 2022, the COMELEC En Banc promulgated (1) Minute Resolution No. 22-0798[34] which noted P3PWD's Manifestation regarding the publication requirement and considered the same as satisfactory compliance with Minute Resolution No. 22-0774, and (2) Minute Resolution No. 22-0810[35] which denied the Opposition for lack of merit. In both issuances, three Commissioners approved while Commissioner Ferolino voted to defer.

On even date, the COMELEC, acting as the NBOC, declared P3PWD as one of the party-list organizations entitled to one seat in the HOR. It likewise proclaimed Guanzon as the qualified nominee of P3PWD to represent the latter in the HOR. The day after, she took her oath of office before Court of Appeals Associate Justice Edwin Sorongon. On June 27, 2022, she appeared before the HOR and submitted her Oath of Office.[36]

On June 29, 2022, this Court issued a TRO which reads:

WHEREAS, considering the allegations contained, the issues raised and the arguments adduced in the Petition, without necessarily giving due course to the petition, it is necessary and proper to

(a) REQUIRE the respondents to COMMENT on the petition within ten (10) days from notice hereof;

(b) ISSUE a TEMPORARY RESTRAINING ORDER, effective immediately and continuing until further orders from this Court, enjoining (i) respondent Commission on Elections (COMELEC) from implementing its assailed resolution approving the substitution of the original nominees of P3PWD Party-List with five (5) new nominees led by former COMELEC Commissioner, Rowena Amelia V. Guanzon, and issuing a Certificate of Proclamation to the substituting nominees and (ii) respondent House of Representatives from allowing Guanzon and the other substituting nominees to assume office as Member of the House of Representatives

during the pendency of this case;

...

NOW, THEREFORE, respondents COMELEC, House of Representatives, P3PWD Party-List and its nominees led by Rowena Amelia V. Guanzon are hereby required to COMMENT on the petition within a NON-EXTENDIBLE period of ten (10) days from notice hereof. Meanwhile, a TEMPORARY RESTRAINING ORDER is ISSUED, effective immediately and continuing until further orders from this Court, enjoining You, respondent COMELEC, your agents, representatives, or persons acting in your place or stead, from enforcing the assailed COMELEC Resolution...[37] (Emphasis in the original)

Nonetheless, on June 30, 2022, Guanzon filed House Bill No. 440 on behalf of P3PWD. She later filed House Bills Nos. 1044 and 1868.

In its Manifestation/Compliance Ex Abundanti Ad Cautelam (on the Temporary Restraining Order dated 29 June 2022) dated July 14, 2022, the HOR, through the OSG, manifested that it would comply with the TRO out of courtesy to a co-equal branch of government. Thus, on even date, the HOR Secretary-General returned the draft measures that Guanzon had filed.[38]

Meanwhile, on July 1, 2022, Ronald Gian Carlo Cardema filed a Petition to Deny Due Course or Cancel Certificate of Nomination with Prayer for Suspension of Proclamation against Ma. Rowena Amelia V. Guanzon dated June 27, 2022 (Petition to Deny Due Course) before the COMELEC, in his capacity as taxpayer and registered voter, alleging that P3PWD and Guanzon committed material misrepresentations in her CON and CAN.[39]

In its Resolution[40] dated August 22, 2023, the Court set the case for oral arguments. During the preliminary conference, the contempt charges were deemed submitted for decision. Thus, in its Revised Advisory[41] dated November 6, 2023, the Court limited the discussion to the following issues:

A. PROCEDURAL ISSUES

1.

Whether petitioner [Duterte Youth] Party-List has legal standing to question [COMELEC] Minute Resolution Nos. 22-0774, 22-0798, and 22-0810 (Minute Resolutions);

2.

Whether a petition for certiorari under Rule 64 in relation to Rule 65 is the proper remedy from the assailed Minute Resolutions of the COMELEC;

3.

Whether the COMELEC Minute Resolutions should be considered as final determination by the COMELEC En Banc of the validity of substitution of respondent [P3PWD] Party-List nominees;

4.

Whether the assailed Minute Resolutions of the COMELEC were issued in the exercise of its quasi-judicial or administrative functions;

5.

Whether jurisdiction remained with the COMELEC or was acquired by the House of Representatives Electoral Tribunal [HRET] on the basis of whether respondent [Guanzon] should be considered to have assumed office as representative of P3PWD Party-List; and

6.

Whether the petition was premature when it was filed on June 21, 2023, without awaiting the COMELEC's Resolution on petitioner's opposition to [P3PWD]'s substitution of nominees, which Resolution was issued on June 22, 2023, a day after the petition was filed.

B. SUBSTANTIVE ISSUES

1.

Whether the COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction in approving the substitution of all the P3PWD Party-List nominees;

a.

Whether COMELEC Resolution No. 10690—setting the deadline for withdrawal by party-list nominees to not later than November 15, 2021 and the deadline for substitution to not later than mid-day of the election day in case of death or incapacity—is mandatory even after the election;

b.

Whether the assailed Minute Resolutions are void, not having been approved by at least four (4) Members, i.e., the required minimum number of votes under Article IX-A, Section 7 of the Constitution;

c.

Whether all five party-list nominees, submitted to the electorate for voting, can withdraw at the same time, and under what conditions?

2.

Whether the substitute nominees should comply with the qualification of party-list nominees as provided in Section 9 of Republic Act No. 7941;

a.

Whether the COMELEC Minute Resolutions made a determination of the substitute nominees' compliance

with the qualifications of party-list nominees as provided in Section 9 of Republic Act No. 7941;

b.

Whether respondent Guanzon, a COMELEC Commissioner at the time of the approval of [P3PWD]'s registration as a party-list, was an eligible substitute nominee of P3PWD Party-List; and

3.

Whether the oath for purposes of assumption into office, thereby determining the jurisdiction of the [HRET], is the oath before the Speaker of the House or the oath before any person authorized to administer oath right after the proclamation.

After oral arguments were held on November 14, 2023 and January 23, 2024, the parties filed their respective memoranda.[42]

We now resolve the pertinent issues in seriatim.

Preliminarily, We note that the only act assailed in the Petition is the approval of the substitution of P3PWD's nominees which is embodied in COMELEC Resolution No. 22-0774. While the Petition did not assail the approval of the withdrawal of P3PWD's previous nominees, the Court shall likewise pass upon the same for being intimately related to the substitution. In any case, the Court, in its Revised Advisory, has included the latter as part of the issues agreed upon by the parties. That said, We are not bound to pass upon all enumerated issues if they are not indispensable in the determination or resolution of the pivotal issues in the Petition,[43] in keeping with a simple yet fundamental principle of judicial restraint, as eloquently worded by Chief Justice Roberts of the US Supreme Court: "[i]f it is not necessary to decide more to dispose of a case, then it is necessary not to decide more." [44]

II-A

Procedural Issues (G.R. No. 261123)

The Cardemas have legal standing as concerned citizens to question the assailed COMELEC Resolutions

In arguing that it had legal standing to file the Petition, Duterte Youth averred that it sustained injury in the sense that the playing field among party-list organizations was no longer equal when the COMELEC granted the withdrawal and substitution of P3PWD's nominees beyond its deadline which all other party-lists regarded as definite.[45]

Further, the Cardemas invoke standing as non-traditional suitors, i.e., as concerned citizens, taxpayers, and registered voters, and Ducielle Cardema as legislator. As citizens, they are concerned with the possibility that the same scheme may happen in subsequent party-list elections where party-list nominees may altogether be substituted after securing a seat in the HOR. As taxpayers, they are against the possibility of illegal disbursement of public funds in the form of a salary should Guanzon be allowed to sit as the first nominee of P3PWD. As voters, they are inclined to confirm the validity of the COMELEC issuances on the rules for substitution of party-list nominees. Additionally, as legislator, Ducielle Cardema avers that it is in her interest to see to it that only those who are fit and qualified to sit in the HOR since a member of Congress not only discharges public functions but receives salaries and emoluments which are paid out of the public treasury.

The COMELEC contends that the Cardemas failed to demonstrate a "present substantial interest" in the instant

case as citizens, taxpayers, and registered voters. The Cardemas' standing to sue as concerned citizens "may not be predicated upon an interest..., which is held in common by all members of the public because of the necessarily abstract nature of the injury supposedly shared by all citizens." [46] Their invocation of their capacity as registered voters likewise fails since the assailed Minute Resolutions do not concern their right of suffrage so as to afford them a personal stake in the outcome of the case. They also failed to justify their standing as taxpayers since the act complained of does not deal with illegal expenditure or misapplication of public funds.

Additionally, P3PWD argues that the alleged harassment of the Cardemas by Guanzon in various media does not amount to actual or threatened injury. Thus, it appears that they filed the Petition merely as a personal vendetta against her. Further, the seat they contest still refers to the seat obtained by P3PWD, albeit with a different nominee. As such, the assailed Minute Resolutions allowing the substitution of nominees did not cause any disenfranchisement. Being a virtual stranger to P3PWD, especially as to the determination of the nominees of said party-list, petitioner lacks the requisite legal standing to file the Petition. Locus standi or legal standing has been defined as follows:

Locus standi or legal standing is defined as a personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the challenged governmental act. It requires a personal stake in the outcome of the controversy as to assure the concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions. [47]

We fail to see how Duterte Youth stands to be injured by the COMELEC's grant of the withdrawal and substitution of P3PWD's nominees. Its allegation of an uneven playing field is too abstract and is certainly not the direct injury contemplated in determining standing. As admitted by its counsel during oral arguments, Duterte Youth would not even be deprived of a seat if P3PWD's nominee were allowed to sit. [48]

This Court, however, has allowed suits even if petitioner failed to show direct injury since the rule on standing is a matter of procedure which can be relaxed when the public interest so requires, such as when the matter is of transcendental importance, of overarching significance to society, or of paramount public interest. [49] Accordingly, taxpayers are allowed to sue where there is a claim of illegal disbursement of public funds [50] or where a tax measure is assailed as unconstitutional. [51] Voters are allowed to question the validity of election laws because of their obvious interest in the validity of such laws. [52] Concerned citizens can bring suits if the constitutional question they raise is of transcendental importance which must be settled early. [53] Legislators are allowed to sue to question the validity of any official action which they claim infringes their prerogatives as legislators. [54] Nonetheless, these exceptional suits do not dispense with the requirement that there be a claim of injury-in-fact. [55]

There being no disbursement of salaries or emoluments to the substitute nominees to begin with, petitioner cannot claim injury-in-fact on the basis of illegal disbursement of public funds. [56] While they seek to prevent the illegal disbursement thereof, the fact remains that the act complained of does not directly involve the illegal disbursement of public funds. [57] It is only when the very issue of the case hinges on illegal disbursement thereof that a liberal approach to taxpayer standing should be preferred. [58] The supposed impending illegal disbursement of public funds being at most indirect and speculative, petitioner's claim of standing as taxpayers must fail.

As for Ducielle Cardema's claim of standing as a legislator, her alleged interest in ensuring that only those who are qualified are able to sit in the HOR has nothing to do with her prerogatives as a legislator.

On voter standing, our pronouncement that "there must be a showing of obvious interest in the validity of the election law in question" [59] is but an example of when voters may successfully invoke standing. Thus, the matter

in question need not be an election law but may also be a rule, regulation, or ruling that is alleged to injure a right of the people in their specific capacity as voters. Here, petitioner alleges that the public never had the opportunity to scrutinize the new set of nominees of P3PWD because the COMELEC granted their substitution after the elections and beyond its own deadlines. Nonetheless, petitioner does not even allege that they voted for P3PWD during the 2022 NLE. Hence, We do not see how they could have been personally deceived by the post-election substitution of P3PWD's nominees.

Nonetheless, given the transcendental importance of the constitutional questions raised in this case, involving as it does the right of the people to information in matters of public concern, particularly in the election of party-list organizations, petitioner may invoke standing as concerned citizens. Said the Court in *Akbayan Citizens Action v. Aquino*:^[60]

In a petition anchored upon the right of the people to information on matters of public concern, which is a public right by its very nature, petitioners need not show that they have any legal or special interest in the result, it being sufficient to show that they are citizens and, therefore, part of the general public which possesses the right. As the present petition is anchored on the right to information and petitioners are all suing in their capacity as citizens ..., the standing of petitioners to file the present suit is grounded in jurisprudence.^[61]

The transcendental importance of this case was underscored by no less than Senior Associate Justice Marvic Leonen, with whom the OSG agreed, and echoed by COMELEC Chairperson George Garcia during oral arguments:

SENIOR ASSOCIATE JUSTICE LEONEN:

You see the importance of this case, counsel. The importance of this case will determine how strong our party list system will be. That the electorate is already informed when they vote for the party list, nandito sa lima yung gusto ko at nasa konteksto siya ng isang partido tulad ng P3PWD. Hindi ako mabibigla pagkatapos na iba yung tatakbo o iba yung uupo. You see the importance of this case?

ASSISTANT SOLICITOR GENERAL SARDILLO-SALOM:

Yes, Your Honor.^[62]

...

CHAIRPERSON GARCIA:

... [W]e would like, Your Honor, to emphasize really, as correctly pointed out by Honorable Justice Leonen, the importance of this case. The COMELEC is to conduct the national and local election, more particularly of course, the party-list election for 2025. We will be definitely waiting for the disposition of the Honorable Court as far as this case is concerned. We will be drafting the rules for the 2025 election for the party-list and hopefully, we will properly be guided as far as the issue of substitution, as far as the issue of such other requirements pertaining to Republic Act 7941, hence, really the importance of this case. That is why we are giving too much attention, the COMELEC, as far as this case is concerned, setting aside the personalities involved.^[63] (Emphasis supplied)

The assailed Resolutions being issued in the exercise of the COMELEC's administrative functions, the proper remedy is a petition for certiorari under Rule 65 of the Rules of Court

The propriety of petitioner's remedy depends on whether the COMELEC, in issuing the assailed Resolutions, acted in the exercise of its administrative or quasi-judicial powers.

Petitioner argues that a writ of certiorari lies because it is directed against the COMELEC in the exercise of its

quasi-judicial functions, the COMELEC committed grave abuse of discretion in neglecting to properly exercise its quasi-judicial functions over petitioner's opposition against the substitution of P3PWD's nominees, and the COMELEC has approved said substitution, thus, leaving no appeal nor any plain, speedy and adequate remedy in the ordinary course of law to question the same. While they admit that the matter of substitution initially fell under the administrative functions of the COMELEC, the same may later on fall under its quasi-judicial functions as when a legal controversy comes to fore such as the filing of an opposition, pursuant to *Aggabao v. COMELEC*.^[64]

The COMELEC posits that the assailed Resolutions were issued in the exercise of administrative functions, thus, beyond the ambit of Rule 65. It cites jurisprudence holding that the COMELEC exercises its administrative functions when it receives Certificates of Candidacies (COC) and Certificates of Nomination and Acceptance (CONA) filed in due form,^[65] and in matters concerning party-list registration, its membership, and list of its nominees.^[66] The COMELEC avers that petitioner mistakenly relies on *Aggabao* as basis for its argument that its filing of an opposition converted the administrative nature of the proceedings to quasi-judicial since supervening events took place in *Aggabao* which necessarily called for the COMELEC's exercise of its discretionary power. Verily, the issues raised in the Opposition pertain to the act of substitution itself, which only required the application of the Party-List System Act and relevant COMELEC resolutions and did not trigger the COMELEC's quasi-judicial functions. Finally, by filing a Petition to Deny Due Course, Ronald Gian Carlo Cardema recognized that a plain, speedy and adequate remedy was available.

The COMELEC's administrative function refers to the enforcement and administration of elections laws.^[67] The Constitution does not prescribe how it should exercise its administrative powers, whether en banc or in division, but merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "may sit en banc or in two divisions." Clearly, the COMELEC en banc can act directly on matters falling within its administrative powers, which has been the practice under the 1973 and 1987 Constitutions.^[68]

On the other hand, the COMELEC's quasi-judicial or administrative adjudicatory power involves the resolution of controversies arising from the enforcement of elections laws, and to be the sole judge of all pre-proclamation controversies and of all contests relating to the elections, returns, and qualifications. It is the power to hear and determine questions of fact to which the legislative policy is to apply, and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law.^[69] Where the situation calls for the power of the COMELEC to exercise its judgment or discretion involving a determination of fact, or resolution of controversies where parties adduce evidence in support of their contentions, it ought to perform its quasi-judicial functions.^[70] Its exercise of quasi-judicial powers is subject to Article IX-C, Section 3 of the Constitution^[71] which requires that all election cases, including pre-proclamation controversies, be decided by the COMELEC in division, and that the motion for reconsideration thereof be decided by the COMELEC En Banc.^[72] Thus, when the COMELEC En Banc exercises quasi-judicial powers without first referring the matter to a division, it acts without jurisdiction.^[73] It cannot abbreviate the proceedings by acting on the case without prior action by a division because it denies the candidate due process.^[74]

As applied, when the COMELEC En Banc acted on the substitution of P3PWD's nominees, it was clearly performing an administrative function because it merely called for the enforcement of election laws and rules. It involved no exercise of discretionary authority, let alone of its adjudicatory or quasi-judicial power to hear and resolve controversies defining the rights and duties of parties-litigants, relative to the conduct of elections of public officers and the enforcement of election laws.^[75] The receipt of the list of additional nominees is functionally similar to the COMELEC's act of receiving COCs and CONAs filed in due form, which We held to be an exercise of administrative functions.^[76]

As to whether the COMELEC's action on the Opposition called for the exercise of quasi-judicial powers, We answer in the negative. As correctly argued by the COMELEC, this case must be distinguished from *Aggabao*. In *Aggabao*, Senator Lacson's letters challenging the validity or authenticity of mayoralty candidate Ayson's CONA brought to fore a legal controversy which required the COMELEC to look beyond the face of the CONA. Thus, even after its acceptance of the CONA, which initially appeared to be regular, the COMELEC became duty-bound to take cognizance of, and investigate, the material information coming from Senator Lacson that Partido Reporma had not issued any CONA in favor of Ayson. This required the COMELEC En Banc to refer the administrative matter to a Division and docket the same as an election case, hear the parties thereon, and thereafter resolve the material issue as to who the party's real mayoralty candidate was.

In contrast, the Opposition here did not result in a legal controversy involving the legal rights of the parties. There was no need to determine which between Duterte Youth and P3PWD was entitled to a seat, or any conflict of right between them for that matter. A conflict between an alleged right and a general interest such as the enforcement of laws is not a conflict of rights. As expressed by former Justice Arturo Brion in his Concurring Opinion in *Atong Paglaum, Inc. v. COMELEC*,^[77] when there is no conflict of rights, no real adjudication entailing the exercise of quasi-judicial powers takes place.^[78]

The existence of an opposition does not automatically convert the proceeding to a quasi-judicial one.^[79] In *Jaramilla v. COMELEC*,^[80] a candidate sought the correction of the number of votes of his opponent. Despite the latter arguing for the dismissal of the petition, We held that a clerical correction in the tabulation of results demands only the exercise of administrative powers.

Likewise, the existence of questions of fact does not ipso facto warrant the exercise of quasi-judicial functions where mere application of the relevant laws, resolutions and jurisprudence renders it unnecessary to determine the facts and receive evidence. In *Canicosa v. COMELEC*,^[81] a Petition to Declare Failure of Election alleged fraud in the casting and counting of votes and preparation of election returns, violence, threats, intimidation, vote buying, and delay in the delivery of election documents. Despite these factual allegations, the COMELEC dismissed the petition on the ground that such allegations did not justify a declaration of failure of election. The Court agreed that none of the grounds invoked were instances where a failure of election may be declared and that the issues presented demanded only the exercise of administrative functions. Clearly, the COMELEC only had to apply the law and did not have to determine the truth of petitioner's factual allegations in ruling on his petition. It would have been a different story had petitioner alleged facts that were proper grounds for the declaration of failure of election, in which case the COMELEC would have been called upon to investigate such factual allegations and exercise its quasi-judicial functions.

In resolving the Opposition in this case, the COMELEC En Banc merely had to determine two things: (1) whether the deadlines set by the COMELEC for substitution of nominees are mandatory after the elections; and (2) whether the COMELEC had jurisdiction to rule on the issue of alleged violation of R.A. Nos. 3019 and 6713. Verily, it could rule on these issues by simply applying the relevant laws, rules and jurisprudence without referring the case to a division for summary hearing as it did not require the use of judgment or discretion involving a determination of fact, or resolution of controversies where parties adduce evidence in support of their contentions.

Since the approval of the substitution and the denial of the Opposition were done in the exercise of administrative functions, it was error for petitioner to assail the same via a petition for certiorari under Rule 64, in relation to Rule 65, of the Rules of Court, which excludes from its coverage decisions, rulings, and orders rendered by the COMELEC in the exercise of its administrative functions. However, the inapplicability of Rule 64 does not foreclose recourse to this Court under Rule 65.^[82]

In the interest of substantial justice and to give way to a just resolution of the case on the merits, We shall treat this petition as one filed under Rule 65 instead of Rule 64 in relation to Rule 65. After all, rules of procedure ought not to be applied in a very rigid, technical sense, but must be used to help secure, and not override substantial justice, in consonance with the Court's primary duty to render or dispense justice.[83]

It is settled that the Court's certiorari powers should be exercised only upon compliance with the stringent requirements of Rule 65, particularly that there be no plain, speedy and adequate remedy in the ordinary course of law.[84] Admittedly, petitioner filed the Petition without waiting for the resolution of the Opposition, reasoning that they were pressed for time to seek remedy in order to prevent the supposedly illegal substitution from taking place due to the implied definitiveness and apparent finality of the COMELEC's approval of the substitution and the fact that the term of office of a member of the HOR would commence on June 30, 2022.

Neither the COMELEC Rules of Procedure (COMELEC Rules) nor its relevant resolutions provide for a procedure in opposing the substitution of nominees. In fact, the COMELEC approved the substitution subject to the publication requirement without awaiting any opposition. Procedurally, therefore, the filing of the Opposition is not a condition sine qua non to the filing of a petition for certiorari. The COMELEC Rules also prohibit motions for reconsideration of an en banc ruling, resolution, order or decision except in election offense cases.[85] There being no specific provision in the COMELEC Rules or resolutions on assailing a ruling of the COMELEC En Banc on substitution of nominees, Rule 37, Section 1[86] of the COMELEC Rules will apply, i.e., such ruling may be brought to this Court on certiorari.

Further, contrary to the COMELEC's position, a Petition to Deny Due Course or to Cancel Certificate of Nomination of Party-List Nominees under Rule 5 of COMELEC Resolution No. 9366, as amended, is not a plain, speedy and adequate remedy. Section 1 thereof states that such petition may be filed "exclusively on the ground that a material misrepresentation has been committed in the qualification of the nominees." The present Petition, however, assails the approval of the substitution of P3PWD's nominees not on the basis of material misrepresentation but for being done beyond the deadlines set by the COMELEC and for being violative of Republic Act Nos. 3019 and 6713, which are not grounds for a Petition to Deny Due Course. All told, there is no other plain, speedy and adequate remedy in the ordinary course of law except via a petition for certiorari before this Court.

The COMELEC retained jurisdiction because the Court's TRO prevented Guanzon from assuming office

Petitioner argues that jurisdiction remained with the COMELEC and was not acquired by the HRET as Guanzon had not yet assumed office as representative of P3PWD, there being a TRO enjoining the HOR from allowing her and other substitute nominees to assume office.

The COMELEC agrees with petitioner that Guanzon did not assume office in light of the Court's TRO which legally prevented her from assuming office. In fact, Guanzon, through counsel, admitted during oral arguments that she cannot assume office and has never officially discharged her congressional duties because of said TRO.[87]

P3PWD, on the other hand, argues in its Comment that the dispositive portion of the Court's TRO restrained only the COMELEC and no one else. Thus, the purview and scope of said injunctive writ must be strictly construed only up to such extent. As such, nothing prevented the HOR from recognizing Guanzon as representative of P3PWD and allowing her to discharge the functions of her office. Clearly, therefore, Guanzon duly assumed office as its representative on the afternoon of June 30, 2022. Thus, for all legal intents and purposes, she is an incumbent member of the HOR whose title and right to hold office is assailable only before the HRET.

This Court is well aware that while the second Whereas clause of the TRO states that "it is necessary and proper to... ISSUE a [TRO] enjoining... (ii) respondent [HOR] from allowing Guanzon and the other substituting nominees to assume office as Member of the House of Representatives during the pendency of this case," the dispositive portion contained no such directive. We are also well aware of the settled rule that "the operative part in every decision is the dispositive portion or the fallo, and where there is conflict between the fallo and the body of the decision, the fallo controls. This rule rests on the theory that the fallo is the final order while the opinion in the body is merely a statement, ordering nothing."^[88] Nonetheless, the rule speaks of conflict and not mere omission. The absence of a directive addressed to the HOR does not mean that there is conflict or disagreement between the body and the fallo of the TRO. Sans conflict, the fallo should not be taken in isolation but must be read in connection with the other portions of the decision, resolution or order. Otherwise, our finding that it is necessary to enjoin not only the COMELEC but also the HOR would be rendered inutile.

Our ruling in *Republic v. De Los Angeles*^[89] is instructive:

This Court has promulgated many cases ... wherein it was held that a judgment must not be read separately but in connection with the other portions of the decision of which it forms a part... [T]he decision of the court below should be taken as a whole and considered in its entirety to get the true meaning and intent of any particular portion thereof... Neither is this Court inclined to confine itself to a reading of the said fallo literally. On the contrary, the judgment portion of a decision should be interpreted and construed in harmony with the ratio decidendi thereof... [T]o get the true intent and meaning of a decision, no specific portion thereof should be resorted to but the same must be considered in its entirety. Hence, a resolution or ruling may and does appear in other parts of the decision and not merely in the fallo thereof.^[90] (Emphasis supplied)

While Guanzon was already proclaimed and took her oath, the legal effects of said acts were stayed by the TRO whose office is to preserve the status quo,^[91] i.e., the last actual peaceable uncontested status that preceded the controversy.^[92] The status quo in preliminary injunction (and temporary restraining order) parlance is really a status quo ante.^[93] Indeed, the Court has held that a TRO and a status quo ante order have the same nature.^[94] Since the TRO preserves the pre-substitution state of affairs, it is unnecessary to delve into issues on post-substitution acts such as Guanzon's proclamation and oath.

At any rate, the HOR, through the OSG, already manifested that it would comply with the terms of the TRO during the pendency of this case, out of courtesy to a co-equal branch of government.^[95] It later manifested that Guanzon had not yet assumed office as representative of P3PWD.^[96] Thus, We agree with petitioner and the COMELEC that jurisdiction remained with the latter and was not acquired by the HRET.

II - B

Substantive Issues (G.R. No. 261123)

The Party-List System Act does not prohibit the withdrawal of nominees per se regardless of the reason

With regard to the COMELEC's approval of the withdrawal, petitioner argues that none of the reasons proffered by the withdrawing nominees are valid causes for withdrawal under COMELEC Resolution No. 10690. More importantly, allowing all five nominees to simultaneously withdraw after the elections and putting in their stead five new nominees will defeat the constitutional right of the people to information on matters of public concern and will be tantamount to fraud and imposition upon the electorate.

Section 8 of the Party-List System Act provides in part that "[n]o change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his[her] nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list." In *Lokin v. COMELEC*,^[97] We declared this to mean that

there are three exceptions to the prohibition in Section 8, i.e., when the nominee (a) dies; (b) withdraws in writing their nomination; or (c) becomes incapacitated. We held in *COCOFED v. COMELEC*[98] that these circumstances focus not on the party but on the nominee, whether voluntary (the nominee withdraws his nomination) or involuntary (the nominee dies or becomes incapacitated).[99]

The Party-List System Act does not prohibit the withdrawal per se of a nominee. What it prohibits is the change of name or alteration of order of nominees after submission of the list to the COMELEC, subject to certain exceptions. There being no prohibition on the withdrawal of nominees whether before, during or after elections, the COMELEC technically may neither deny nor grant a withdrawal but merely note the same.

Section 8 of the Party-List System Act and the corresponding COMELEC Resolutions are the applicable law

Sections 8 and 16 of the Party-List System Act provide as follows:

Section 8. Nomination of Party-List Representatives. ...

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list... No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list . . .

. . . .

Section 16. Vacancy. In case of vacancy in the seats reserved for party-list representatives, the vacancy shall be automatically filled by the next representative from the list of nominees in the order submitted to the COMELEC by the same party, organization, or coalition, who shall serve for the unexpired term. If the list is exhausted, the party, organization, or coalition concerned shall submit additional nominees. (Emphasis supplied)

During oral arguments, petitioner expressed the view that Section 16 is the applicable provision in this case. Similarly, respondents averred in their respective Memoranda that in connection with Section 8 allowing withdrawal of a nomination, Section 16 allows the submission of additional nominees in cases of vacancy when the original list has been exhausted.

While Section 16 indeed allows, nay, mandates the submission of additional nominees when the prior list is exhausted, it finds no application to the facts of this case. The law is clear. Section 16 applies to a vacancy in a party-list seat, not in the list of nominees. Thus, it applies only during the legal existence of the seat, i.e., during the term of the party-list representative, i.e., from noon of the thirtieth day of June next following their election, and not prior. This is bolstered by the command therein that the next representative from the list of nominees "shall serve for the unexpired term." P3PWD's victory during the elections merely entitled it to a seat during the Nineteenth Congress but said seat did not legally exist until the end of the term of the party-list representative from the Eighteenth Congress at noon of June 30, 2022. Since P3PWD's seat did not legally exist prior thereto, the en masse resignation of its nominees could not have caused any vacancy.

Under the Rules of the HOR, a vacancy in the seat of a Member of the HOR occurs when such Member "dies, resigns, is permanently incapacitated or lawfully barred from performing the duties of a Member, or is lawfully removed from office." [100] Additionally, elected party-list representatives who change their political party or sectoral affiliation during their term of office shall forfeit their seat.[101] For vacancies in party-list seats, representatives may be chosen to fill the vacancies in the manner provided by law,[102] i.e., in accordance with the Party-List System Act and COMELEC Resolutions.

Section 16 provides that if there is a vacancy in a party-list seat, it shall be automatically filled by the next representative, i.e., the second nominee, and so on, to serve for the unexpired term. In the unlikely event that the last remaining nominee is called to fill the vacancy, there is no longer any "next representative" to speak of and the list is thereby exhausted; hence, Section 16 commands submission of additional nominees upon exhaustion of the list so that in the unlikely event that the seat filled by the last remaining nominee-cum-representative becomes vacant, it will never remain vacant for long. The fact that the sentence on exhaustion was placed in Section 16 and not elsewhere shows that the Legislature contemplated an exhaustion that occurs during the term of the party-list representative and not prior thereto. Section 16 was crafted to provide a contingency for a future unexpected vacancy, ensuring the smooth and automatic transfer of power. It was never intended to give party-list groups carte blanche to overhaul the list of nominees, but only to serve as a buffer to guarantee that the seat is never left vacant.

Since the substitution here occurred prior to June 30, 2022, Section 8 of the Party-List System Act, as implemented by the relevant COMELEC Resolutions, remains to be the applicable law in this case, and not Section 16.

Rules and regulations on substitution of party-list nominees are mandatory even after elections

The implementing rules for Section 8 of the Party-List System Act are embodied in Sections 4 and 5, Rule 4 of COMELEC Resolution No. 9366, as amended by Resolution No. 10690 which was signed by Guanzon herself when she was a member of the COMELEC. The pertinent portions state, as follows:

Section 4. Withdrawal of nomination or acceptance of nomination. Withdrawal of nominations and substitution of nominees due to the withdrawal of the acceptance to the nomination shall be in writing and under oath, and filed with the Law Department not later than NOVEMBER 15, 2021. Provided that NO substitution shall be VALID unless the party files with the Law Department a list of its substitute nominees, ...

...

Section 5. Nomination of Party-List representatives. ... No change of names or alterations of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, becomes incapacitated, or there is valid withdrawal and substitution of nominees as provided in the preceding section, in which case the name of the substitute nominee shall be placed last in the list.

NO substitution shall be VALID beyond the deadline provided in the preceding section unless the list of nominees originally submitted has been exhausted due to death and/or incapacity of the nominees. The party, within ten (10) days from the exhaustion of the original list, shall file with the Law Department a list of its substitute nominees, ... Provided that substitutions due to the death and/or incapacity of the nominees under this paragraph shall be allowed only up to mid-day of election day.

... (Emphasis supplied)

The above provisions were substantially adopted in Sections 10 to 12 of COMELEC Resolution No. 10717, which also bore Guanzon's imprimatur.

Yet P3PWD and Guanzon posit that the deadlines stated in the aforementioned Resolutions no longer apply after the elections. They cite *Engle v. COMELEC*[103] where We held that "rules and regulations for the conduct of elections are mandatory only before the election, but when they are sought to be enforced after the election, they are held to be directory only." Even the COMELEC Law Department, in its recommendation on the Opposition, relied on *Engle* as basis for saying that the deadline on substitution of nominees is applicable only prior to the elections.[104] However, rather than supporting their position, *Engle* has already qualified the doctrine as

referring only to matters of form. The pertinent portion thereof reads:

This Court recognizes that the COMELEC is empowered by law to prescribe such rules so as to make efficacious and successful the conduct of elections. However, it is a long standing principle in jurisprudence that rules and regulations for the conduct of elections are mandatory before the election, but when they are sought to be enforced after the election they are held to be directory only, if that is possible, especially where, if they are held to be mandatory, innocent voters will be deprived of their votes without any fault on their part. Over time, we have qualified this doctrine to refer only to matters of form and cannot be applied to the substantial qualifications of candidates. This was discussed at length in *Mitra v. Commission on Elections*, thus:

... [I]t is an established rule of interpretation as regards election laws, that mandatory provisions, requiring certain steps before elections, will be construed as directory after the elections, to give effect to the will of the people.

Quite recently, however, we warned against a blanket and unqualified reading and application of this ruling, as it may carry dangerous significance to the rule of law and the integrity of our elections. For one, such blanket/unqualified reading may provide a way around the law that effectively negates election requirements aimed at providing the electorate with the basic information for an informed choice about a candidate's eligibility and fitness for office. Short of adopting a clear-cut standard, we thus made the following clarification:

... In a choice between provisions on material qualifications of elected officials, on the one hand, and the will of the electorate in any given locality, on the other, we believe and so hold that we cannot choose the electorate will.[105] (Emphasis supplied)

With great foresight, the Court in *Mitra v. COMELEC*, [106] as cited in *Engle*, cautioned against the very act that herein respondents have engaged in—a blanket and unqualified application of the doctrine—lest the electorate's right to information be negated. If We were to deem rules and regulations on nominee substitution as directory after elections, We would be negating the exceptional character of substitution. In effect, substitution would become the rule rather than the exception and parties would hardly be incentivized to field nominees with bona fide intention to assume office, thus reducing elections to a mere sport where players may be substituted at will or on a whim.

The timing of the substitution of nominees is not merely a matter of form but of substance. It affects the very right of the electorate to know the identities of the nominees of a party-list organization in order to make an intelligent and informed choice come election day, for as held in *Lokin*:

Although the people vote for the party-list organization itself in a party-list system of election, not for the individual nominees, they still have the right to know who the nominees of any particular party-list organization are. The publication of the list of the party-list nominees in newspapers of general circulation serves that right of the people, enabling the voters to make intelligent and informed choices. In contrast, allowing the party-list organization to change its nominees through withdrawal of their nominations, or to alter the order of the nominations after the submission of the list of nominees circumvents the voters' demand for transparency...[107] (Emphasis supplied)

Additionally, the Court in *COCOFED* declared:

The publication of the list of nominees does not only serve as the reckoning period of certain remedies and procedures under the resolution. Most importantly, the required publication satisfies the people's constitutional right to information on matters of public concern. The need for submission of the complete list required by law becomes all the more important in a party-list election to apprise the electorate of the individuals behind the

party they are voting for. If only to give meaning to the right of the people to elect their representatives on the basis of an informed judgment, then the party-list group must submit a complete list of five nominees because the identity of these five nominees carries critical bearing on the electorate's choice. A post-election completion of the list of nominees defeats this constitutional purpose.[108] (Emphasis supplied)

Instructive too is the following pronouncement in *Bantay Republic Act (BA-RA 7941) v. COMELEC*[109] where We ruled that a writ of mandamus will lie to compel the disclosure of the names of party-list nominees:

The Comelec's reasoning that a party-list election is not an election of personalities is valid to a point. It cannot be taken, however, to justify its assailed non-disclosure stance which comes, as it were, with a weighty presumption of invalidity, impinging, as it does, on a fundamental right to information. While the vote cast in a party-list elections 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.

...

It has been repeatedly said in various contexts that the people have the right to elect their representatives on the basis of an informed judgment. Hence the need for voters to be informed about matters that have a bearing on their choice... The Court, since the 1914 case of *Gardiner v. Romulo*, has consistently made it clear that it frowns upon any interpretation of the law or rules that would hinder in any way the free and intelligent casting of the votes in an election...[110] (Emphasis supplied)

Nominee substitution being a matter of substance, rules and regulations governing the same do not lose their mandatory character even after the elections. A contrary rule would lead to the absurd result where a party need only wait for the elections to end before filing for substitution of nominees so that the COMELEC's deadline would not apply to it.

The COMELEC may impose a deadline for substitution of nominees to carry out the purposes of the law

Interestingly, the COMELEC, in its Memorandum, shoots itself in the foot by admitting that its own Resolution No. 9366 modifies Sections 8 and 16 of the Party-List System Act by adding restrictions on when a party-list can substitute its nominees after its deadline, thus overriding substantive law. It cites *Lokin* where this Court invalidated a provision of a COMELEC Resolution that added another basis for withdrawing party-list nominations which was not found in the law. It likewise quotes *Partido Demokratiko Pilipino-Lakas ng Bayan (PDP-Laban) v. COMELEC*[111] where We found that the COMELEC gravely abused its discretion when it extended the deadline for filing of the Statements of Contributions and Expenditures.

However, unlike the COMELEC Resolution in *Lokin*, Resolution No. 9366, as amended, merely added a deadline and did not add another basis for substitution that is not contained in the law. The deadline imposed by Resolution No. 9366, as amended, should likewise be distinguished from the deadline invalidated by the Court in *PDP-Laban* because by moving the express deadline set by law, the COMELEC in that case clearly modified the statute. In this case, the deadline imposed by the COMELEC did not modify any express deadline in the law, there being none.

While the COMELEC is specifically empowered by law to impose deadlines for the filing of COC, which deadlines We upheld in *Federico v. Commission on Elections*,[112] the Party-List System Act does not impose a deadline nor expressly empower the COMELEC to set one for substitution of nominees, yet the COMELEC imposed deadlines: November 15, 2021 for substitutions on account of withdrawal, and mid-day of election day for substitutions on account of death or incapacity. This begs the question as to whether it may impose a deadline on nominee substitution even when the law itself does not impose one or does not expressly empower the COMELEC to do so.

We rule in the affirmative.

It is settled that administrative authorities have the power to promulgate rules and regulations to implement a given statute and effectuate its policies, provided they conform to the terms and standards prescribed by the statute and carry into effect its general policies.[113] In this regard, the Party-List System Act vests in the COMELEC the duty to promulgate the necessary rules and regulations as may be necessary to carry out not only the letter of the law but the very purposes of the Act.[114] In promulgating such rules, it is duty-bound to implement the State's declared policy of not only developing but also guaranteeing a full, free and open party system.[115] It is thus justified in enlarging upon the statute, subject only to the standards fixed therein, to ensure its effective enforcement in accordance with the legislative will.[116] The necessity for vesting administrative authorities with power to make rules and regulations is based on the impracticability of lawmakers providing general regulations for various details of management.[117] Thus, the COMELEC is empowered to provide details to implement the statute for as long as it does not supplant the express provisions of the law.[118] All that may be reasonably demanded is a showing that such administrative regulations are germane to the general purposes projected by the governing or enabling statute.[119]

In imposing deadlines for substitution of nominees, the COMELEC neither modified nor supplanted statute but merely carried its general policy into effect. In fact, if it did not impose deadlines, our rulings in *Lokin*, *COCOFED* and *Bantay Republic Act* on the right of the electorate to know the nominees to enable them to make intelligent and informed choices would be rendered nugatory since nominees who substitute beyond the deadlines never figure in that intelligent and informed choice. Notably, when the COMELEC imposed a publication requirement for the list of nominees despite not being expressly required by law, the Court in *COCOFED* and *Lokin* upheld it and did not consider it a modification of statute. Thus, not every imposition of a deadline or added requirement not expressly required by statute will be considered a modification or supplantation thereof for as long as the purposes of the Act and the fundamental law are carried out and such imposition does not do violence to the words and intent of its provisions. For the dissenting opinions in this case to argue against the deadlines but uphold the publication requirement even if neither is expressly required by law would result in a double standard which cannot be countenanced.

The assailed Resolutions being issued in the exercise of administrative functions, a majority vote of all commissioners present at a meeting at which there is a quorum is valid

Petitioner argues that the assailed Resolutions are void for not having been approved by at least four members of the COMELEC, i.e., the minimum number of votes required under Section 7, Article IX-A of the Constitution[120] as interpreted by prevailing jurisprudence.[121]

The COMELEC retorts that that the phrase "decision, order, or ruling" in Section 7, Article IX-A of the Constitution has been interpreted to relate only to those rendered in the exercise of adjudicatory or quasi-judicial powers.[122] Hence, the phrase "case or matter" in Section 7 should also be interpreted as relating only to those rendered in the exercise of such powers. Since Minute Resolution No. 22-0774 was not rendered in the exercise of quasi-judicial powers, the COMELEC opines that Section 7 is not applicable. The cases cited by petitioner are likewise inapplicable because they involved the COMELEC's exercise of quasi-judicial functions. Thus, with respect to decisions relating to its administrative functions, the COMELEC argues that it may promulgate rules providing for a lower voting threshold to allow it to discharge its administrative functions promptly and effectively.

In *Garces v. Court of Appeals*,[123] We held:

The "case" or "matter" referred to by the Constitution must be something within the jurisdiction of the

COMELEC, i.e., it must pertain to an election dispute. The settled rule is that "decision, rulings, order" of the COMELEC that may be brought to the Supreme Court on certiorari under Sec. 7, Art. IX-A are those that relate to the COMELEC's exercise of its adjudicatory or quasi-judicial powers... (Emphasis supplied)

Since Article IX-A, Section 7 of the Constitution applies only to decisions, rulings or orders of constitutional commissions in the exercise of their quasi-judicial powers, the COMELEC is not proscribed from promulgating its own rules on voting when exercising its administrative powers. In the latter case, the applicable rule is Section 2 of Resolution No. 9936[124] which requires approval by a majority of all the members of the Commission present at a meeting at which there is a quorum, to wit:

Section 2. Validity; Quorum. – (1) A decision or resolution on an executive or administrative matter, issue or concern shall be valid when the action taken is approved, ratified, confirmed, or concurred in by a majority of all the members of the Commission present at a meeting at which there is a quorum.[125]

(2) A quorum is determined by the presence of the majority of the members of the Commission with existing and valid appointments. (Emphasis supplied.)

The approval of the substitution of nominees and the subsequent denial of the Opposition thereto having been done in the exercise of the COMELEC's administrative functions, the affirmative vote of three out of the four Commissioners constituted a majority and was, thus, valid.

The COMELEC committed grave abuse of discretion in approving the post-election substitution of nominees

Having ruled that rules and regulations relating to the substitution of nominees remain mandatory even after elections, We now determine whether the COMELEC's approval of the substitution of P3PWD's nominees beyond its deadline amounted to grave abuse of discretion correctible by certiorari.

Petitioner contends that the COMELEC gravely abused its discretion in approving the substitution beyond its deadline since it violated the constitutional right of the people to information on matters of public concern. P3PWD argues otherwise, stating that petitioner Duterte Youth itself sought substitution of its nominees after the conduct of the 2019 elections, yet such substitution which was approved by the COMELEC was upheld by this Court in *Angcos v. Duterte Youth*. [126] The COMELEC, on the other hand, avers that no grave abuse of discretion can be ascribed to it since it merely ministerially approved the withdrawal and substitution of P3PWD's nominees. Further, in the performance of its duties, it must be given considerable latitude in adopting means and methods that will ensure the accomplishment of its objective of promoting free, orderly, and honest elections.

While the Court in *Angcos* indeed dismissed the petition assailing the post-election substitution of Duterte Youth's nominees, suffice to say that said minute resolution involving different parties and subject matter cannot constitute *res judicata*. A minute resolution constitutes *res judicata* only insofar as it involves the same subject matter and the same issues concerning the same parties. If there are other parties and another subject matter (even if the same parties and issues are involved), the minute resolution is not binding precedent. [127] Hence, P3PWD cannot rely on *Angcos* as precedent.

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law. [128]

In *Liberal Party v. COMELEC*, [129] We found that given the mandatory nature of the COMELEC's deadline for party registration, the COMELEC's violation of its own rules on deadlines amounted to grave abuse of discretion. Here, aside from the COMELEC's clear disregard of its own deadline based on what appears to be blind

adherence to the recommendation of its Law Department, this Court notes the sheer speed at which it approved the substitution of P3PWD's nominees—one day from P3PWD's physical filing. While the quick resolution of matters ordinarily merits commendation, undue haste in rendering a decision, when considered along with other circumstances, may be a manifestation of arbitrariness indicative of grave abuse of discretion.[130] The following Memorandum[131] dated June 15, 2022 of Commissioner Ferolino to the COMELEC En Banc describes in detail the other circumstances leading to the impetuous approval of the substitution:

I concur with the majority TO GRANT the respective Withdrawal of the Nomination of P3PWD's previous Nominees. However, I humbly submit this opinion to explain my vote TO DEFER the consideration of its New List of Nominees.

....

Contrary to the assertion of the Honorable Acting Chairperson that publication is not a condition sine qua non for us to approve or to give due course to the new list of nominees, it is my staunch position that publication is necessary before the new nomination can be considered as valid. Our Rules are unambiguous on this point. Not only that Section 6 of Resolution No. 10690 and Section 11 of Resolution No. 10717 expressly provide for this requirement, but the rationale is even elucidated in the whereas clause of Resolution No. 10690, viz:

WHEREAS, to safeguard the right of voters to be fully apprised of the party-list organizations and their respective nominees in case of substitution by reason of withdrawal, the Commission deems it necessary to require publication of new lists of nominees within five (5) days from the submission of the same to the Commission, such publication however shall not be construed as approval by the Commission.

Verily, even the compliance with the publication requirement will not result in the automatic approval by the Commission of the substitution. Other factual circumstances and issues need to be considered. Publication of the party-list's new nominees is made as a necessary step in order to apprise the voters and all persons who may be affected thereby so that they are given the opportunity to comment or oppose the same.

I have nothing against the other members of the En Banc dismissively responding to my views, but We cannot simply brush aside our Rules simply because the first nominee here is a former Commissioner. Making our Rules inapplicable to particular individuals or groups would suggest a double standard bordering on a lack of sense of fairness and justice.

Let Us recall that in the previous instance, this Commission resolved to adopt the Recommendation of the Law Department just to NOTE the Nominations of the Substitute Nominees, considering that our Resolutions on the matter expressly provide that withdrawal with substitution was allowed only until 15 November 2021 and publication of the new and complete list of nominees is required.

This would have been the most prudent action: to NOTE the submission; let the party COMPLY [with] the publication requirement; HEAR the opposition, if any; then GIVE/DENY DUE COURSE to the New List of Nominees. We cannot pre-approve the New List of Nominees pending compliance with the requirement and then RECALL it as Commissioner Bulay suggested in case of non-compliance. What We do here is an aberrant procedure. With due deference to the other members of the Commission, in as much as they believe that the Rule is not clear given the unusual circumstances of this case, it is necessary that We approach this matter with utmost caution. (Emphasis supplied)

The foregoing clearly shows a pattern of whimsicality and arbitrariness in the way the approving commissioners acted upon the substitution of P3PWD's nominees, from giving short shrift to the publication requirement, to the brushing aside of the COMELEC's Rules in a matter involving a former commissioner whereas the same was not done in another instance, to the pre-approval of the new list of nominees pending compliance with the publication

requirement, to the view of one commissioner that the COMELEC may simply recall the approval in case of noncompliance. All these, taken together with the undue haste in the approval of the substitution, leave no doubt in the Court's mind that the COMELEC En Banc acted with grave abuse of discretion. Rather than promoting free, orderly, and honest elections, the COMELEC En Banc shamelessly allowed itself to be used as a tool in perpetuating a scheme. This Court will not deign to legitimize its act.

A ruling tainted with grave abuse of discretion is void and cannot be the source of any right or obligation. All acts pursuant thereto and all claims emanating from it have no legal effect.[132] Ergo, Minute Resolution No. 22-074 is void insofar as it approved the substitution of nominees of P3PWD. Insofar as it granted the withdrawal of prior nominees, said resolution remains valid albeit unnecessary considering that as earlier discussed, the COMELEC may neither grant nor deny a withdrawal but merely note the same.

Nevertheless, P3PWD is not without recourse as Section 16 mandates the submission of additional nominees upon exhaustion of the list of nominees during the term of the party-list representative. Certainly, the faults of P3PWD and the COMELEC cannot be invoked to disenfranchise a greater number of the electorate,[133] nay, an entire sector. However, since P3PWD could not have legally caused the substitution of Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar, Jr. after the elections and prior to the beginning of the term of the party-list representative, it cannot be permitted to renominate them lest the time-honored principle that what cannot be legally done directly cannot be done indirectly[134] be violated. Thus, P3PWD is strictly enjoined from renominating said nominees for the duration of the Nineteenth Congress.

This Court is not unmindful of the possibility that Section 8 and its implementing rules may be circumvented by instead taking advantage of Section 16 during the term of the party-list representative. Nonetheless, any perceived loophole or lacuna in the law which may result in the abuse and exploitation of the party-list system can only be remedied by the Legislature, which alone can amend the law to shield the system from such schemes. Recognizing that the power of the Court can only go so far, no less than the Chief Justice called for the amendment of the law at the end of oral arguments:

CHIEF JUSTICE GESMUNDO:

Mr. Chairman, we realize the gaps in the law, particularly on the party-list system. We are aware of all the issues that crop up over the years, right? So, I think, it is time, high time, for you to call the attention of the Congress to amend the laws necessary so that issues can be avoided and the real purpose of party-list system is actually achieved, conceptualized in our Constitution.

CHAIRPERSON GARCIA:

We will definitely do that, Your Honor. That is the main intention of the present leadership...[135] (Emphasis supplied)

A call to service

We remind candidates for public office and party-list nominees alike that when filing for candidacy or accepting a nomination as party-list representative, one enters into a political contract with the electorate that if elected, one would assume the elective office, discharge its functions and serve one's constituency for the term for which one was elected, in keeping with the principle that public office is a public trust, and public officers and employees must at all times be accountable to the people and serve them with utmost responsibility, integrity, loyalty and efficiency,[136] for as aptly declared by Mechem in his Treatise on the Law on Public Offices and Officers:

It is impossible that government shall be carried on, and the functions of civil society exercised, without the aid and intervention of public servants or officers, and every person, therefore, who enters into civil society and

avails himself of the benefits and protection of the government, must owe to this society, or in other words, to the public, at least a social duty to bear his share of the public burdens, by accepting and performing, under reasonable circumstances, the duties of those public offices to which he may be lawfully chosen.[137]

Mechem even goes as far as saying that the mere seeking for the office or the consent to be voted for may imply a promise to accept if elected.[138] Unfortunately, like any other election promise, express or implied, the public can only hope for its fulfillment. True, there exists in our jurisdiction a criminal statute punishing the refusal to discharge elective office absent legal motive.[139] However, it should never have to come to a point where one is forced to serve out of fear of criminal sanction for no self-respecting candidate or nominee can validly claim to have been forced to file for candidacy or accept a nomination. The least one can do when the time comes, out of respect for the electorate and the nation, is to accept the duty bestowed by the people without mental reservation or purpose of evasion.

III - A

Guanzon's Compliance with the Court's Show Cause Order in G.R. No. 261123

We now look into Guanzon's compliance with the Court's July 19, 2022 Show Cause Order[140] which required her to explain why she should not be held in contempt for violation of the sub judice rule following reports that she publicly discussed the Court's TRO.

In her Compliance[141] dated August 8, 2022, Guanzon explains that her statements were fair responses to the comments previously made by the Cardemas to the media. She adds that at the time of the interviews, she had not yet received a copy of the Petition. Thus, her comments were hypothetical and uttered with no intention to impede, interfere with, or embarrass the administration of justice.[142] Au contraire, Guanzon alleges that it was the Cardemas, and their counsel, Atty. Ferdinand S. Topacio, who violated the sub judice rule, citing press conferences where they discussed details of the present case to shape public opinion in their favor. Accordingly, she prays that they be cited in contempt of court.[143]

Contempt of court is defined as disobedience to the court by acting in opposition to its authority, justice, and dignity. It signifies not only a willful disregard or disobedience of the court's order, but such conduct which tends to bring the authority of the court and the administration of law into disrepute or, in some manner, to impede the due administration of justice.[144] The power to cite persons in contempt is an essential element of judicial authority. All courts have the inherent power to punish for contempt to the end that they may enforce their authority, preserve their integrity, maintain their dignity, and insure the effectiveness of the administration of justice.[145]

Here, Guanzon was ordered to show cause why she should not be cited in contempt of court for violation of the rule on sub judice, a Latin term which refers to matters under judicial consideration. The rule restricts comments and disclosures pertaining to the judicial proceedings in order to avoid prejudging the issue, influencing the court, or obstructing the administration of justice.[146] Violation thereof renders one liable for indirect contempt of court under Rule 71, Section 3(d) of the Rules of Court.[147]

The proceedings for punishment of indirect contempt are considered criminal in nature.[148] A criminal contempt is conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect.[149] In criminal contempt proceedings, the contemnor is presumed innocent. There must be proof beyond reasonable doubt before a person is adjudged guilty of contempt of court.[150] Further, intent is material in contempt proceedings. As such, good faith may be invoked as a defense.[151]

Where the act complained of is ambiguous or does not clearly show on its face that it is contempt, and is one which, if the party is acting in good faith, is within their rights, the presence or absence of a contumacious intent is, in some instances, held to be determinative of its character. A person should not be condemned for contempt where they contend for what they believe to be right and in good faith institutes proceedings for the purpose, however erroneous may be their conclusion as to their rights. To constitute contempt, the act must be done willfully and for an illegitimate or improper purpose.[152]

The enforcement of the sub judice rule through contempt proceedings necessarily involves the right to freedom of expression. To this end, We apply the "clear and present danger" test to determine whether a person should be cited in contempt for their utterances. As We ruled in *Marantan v. Diokno*: [153]

The power of contempt is inherent in all courts in order to allow them to conduct their business unhampered by publications and comments which tend to impair the impartiality of their decisions or otherwise obstruct the administration of justice. As important as the maintenance of freedom of speech, is the maintenance of the independence of the Judiciary. The "clear and present danger" rule may serve as an aid in determining the proper constitutional boundary between these two rights.

The "clear and present danger" rule means that the evil consequence of the comment must be "extremely serious and the degree of imminence extremely high" before an utterance can be punished. There must exist a clear and present danger that the utterance will harm the administration of justice. Freedom of speech should not be impaired through the exercise of the power of contempt of court unless there is no doubt that the utterances in question make a serious and imminent threat to the administration of justice. It must constitute an imminent, not merely a likely, threat.[154]

We find Guanzon's comments to be borderline contumacious. In her June 23, 2022 interview, she remarked on the jurisdiction of the COMELEC, and by extension, this Court, viz:

... How can it be a novel issue when it has been done before? Some other people have already petitioned the Supreme Court before... And how can the Supreme Court restrain an act that is already done. In my opinion, in my humble opinion as a practicing lawyer and former professor of the [University of the Philippines] College of Law, the issue should be before the HRET... It is out of the COMELEC's hands. I have taken my oath... [155] (Emphasis supplied)

Further, on June 28, 2022, Guanzon reiterated her stance on the issue of jurisdiction in response to a question from a reporter:

Dinissmiss na ng COMELEC yun. Yung kanyang petition to deny my substitution. Pero may petition pa siya sa Supreme Court. Without meaning to jump the gun on the Supreme Court, what is there to restrain when I already took my oath of office? This is no longer a matter for the COMELEC. If at all, . . . there is a cause of action, it should be under the jurisdiction of the [HRET]... [156] (Emphasis supplied)

The issue of jurisdiction goes into the merits of the Petition. By her comments, Guanzon seemed to be priming public sentiments in her favor and even alluded to her legal expertise as a practitioner and law professor to lend credence to her position. Clearly, this is an improper use of her influence. We remind Guanzon that Canon II of the Code of Professional Responsibility and Accountability (CPRA) commands lawyers to act with and maintain, at all times, the appearance of propriety in personal and professional dealings, and uphold the dignity of the legal profession consistent with the highest standards of ethical behavior. Further, Section 19 of Canon II prohibits lawyers from using any forum or medium to comment or publicize opinion pertaining to a pending proceeding before any court that may sway public perception to impede, obstruct, or influence its decision.

Nevertheless, our fidelity to free speech and prudence in the exercise of our powers caution a stay of the judicial

hand. In *ABS-CBN v. Ampatuan*,^[157] the Court emphasized that a petition for indirect contempt "must spell out the clear and present danger of a speech to the court's administration of justice, identifying the interest of the court that is violated and ought to be punished." *ABS-CBN* also listed down the four ultimate facts that must be alleged in a petition for indirect contempt:

First, public statements were made regarding the merits of the case while it is pending before the courts. The petition must clearly state the contemptible conduct and reproduce the content of the speech ought to be punished.

Second, since intent is necessary in criminal contempt, the required mental element of the speaker who uttered the contemptuous speech in a judicial proceeding must be specifically alleged. It must appear from the story that the "ultimate purpose" of its publication is to impede, obstruct or degrade the administration of justice. This is inferred from the totality of the story, the context of its publication, the wording used, the manner of reporting, and other relevant factors which may be derived from the story.

Third, the clear and present danger of the utterance to the court's administration of justice must be alleged, specifically identifying the importance and saliency of the information on the ability of courts to make an impartial decision. There must be a showing of the serious and imminent threat of an utterance on the court's administration of justice for it to be subject to subsequent punishment.

Finally, the effect of the speech on the administration of justice must be shown, particularly, that the utterance will influence the court's independence in ruling on a case, which will, in turn, affect public confidence in the Judiciary.^[158] (Citations omitted)

Several factors negate a finding of contumacious intent beyond reasonable doubt. First, when the interviews were conducted, Guanzon had not yet received a copy of the Petition. She had no knowledge of its contents, let alone the arguments of petitioner, and merely relied on media reports. Second, her use of the phrase "without meaning to jump the gun on the Supreme Court" shows ostensible deference to the authority of the Court. Thus, We discern no clear and present danger in her public utterances. While less than salutary, her comments do not pose any serious and immediate threat to the independence of the Court. In borderline instances such as this, freedom of public comment should weigh heavily against a possible tendency to influence pending cases. The power to punish for contempt, being drastic and extraordinary in nature, should not be resorted to unless necessary in the interest of justice.^[159] As We declared in *Palad v. Patajo-Kapunan*:^[160]

The power to declare a person in contempt of court and in dealing with them accordingly is an inherent power lodged in courts of justice, to be used as a means to protect and preserve the dignity of the court, the solemnity of the proceedings therein, and the administration of justice from callous misbehavior, offensive personalities, and contumacious refusal to comply with court orders. This contempt power, however plenary it may seem, must be exercised judiciously and sparingly with utmost self-restraint with the end in view of utilizing the same for correction and preservation of the dignity of the court, not for retaliation or vindication. It should not be availed of unless necessary in the interest of justice.^[161]

Our restraint, however, should not be taken as a sign of weakness or tolerance. Lest it be misconstrued, this Court will not hesitate to employ its power of contempt over those who cross the line of judicial forbearance. We will not stand idly by if the administration of justice is impaired and brought into disrepute. There is a time and place for everything. Any grievance should be threshed out through proper court submissions. Courts, after all, are courts of law and not of public opinion. Cases are decided on the merits and not through publicity. Those who seek judicial relief should be the first to respect and uphold the authority of the courts as impartial administrators of justice.

III - B

Guanzon's Countercharge for Indirect Contempt

Rule 71 of the Rules of Court^[162] provides two modes by which indirect contempt proceedings are commenced: (1) by the court, *motu proprio*, through an order or formal charge; and (2) by the affected party through a verified petition. In cases where the affected party initiates the contempt charge, the filing of a verified petition is mandatory. Even if the contempt proceedings stemmed from the main case over which the court already has jurisdiction, the petition for contempt is treated independently of the principal action. Thus, the requirements for initiatory pleadings such as the certification on non-forum shopping and payment of docket fees must be observed.^[163]

In this case, Guanzon committed a procedural *faux pas* in charging petitioner with indirect contempt of court in her Compliance instead of filing a separate petition. Consequently, her countercharge must be dismissed.

III - C

Contempt Charge in G.R. No. 261876

Guanzon faces yet another charge for indirect contempt in a separate petition by Duterte Youth arguing that despite her knowledge of the Court's TRO, she violated the same by: (a) deliberately trying to assume office on June 30, 2022 by filing a bill; (b) distributing equipment bearing the title "CONG", as posted on her social media accounts on July 5 and 7, 2022; (c) posting on July 5 and 6, 2022 about the existence of an "OFFICE OF REPRESENTATIVE ROWENA V. GUANZON"; (d) using the phrase "OFFICE OF REPRESENTATIVE ROWENA V. GUANZON" in her online meeting on July 6, 2022; (e) publicly declaring on July 9, 2022 that she must be addressed as "Cong" or "Congresswoman"; (f) informing the public that she already assumed as Representative; (g) publicizing her pedicab project inscribed with "P3PWD PARTY-LIST CONG. ROWENA GUANZON" on July 15, 2022; (h) addressing herself as congresswoman during a webinar as posted in her social media account on July 20, 2022; (i) visiting on July 21, 2022 a government office which acknowledged her as a congresswoman; and (j) posting on July 15, 2022 that the Court's TRO is moot.^[164] According to petitioner, she may not feign ignorance of the TRO considering her post on the night of June 29, 2022 that she will file her Comment to the Petition.^[165]

In her Comment,^[166] Guanzon retorts that she could not have violated the TRO as it was not addressed to her and none of the acts cited by Duterte Youth were restrained by it. Her statements were allegedly fair responses to the comments previously made by Duterte Youth's representative Ronald Gian Carlo Cardema to the media. She maintains that at the time she filed the bill, she had not yet received a copy of the TRO and that she had no intention to impede, interfere with, or embarrass the administration of justice.^[167]

We resolve to dismiss the Petition.

A party cannot be held in contempt for disobeying a court order which is not addressed to them.^[168] As earlier discussed, the TRO dated June 29, 2022 was directed only at the COMELEC and the HOR. Moreover, We note Guanzon's explanation that she received a copy of the TRO as well as the petition in G.R. No. 261123 only on July 4, 2022, and she was unaware of any hindrance to her filing of a bill on June 30, 2022.^[169] Guanzon's post on social media on June 29, 2022 that she "will file a reply to the petition of Cardema in the Supreme Court within 10 days" does not imply her knowledge of the existence of the TRO, much less of its contents. As Guanzon claims, she had no actual knowledge of the contents of the petition or of the TRO and her statement on the filing of a comment with the Court was merely a response to Ronald Gian Carlo Cardema's press releases that they would file a petition with the Court to foil her substitution as P3PWD representative.^[170]

As for Guanzon's use of "Cong" or "Congresswoman" to address herself on social media and in her public

appearances, her use of the phrase "OFFICE OF REPRESENTATIVE ROWENA V. GUANZON," and her distribution of items with the words "P3PWD PARTY-LIST CONG. ROWENA GUANZON" despite notice of the TRO on July 4, 2022, these actuations, if proven malicious, may subject her to some other liability, but as far as the contempt charge is concerned, these do not constitute defiance of the TRO since it was not addressed to her. However, We again remind Guanzon that under Canon II of the CPRA, particularly on the responsible use of social media, a lawyer shall not knowingly or maliciously disseminate false or unverified claims or commit other acts of disinformation.^[171] By claiming to be a congresswoman despite being aware that the TRO restrained her substitution, she disseminated a false claim and committed an act of disinformation. While the TRO was not addressed to her, the fact that it enjoined the COMELEC from implementing its assailed resolution involving her substitution should have already put her on guard and required her to exercise utmost caution and prudence. Officers of the court should be guided by our recent ruling in *ABS-CBN Corp. v. Ampatuan, Jr.*^[172] where We held:

... [L]awyers are responsible for their use of social media and "shall not knowingly or maliciously post, share, upload or otherwise disseminate false or unverified statements, claims, or commit any other act of disinformation."

Lawyers do not shed their obligations to this Court regardless of the role they choose to fulfill. They are duty bound to comply with the ethical standards of the profession inside and outside judicial proceedings. Hence, a lawyer, who is also a member of the press, cannot claim to exercise press freedom at the expense of their obligations under the Code of Professional Responsibility and Accountability. While this Court has recognized the rights of a lawyer as an officer of the court and as an ordinary citizen, this Court also held that the duties attending these rights are not divisible and cannot be invoked only when convenient.^[173] (Citations omitted)

With respect to Guanzon's post on social media on July 15, 2022 allegedly declaring that the TRO issued by the Court had become moot,^[174] an examination of said post shows that the same was actually a direct quotation of the news article published by GMA News entitled "P3PWD: TRO vs. COMELEC resolution allowing Guanzon substitution is moot." She explains that said statement was copied from the first paragraph of the news article, which in turn was making a direct reference to the allegations of the Comment dated July 11, 2022, filed by P3PWD Party-List with the Court in connection with the petition in G.R. No. 261123.^[175] Further, the statement complained of was merely a reiteration of her position in G.R. No. 261123. It is a mere expression of an opinion on the pending case, which conveys neither malice nor any attack or insult on the dignity of the Court.^[176]

The power to punish for contempt serves to preserve the integrity and dignity of the Court and ensure the effectiveness of the administration of justice.^[177] However, as declared by Justice Malcolm, this power "should be exercised on the preservative and not on the vindictive principle. Only occasionally should the Court invoke its inherent power in order to retain that respect without which the administration of justice must falter or fail."^[178]

ACCORDINGLY, the Petition in G.R. No. 261123 is GRANTED. COMELEC Minute Resolution No. 22-0774, dated June 15, 2022 is declared NULL and VOID for having been issued with grave abuse of discretion insofar as it approved the substitution of the nominees of respondent P3PWD Party-List. The Court's Temporary Restraining Order dated June 29, 2022 is made PERMANENT.

Respondent P3PWD Party-List is DIRECTED to submit additional nominees pursuant to Section 16 of Republic Act No. 7941 but is STRICTLY ENJOINED from renominating for the duration of the Nineteenth Congress the nominees whose substitutions were declared null and void by this Decision, namely Ma. Rowena Amelia V. Guanzon, Rosalie J. Garcia, Cherrie B. Belmonte-Lim, Donnabel C. Tenorio, and Rodolfo B. Villar, Jr.

The Petition in G.R. No. 261876 is DISMISSED for lack of merit.

Respondent Ma. Rowena Amelia V. Guanzon's countercharge for indirect contempt is likewise DISMISSED for being procedurally defective.

This Decision is immediately executory.

SO ORDERED.

Gesmundo, C.J., Caguioa, Hernando, Zalameda, M. Lopez, Gaerlan, Dimaampao, Marquez, and Singh, JJ., concur.

Leonen, SAJ., I concur. See separate opinion.

Lazaro-Javier,[1*] Inting,[2*] and Kho, Jr.,[3*] JJ., no part.

J. Lopez, J., see dissent.

[1*] No part.

[2*] No part.

[3*] No part.

[4] Rollo (G.R. No. 261123), pp. 3–39.

[5] Rollo (G.R. No. 261876), pp. 3–13.

[6] Rollo (G.R. No. 261123), pp. 40–43.

[7] Id. at 648–705.

[8] Id. at 706–779.

[9] Id. at 909–1019.

[10] Rules and Regulations Governing the: 1) Filing of Petitions for Registration; 2) Filing of Manifestation of Intent to Participate; 3) Submission of Names of Nominees; and 4) Filing of Disqualification Cases Against Nominees of Party-List Groups or Organizations Participating Under the Party-List System of Representation in Connection with the May 13, 2013 National and Local Elections, and Subsequent Elections Thereafter.

[11] Rollo (G.R. No. 261123), p. 650.

[12] In the Matter of Setting the Last Day for the Filing of the Following: (1) Petitions for Registration of Party-List Groups, Organizations, and Coalitions; (2) Manifestation of Intent to Participate; (3) Submission of Names of Nominees; (4) Filing of Disqualification Cases Against Nominees of Groups, Organizations and Coalitions Under the Party-List System of Representation and Requiring Publication of Substitute-Nominees in Connection with the [May 9] 2022 National and Local Elections.

[13] Rollo (G.R. No. 261123), p. 711.

[14] Rules and Regulations Governing: 1) Political Conventions; 2) Submission of Nominees of Groups or Organizations Participating Under the Party-List System of Representation; and 3) Filing of Certificates of Candidacy and Nomination of and Acceptance by Official Candidates of Registered Political Parties in Connection with the May 9, 2022 National and Local Elections.

[15] Rollo (G.R. No. 261123), p. 920.

[16] Rollo (G.R. No. 261123), pp. 712, 920.

[17] Id. at 712, 921.

[18] Id. at 921.

[19] Id.

[20] Id. at 922.

[21] Id. at 147, 922.

[22] Id.

[23] Id. at 712–713.

[24] Daniza Fernandez, P3PWD Party-List nominees resign; Guanzon name comes out as replacement, INQUIRER.NET, June 14, 2022, available at <https://newsinfo.inquirer.net/1610777/p3pwd-party-list-nominees--resign-guanzon-name-comes-out-as-replacement>; Samuel P. Medenilla, Guanzon set to become congresswoman after P3PWD Party-List nominees resign, BUSINESSMIRROR, June 14, 2022, available at <https://businessmirror.com.ph/2022/06/14/guanzon-set-to-become-congresswoman-after-p3pwd-party-list--nominees-resign> (all last accessed on March 1, 2024).

[25] Rollo (G.R. No. 261123), pp. 713, 922–923.

[26] Id. at 118–125.

[27] Id. at 124–125.

[28] Id.

[29] The Anti-Graft and Corrupt Practices Act (1960).

[30] The Code of Conduct and Ethical Standards for Public Officials and Employees (1989).

[31] Rollo (G.R. No. 261123), p. 654.

[32] Id.

[33] Petitioner Ducielle Cardema had requested an official copy of the COMELEC Resolution approving the substitution of P3PWD's nominees in her letter dated June 17, 2022 to COMELEC Executive Director Atty. Bartolome Sinocruz, Jr. (Annex "C" of the Petition in G.R. No. 261123).

[34] In the Matter of Compliance of Komunidad ng Pamilya, Pasyente at Persons with Disabilities (P3PWD Party-List).

[35] In the Matter of the Comment and Recommendation of the Law Department on the Verified Opposition to the Substitution of P3PWD Party-List Nominees.

[36] Rollo (G.R. No. 261123), p. 928.

[37] Id. at 42.

[38] Id. at 929.

[39] Id. at 927.

[40] Id. at 372–373.

[41] Id. at 490–492.

[42] Id. at 648–705 and 706–779.

[43] *Heirs of Fuentes v. Hon. Macandog*, 173 Phil. 68, 79–80 (1978) [Per J. Barredo, Second Division].

[44] Chief Justice Roberts, Concurring Opinion in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 348 (2022).

[45] TSN, Atty. Edward G. Gialogo, November 14, 2023, pp. 39–40.

[46] *Lozada v. Commission on Elections*, 205 Phil. 283, 287 (1983) [Per J. De Castro, En Banc].

[47] *Imbong v. Ochoa*, 732 Phil. 1, 127 (2014) [Per J. Mendoza, En Banc].

[48] TSN, Atty. Ferdinand S. Topacio, January 23, 2024, pp. 113–114.

[49] *Social Justice Society v. Dangerous Drugs Board*, 591 Phil. 393, 404 (2008) [Per J. Velasco, Jr., En Banc].

[50] *David v. Macapagal-Arroyo*, 522 Phil. 705, 760 (2006) [Per J. Sandoval-Gutierrez, En Banc].

[51] Id.

[52] Id.

[53] Id.

[54] Id.

[55] *Falcis v. Civil Registrar General*, 861 Phil. 388, 532 (2019) [Per J. Leonen, En Banc].

[56] *Lozano v. Napoles*, 607 Phil. 334, 342–343 (2009) [Per C.J. Puno, En Banc].

[57] *Peralta v. Philippine Postal Corporation*, 844 Phil. 603, 623 (2019) [Per J. Tijam, En Banc], citing *Mamba v. Lara*, 623 Phil. 63, 76 (2009) [Per J. Del Castillo, Second Division].

[58] *Mamba v. Lara*, 623 Phil. 63, 67 (2009) [Per J. Del Castillo, Second Division].

[59] *David v. Macapagal-Arroyo*, 522 Phil. 705, 760 (2006) [Per J. Sandoval-Gutierrez, En Banc].

[60] 580 Phil. 422 (2008) [Per J. Carpio-Morales, En Banc].

[61] Id. at 464.

[62] TSN, ASG Maria Victoria V. Sardilla-Salom, January 23, 2024, p. 111.

[63] TSN, COMELEC Chairperson George Erwin M. Garcia, January 23, 2024, p. 124.

[64] G.R. No. 258456, July 26, 2022 [Per J. Lazaro-Javier, En Banc] at 15–16. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[65] Id. at 14.

[66] *COCOFED-Philippine Coconut Producers Federation, Inc. v. Commission on Elections*, 716 Phil. 19 (2013) [Per J. Brion, En Banc].

[67] *The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 421 (2015) [Per J. Leonen, En Banc].

[68] *Baytan v. Commission on Elections*, 444 Phil. 812, 825 (2003) [Per J. Carpio, En Banc].

- [69] *Bedol v. Commission on Elections*, 621 Phil. 498, 510 (2009) [Per J. Leonardo-De Castro, En Banc].
- [70] *Aggabao v. Commission on Elections*, G.R. No. 258456, July 26, 2022 [Per J. Lazaro-Javier, En Banc] at 16. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.
- [71] CONST., art. IX-C, sec. 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division provided that motions for reconsideration of decisions shall be decided by the Commission en banc.
- [72] *Baytan v. Commission on Elections*, 444 Phil. 812, 826 (2003) [Per J. Carpio, En Banc].
- [73] *Bautista v. Commission on Elections*, 460 Phil. 459, 475–476 (2003) [Per J. Carpio, En Banc].
- [74] *Cerafica v. Commission on Elections*, 749 Phil. 80, 91 (2014) [Per J. Perez, En Banc].
- [75] *Salva v. Makalintal*, 394 Phil. 855, 866 (2000) [Per J. Buena, En Banc].
- [76] *Aggabao v. Commission on Elections*, G.R. No. 258456, July 26, 2022 [Per J. Lazaro-Javier, En Banc] at 14. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.
- [77] 707 Phil. 454 (2013) [Per J. Carpio, En Banc].
- [78] J. Brion, Concurring Opinion, in *Atong Paglaum v. Commission on Elections*, 707 Phil. 454, 568 (2013) [Per J. Carpio, En Banc].
- [79] *National Telecommunications Commission v. Brancomm Cable and Television Network Co.*, 867 Phil. 407, 433 (2019) [Per J. Reyes, J., Jr., First Division].
- [80] 460 Phil. 507, 513 (2003) [Per J. Azcuna, En Banc].
- [81] 347 Phil. 189 (1997) [Per J. Bellosillo, En Banc].
- [82] *Querubin v. Commission on Elections*, 774 Phil. 766, 797 (2015) [Per J. Velasco, Jr., En Banc].
- [83] *Victoriano v. Dominguez*, 836 Phil. 573, 584–585 (2018) [Per J. Reyes, Jr., Second Division].
- [84] *Arroyo v. People of the Philippines*, 790 Phil. 367, 449 (2017) [Per J. Bersamin, En Banc].
- [85] COMELEC Rules of Procedure, Rule 13, sec. 1(d).
- [86] COMELEC Rules of Procedure, Rule 37, sec. 1. Petition for Certiorari; and Time to File. – Unless otherwise provided by law, or by any specific provisions in these Rules, any decision, order or ruling of the Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from its promulgation.
- [87] TSN, Atty. Christian Robert S. Lim, November 14, 2023, pp. 54–56.
- [88] *Florentino v. Rivera*, 515 Phil. 494, 501–502 (2006) [Per J. Ynares-Santiago, First Division].
- [89] 148-B Phil. 902 (1971) [Per J. Villamor, En Banc].
- [90] *Id.* at 922–923.
- [91] *Miriam College Foundation, Inc. v. Court of Appeals*, 401 Phil. 431, 448 (2000) [Per J. Kapunan, First Division].

- [92] *Rodulfa v. Alfonso*, 76 Phil. 225 (1946) [Per J. De Joya, En Banc].
- [93] *N. Am. Soccer League, LLC v. US Soccer Fed'n, Inc.*, 883 F.3d 32 (2d Cir. 2018).
- [94] See *Dojillo v. Commission on Elections*, 528 Phil. 890, 907 (2006) [Per J. Carpio, En Banc].
- [95] *Manifestation/Compliance Ex Abundanti Ad Cautelam* (on the Temporary Restraining Order dated 29 June 2022) dated July 14, 2022, Rollo (G.R. No. 261123), pp. 170–176.
- [96] *Id.*, at 349. The Manifestation states: "Respondent HOR respectfully manifests its continuing recognition of the TRO. Rowena Amelia V. Guanzon or any other substituting nominee of respondent . . . [P3PWD] has not been enrolled as a member of respondent HOR. Hence, P3PWD Party-List has currently no sitting representative. Respondent HOR further manifests that it is not aware of any new developments in this case involving or affecting it."
- [97] 635 Phil. 372, 394 (2010) [Per J. Bersamin, En Banc].
- [98] 716 Phil. 19 (2013) [Per J. Brion, En Banc].
- [99] *Id.* at 35.
- [100] RULES OF THE HOUSE OF REPRESENTATIVES, 19[th] Cong. (2023), Rule II, sec. 5. Term. – The Members of the House shall be elected for a term of three (3) years which shall begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election.
- ... In case a Member dies, resigns, is permanently incapacitated or lawfully barred from performing the duties of a Member, or is lawfully removed from office, vacancies may be filled as follows: (a) for vacancies in the representation of legislative districts, special elections may be called to fill the vacancies; and (b) for vacancies in the representation of party-lists, party-list representatives may be chosen to fill the vacancies in the manner provided by law. A Member elected or designated to fill a vacancy shall serve only for the duration of the unexpired term. (Emphasis supplied)
- [101] REPUBLIC ACT NO. 7941 (1995), sec. 16.
- [102] *Id.*
- [103] 778 Phil. 568, 586–587 (2016) [Per J. Leonardo-De Castro, En Banc].
- [104] See rollo (G.R. No. 261123), pp. 269–274.
- [105] *Engle v. Commission on Elections*, 778 Phil. 568, 586–588 (2016) [Per J. Leonardo-De Castro, En Banc].
- [106] 648 Phil. 165 (2010) [Per J. Brion, En Banc].
- [107] 635 Phil. 372, 397 (2010) [Per J. Bersamin, En Banc].
- [108] 716 Phil. 19, 33–34 (2013) [Per J. Brion, En Banc].
- [109] 551 Phil. 1 (2007) [Per J. Garcia, En Banc].
- [110] *Id.* at 14–15.
- [111] G.R. No. 225152, October 5, 2021 [Per J. M. Lopez, En Banc], at 7–16.
- [112] 702 Phil. 68 (2013) [Per J. Mendoza, En Banc].
- [113] *Securities and Exchange Commission v. Interport Resources Corp.*, 588 Phil. 651, 674–675 (2008) [Per J.

Chico-Nazario, En Banc].

[114] REPUBLIC ACT No. 7941, sec. 18. Rules and Regulations. The COMELEC shall promulgate the necessary rules and regulations as may be necessary to carry out the purposes of this Act. (Emphasis supplied)

[115] Id., 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 marginalized and under-represented 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. (Emphasis supplied)

[116] CRUZ, PHILIPPINE ADMINISTRATIVE LAW, 1998 ed., p. 33.

[117] Securities and Exchange Commission v. Interport Resources Corp., 588 Phil. 651, 674 (2008) [Per J. Chico-Nazario, En Banc].

[118] Partido Demokratiko Pilipino-Lakas ng Bayan (PDP-Laban) v. Commission on Elections, G.R. No. 225152, October 5, 2021 [Per J.M. Lopez, En Banc] at 11–12.

[119] Rabor v. Civil Service Commission, 314 Phil. 577, 595 (1995) [Per J. Feliciano, En Banc].

[120] CONST., art. IX-A, sec. 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof. (Emphasis supplied)

[121] Legaspi v. Commission on Elections, 785 Phil. 235 (2016) [Per J. Velasco, Jr., En Banc]; Mendoza v. Commission on Elections, 630 Phil. 432 (2010) [Per J. Perez, En Banc]; Marcoleta v. Commission on Elections, 604 Phil. 648 (2009) [Per J. Carpio Morales, En Banc]; Estrella v. Commission on Elections, 473 Phil. 861 (2004) [Per J. Carpio-Morales, En Banc].

[122] Querubin v. COMELEC, 774 Phil. 766, 797 (2015) [Per J. Velasco, Jr., En Banc].

[123] 328 Phil. 403, 411 (1996) [Per J. Francisco, Third Division].

[124] Rule on the Enactment and Promulgation of Executive or Administrative Resolutions, promulgated on March 25, 2015.

[125] Rule 3, Section 5 of the COMELEC Rules provides that "[w]hen sitting en banc, four Members of the Commission shall constitute a quorum for the purpose of transacting business."

[126] G.R. No. 253805, November 3, 2020, (Unsigned Resolution). The Unsigned Resolution reads: "G.R. No. 253805 (Aunelle Ross Angcos, Raainah Punzalan, Reeya Beatrice Magtalas, Raoul Danniel A. Manuel and Abigail Aleli Tan vs. Duty to Energize the Republic through the Enlightenment of the Youth Sectoral Party-List Organization, Also Known as 'Duterte Youth Party-List,' Represented by Its Founder and Chairperson, Ronald Gian Carlo L. Cardema; Ducielle Marie S. Cardema, Its Purported First Nominee, and Commission on Elections).

- The Court Resolved to DISMISS the petition for failure to sufficiently show that the Commission on Elections committed grave abuse of discretion in rendering the challenged minute resolutions which, on the contrary, appear to be in accord with the facts and applicable law and jurisprudence."

[127] *Eizmendi v. Fernandez*, 866 Phil. 638, 650 (2019) [Per C.J. Peralta, Special Third Division].

[128] *Jarabelo v. Household Goods Patrons, Inc.*, 891 Phil. 233 (2020) [Per J. Caguioa, First Division].

[129] 634 Phil. 468 (2010) [Per J. Brion, En Banc].

[130] *Seares v. Judge Hernando*, 196 Phil. 487, 494 (1981) [Per J. Abad-Santos, En Banc].

[131] *Rollo* (G.R. No. 261123), pp. 2622–64.

[132] *Uy v. Commission on Elections*, G.R. No. 260650, August 8, 2023 [Per J. Lopez, M., En Banc].

[133] *See Pasandalan v. Commission on Elections*, 434 Phil. 161, 172–173 (2002) [Per J. Carpio, En Banc].

[134] *Central Bay Reclamation and Development Corp. v. Commission on Audit*, G.R. No. 252940, April 5, 2022 [Per J. Lopez, M., En Banc].

[135] TSN, COMELEC Chairperson Winston Erwin M. Garcia, January 23, 2024, pp. 124–125.

[136] *Defensor-Santiago v. Ramos*, 323 Phil. 665, 690 (1996) [Resolution, En Banc].

[137] FLOYD R. MECHEM, *TREATISE ON THE LAW OF PUBLIC OFFICERS AND EMPLOYEES* (1890), § 240, pp. 155–156, as cited in *Defensor-Santiago v. Ramos*, *id.* at 691.

[138] *Id.* at 159.

[139] REV. PEN. CODE, art. 234.

[140] *Rollo* (G.R. No. 261123), pp. 168–169.

[141] *Id.* at 192–220.

[142] *Id.* at 195–209.

[143] *Id.* at 209–213.

[144] *Lim-Lua v. Lua*, 710 Phil. 211, 232 (2013) [Per J. Villarama, Jr., First Division].

[145] *Webb v. Gatdula*, 863 Phil. 292, 319 (2019) [Per J. Leonen, Third Division].

[146] *Republic v. Sereno*, 831 Phil. 271, 512 (2018) [Per J. Tijam, En Banc].

[147] *Romero v. Estrada*, 602 Phil 312, 319 (2009) [Per J. Velasco, Jr., En Banc].

[148] *Marantan v. Diokno*, 726 Phil. 642, 648 (2014) [Per J. Mendoza, Third Division].

[149] *See Atty. Palad v. Solis*, 796 Phil. 216, 277 (2016) [Per J. Peralta, Third Division].

[150] *See Harbour Centre Port Terminal, Inc. v. La Filipina Uygongco Corp.*, G.R. No. 240984, September 27, 2021 [Per J. Hernando, Second Division].

[151] *See Lorenzo Shipping Corp. v. Distribution Management Association of the Philippines*, 672 Phil. 1, 16 (2011) [Per J. Bersamin, First Division].

[152] *Id.*

[153] 726 Phil. 642 (2014) [Per J. Mendoza, Third Division].

[154] Id. at 649.

[155] Rollo (G.R. No. 261123), p. 208.

[156] Id. at 208.

[157] G.R. No. 227004 (April 25, 2023) [Per J. Leonen, En Banc] at 107. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[158] Id. at 108. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[159] *Marantan v. Diokno*, 726 Phil. 642, 650 (2014) [Per J. Mendoza, Third Division].

[160] 864 Phil. 804 (2019) [Per J. Lazaro-Javier, Second Division].

[161] Id. at 810–811.

[162] RULES OF COURT, Rule 71, sec. 4. How proceedings commenced. – Proceedings for indirect contempt may be initiated *motu proprio* by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision.

[163] *Regalado v. Co*, 543 Phil. 578, 596–597 (2007) [Per J. Chico-Nazario, Third Division].

[164] Rollo (G.R. No. 261876), pp. 5–7.

[165] Id. at 7.

[166] Id. at 77–101.

[167] Id. at 81–99.

[168] *Leonidas v. Supnet*, 446 Phil. 53, 70 (2003) [Per J. Carpio, First Division].

[169] Rollo (G.R. No. 261876), p. 85.

[170] Id. at 87–88.

[171] CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY, Canon II, sec. 38.

[172] G.R. No. 227004, April 25, 2023 [Per J. Leonen, En Banc] id. at 61.

[173] Id. at 61. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[174] Rollo (G.R. No. 261876), pp. 6–7.

[175] Id. at 96.

[176] *Marantan v. Diokno*, 726 Phil. 642, 650 (2014) [Per J. Mendoza, Third Division].

[177] *Commissioner of Immigration v. Cloribel*, 127 Phil. 716, 723 (1967) [Per Curiam, En Banc].

[178] *Villavicencio v. Lukban*, 39 Phil. 778, 798 (1919) [Per J. Malcolm, En Banc].

CONCURRING AND DISSENTING OPINION

LEONEN, SAJ.:

Ang sinumang anak nitong Inang Bansa
Mayaman, mahirap, maharlika, dukha
Guro, magsasaka, tsuper, mangingisda
Ay bayaning lingkod ng bayang tanging mutya.
- Commissioner Soc Rodrigo[1]

I concur with the ponencia that the Petition should be granted, but I dissent insofar as it directs respondent *Komunidad ng Pamilya, Pasyente, at Persons with Disabilities Party-List (P3PWD)* to submit additional nominees.

The inclusion of sectoral and party-list representatives in the House of Representatives was an innovation to afford broader participation in policymaking to "those who under ordinary circumstances cannot hope to win in an election." [2] Sectoral representation was set to pave the way for a more genuine grassroots consultation and "a more dynamic and vibrant democracy," [3] as well as to challenge the status quo. [4]

In this regard, the Commission on Elections' (COMELEC) cavalier attitude toward the wholesale withdrawal and substitution of party-list nominees, just right after the party-list had won a seat in Congress, reeks of abuse of the party-list system and must not be countenanced.

I

In a democratic and republican state, all government authority emanates from the people and is exercised by their chosen representatives. [5] The State's foundation hinges on effective representation and on the idea that the choices of the electorate deserve full consideration. [6]

In a party-list system election, as opposed to other elective positions where people vote for individuals, they vote for the party-list organization itself. [7] The party-list system is a constitutional innovation that expands opportunities for electoral participation. [8] It allows the people "belonging to marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute" [9] to national policymaking, to be part of the House of Representatives. [10]

"As an alternative to the predominant electoral system, the party-list system is principally concerned with advancing democratic representation." [11] As explained in a concurring opinion in *ANGKLA: Ang Partido ng mga Pilipinong Marino, Inc. v. Commission on Elections*: [12]

As an alternative to the predominant electoral system, the party-list system is principally concerned with advancing democratic representation. It endeavors to make up for the shortcomings of traditional elections through simple plurality. This is a particularly acute concern in the experience of Philippine electoral politics. As I have previously explained in my Separate Opinion in *Atong Paglaum, Inc. v. Commission on Elections*:

....

The party list system is an attempt to introduce a new system of politics in our country, one where voters

choose platforms and principles primarily and candidate-nominees secondarily. As provided in the Constitution, the party list system's intentions are broader than simply to "ensure that those who are marginalized and represented become lawmakers themselves."

Historically, our electoral exercises privileged the popular and, perhaps, pedigreed individual candidate over platforms and political programs. Political parties were convenient amalgamation[s] of electoral candidates from the national to the local level that gravitated towards a few of its leaders who could marshal the resources to supplement the electoral campaigns of their members. Most elections were choices between competing personalities often with very little discernible differences in their interpretation and solutions for contemporary issues. The electorate chose on the bases of personality and popularity; only after the candidates were elected to public offices will they later find out the concrete political programs that the candidate will execute. Our history is replete with instances where the programs that were executed lacked cohesion on the basis of principle. In a sense, our electoral politics alienated and marginalized large parts of our population.

The party list system was introduced to challenge the status quo. It could not have been intended to enhance and further entrench the same system. It is the party or the organization that is elected. It is the party list group that authorizes, hopefully through a democratic process, a priority list of its nominees. It is also the party list group that can delist or remove their nominees, and hence replace him or her, should he or she act inconsistently with the avowed principles and platforms of governance of their organization. In short the party list system assists genuine political parties to evolve. Genuine political parties enable true representation, and hence, provide the potential for us to realize a "democratic and republican state." [13] (Citations omitted)

Thus, the party-list system is meant to foster true representation by focusing on ideologies, causes, and ideals and veering away from personality politics, patronage, and popularity. [14] Indeed, to further step away from traditional politics, the nominees of the party-list are ideally selected through a transparent and democratic process within the organization. [15]

Allowing party-lists to circumvent procedures for withdrawal, nomination, and acceptance of their nominees contradicts the intent behind the party-list system. These procedures are the only safeguards to ensure that the nominee is a genuine representative of the party-list. Likewise, it violates the voters' right to information.

In *Lokin Jr. v. Commission on Elections*, [16] this Court recognized that although the people vote for the party-list itself and not the nominees per se, they have the right to know the nominees themselves. [17] If a party-list could wantonly change its list of nominees by withdrawing the nominations, it would evade the voters' demand for transparency:

Although the people vote for the party-list organization itself in a party-list system of election, not for the individual nominees, they still have the right to know who the nominees of any particular party-list organization are. The publication of the list of the party-list nominees in newspapers of general circulation serves that right of the people, enabling the voters to make intelligent and informed choices. In contrast, allowing the party-list organization to change its nominees through withdrawal of their nominations, or to alter the order of the nominations after the submission of the list of nominees circumvents the voters' demand for transparency. The lawmakers' exclusion of such arbitrary withdrawal has eliminated the possibility of such circumvention. [18]

Informing the electorate of the individuals behind the party-list they are voting for finds basis in our Constitution: "Sovereignty resides in the people and all government authority emanates from them." [19] There can be no true democracy if the electorate is misled into believing that they are voting for a certain representative, only to be substituted once the seat is secured.

In *COCOFED v. Commission on Elections*, [20] this Court canceled the party-list's registration for failure to submit the list of five nominees before the elections. This Court recognized that the identity of the nominees plays

a role in voters' choice:

The publication of the list of nominees does not only serve as the reckoning period of certain remedies and procedures under the resolution. Most importantly, the required publication satisfies the people's constitutional right to information on matters of public concern. The need for submission of the complete list required by law becomes all the more important in a party-list election to apprise the electorate of the individuals behind the party they are voting for. If only to give meaning to the right of the people to elect their representatives on the basis of an informed judgment, then the party-list group must submit a complete list of five nominees because the identity of these five nominees carries critical bearing on the electorate's choice. A post-election completion of the list of nominees defeats this constitutional purpose.[21] (Citations omitted)

Here, the COMELEC approved the withdrawal and substitution of respondent P3PWD's nominees post-elections and beyond the deadline set in its own rules. In so doing, it blindsided the electorate, depriving it of critical information that could have contributed to making informed and intelligent choices.

I maintain the benchmarks on party-list participation I laid out in *Atong Paglaum, Inc. v. Commission on Elections*:[22]

First, the party list system includes national, regional and sectoral parties and organizations;

Second, there is no need to show that they represent the "marginalized and underrepresented". However, they will have to clearly show how their plans will impact on the "marginalized and underrepresented". Should the party list group prefer to represent a sector, then our rulings in *Ang Bagong Bayani* and *BANAT* will apply to them;

Third, the parties or organizations that participate in the party list system must not also be a participant in the election of representatives for the legislative districts. In other words, political parties that field candidates for legislative districts cannot also participate in the party list system;

Fourth, the parties or organizations must have political platforms guided by a vision of society, an understanding of history, a statement of their philosophies and how this translates into realistic political platforms;

Fifth, the parties or organizations—not only the nominees—must have concrete and verifiable track record of political participation showing their translation of their political platforms into action;

Sixth, the parties or organizations that apply for registration must be organized solely for the purpose of participating in electoral exercises;

Seventh, they must have existed for a considerable period, such as three (3) years, prior to their registration. Within that period they should be able to show concrete activities that are in line with their political platforms;

Eighth, they must have such numbers in their actual active membership roster so as to be able to mount a credible campaign for purpose of enticing their audience (national, regional or sectoral) for their election;

Ninth, a substantial number of these members must have participated in the political activities of the organization;

Tenth, the party list group must have a governing structure that is not only democratically elected but also one which is not dominated by the nominees themselves;

Eleventh, the nominees of the political party must be selected through a transparent and democratic process;

Twelfth, the source of the funding and other resources used by the party or organization must be clear and should not point to a few dominant contributors specifically of individuals with families that are or have

participated in the elections for representatives of legislative districts;

Thirteenth, the political party or party list organization must be able to win within the two elections subsequent to their registration;

Fourteenth, they must not espouse violence; and

Fifteenth, the party list group is not a religious organization.[23] (Citations omitted)

Absent even just one of these requirements, a party-list cannot foster true representation.

II

Here, a close study of respondent P3PWD's timeline of the withdrawal and substitution of its nominees shows a deliberate attempt to abuse the party-list system.

On October 6, 2021, respondent P3PWD submitted the following names as its nominees:

- Grace S. Yeneza
- Joel R. Lopez
- Allen Jose R. Serna
- Michelle R. Ofalla
- Guillermo R. Eugenio[24]

On November 5, 2021, respondent P3PWD filed the withdrawal with substitution of its second to fifth nominees, which the COMELEC approved on November 24, 2021.[25] The second list of nominees is as follows:

- Grace S. Yeneza
- Ira Paulo A. Pozon (Substitute Nominee)
- Marianne Heidi C. Fullon (Substitute Nominee)
- Peter Jonas R. David (Substitute Nominee)
- Lily Grace A. Tiangco (Substitute Nominee)[26]

On May 9, 2022, the 2022 national and local elections were held.[27] Later, on May 26, 2022, the COMELEC, sitting as the National Board of Canvassers, promulgated NBOC Resolution No. 005-22,[28] proclaiming that respondent P3PWD had won one seat.[29]

On May 30, 2022, Grace S. Yeneza (Yeneza), then respondent P3PWD's first nominee, took her oath of office.[30]

On June 7, 2022, Ira Paulo A. Pozon, the second nominee, resigned from the party-list as trustee, nominee, and member, citing "personal reasons" in a notarized letter of resignation.[31]

Two days later, or on June 9, 2022, three other nominees also tendered their resignations. The third nominee, Marianne Heidi C. Fullon, cited no reason.[32] The fourth nominee, Peter Jonas R. David, likewise resigned without stating any reason.[33] The fifth nominee, Lily Grace A. Tiangco, stated that she was resigning as she needed to help her husband in running their businesses.[34]

The following day, on June 10, 2022, Yeneza also resigned as first nominee, stating that she needed to take care

of her daughter who was stricken with cancer.[35]

On June 14, 2022, respondent P3PWD filed before the COMELEC the relevant documents on the resignation of nominees and acceptance of new nominees. Those new nominees included respondent Ma. Rowena Amelia V. Guanzon (Guanzon).[36]

On June 15, 2022, the COMELEC promulgated Minute Resolution No. 22-0774,[37] approving the withdrawal of respondent P3PWD's previous nominees and their substitution, subject to compliance with the publication requirement. The third list of nominees bears the following names:

- Ma. Rowena Amelia V. Guanzon

- Rosalie J. Garcia

- Cherrie B. Belmonte-Lim

- Donnabel C. Tenorio

- Rodolfo B. Villar, Jr.[38]

Accordingly, respondent P3PWD published its nominees in Topline News Publication on June 15, 2022, and in People's Balita on June 17, 2022.[39] Also on June 17, 2022, Duty to Energize the Republic Through the Enlightenment of the Youth Party-List (Duterte Youth) filed before the COMELEC a Verified Opposition to assail the substitutions.[40]

On June 21, 2022, Duterte Youth filed before this Court an Urgent Petition for Certiorari with prayer for Preliminary Injunction and/or Temporary Restraining Order and Motion for Conduct of Special Raffle before this Court.[41]

On June 22, 2022, the COMELEC issued Minute Resolution No. 22-0798,[42] noting that respondent P3PWD has complied with the publication requirement, upon recommendation of the COMELEC's Law Department.[43]

On the same day, the COMELEC rendered Minute Resolution No. 22-0810,[44] denying the Verified Opposition.[45] Then, acting as the National Board of Canvassers, it issued respondent P3PWD's Certificate of Proclamation, naming respondent Guanzon as the qualified nominee.[46]

On June 23, 2022, respondent Guanzon took her oath before Court of Appeals Associate Justice Edwin D. Sorongon.[47] Later, on June 27, 2022, she submitted her Certificate of Proclamation to the House of Representatives.[48]

On June 29, 2022, this Court issued a Temporary Restraining Order,[49] the dispositive portion of which reads:

NOW, THEREFORE, respondents COMELEC, House of Representatives, P3PWD Party-List and its nominees led by Rowena Amelia V. Guanzon are hereby required to COMMENT on the petition within a NON-EXTENDIBLE period of ten (10) days from notice hereof. Meanwhile, a TEMPORARY RESTRAINING ORDER is ISSUED, effective immediately and continuing until further orders from this Court, enjoining You, respondent COMELEC, your agents, representatives, or persons acting in your place or stead, from enforcing the assailed COMELEC Resolution. The COMELEC shall likewise furnish the Court with a duplicate original or certified true copy of its assailed resolution within five (5) days from notice hereof.[50]

Two glaring badges of bad faith should have placed the COMELEC on guard. First, respondent Guanzon retired as COMELEC commissioner on February 2, 2022[51] and became a member of respondent P3PWD two days later, on February 4, 2022.[52] Second, majority of the nominees withdrew for no specified reason after

respondent P3PWD had been proclaimed as a winning party-list.

III

Section 8 of Republic Act No. 7941 provides for the rule on withdrawal and substitution. It states:

SECTION 8. Nomination of Party-List Representatives. — Each registered party, organization or coalition shall submit to the COMELEC not later than forty-five (45) days before the election a list of names, not less than five (5), from which party-list representatives shall be chosen in case it obtains the required number of votes.

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate for any elective office or a person who has lost his bid for an elective office in the immediately preceding election. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned.

In line with its duty to "promulgate the necessary rules and regulations"[53] to implement the law, the COMELEC promulgated COMELEC Resolution No. 9366, which pertinently provides:

RULE 4

PARTY-LIST NOMINEES

SECTION 4. Withdrawal of nomination or acceptance of nomination. Withdrawal of nominations or acceptance of nominations shall be in writing and under oath, and filed with the Law Department of the Commission in Manila before the close of polls.

A nominee who withdraws his acceptance to the nomination shall not be eligible for nomination by other parties.

SECTION 5. Nomination of Party-List representatives. A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate for any elective office or a person who has lost his bid for an elective office in the immediately preceding election. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list.

For the 2022 elections, the COMELEC issued COMELEC Resolution No. 10690, amending several provisions of the resolution. As now worded, Sections 4 and 5 state:

SECTION 4. Withdrawal of nomination or acceptance of nomination. — Withdrawal of nominations and substitution of nominees due to the withdrawal of the acceptance to the nomination shall be in writing and under oath, and filed with the law Department not later than NOVEMBER 15, 2021. Provided that NO substitution shall be VALID unless the party files with the Law Department a list of its substitute nominees, the certificates of nomination and acceptance of the substitute nominees, and an affidavit executed by the secretary-general and the chairperson or president of the party attesting that the substitute nominees possess all the qualifications and none of the disqualifications provided by law. The name of the substitute nominee shall be placed last in the list. The number of nominees in the new list shall be the same with the number of those previously submitted in the original list.

Within five (5) days from the filing of the list of substitute nominees, the party shall cause the publication of its NEW and COMPLETE list of nominees in two (2) national newspapers of general circulation. The party shall

submit proof of publication of its new list of nominees with the Law Department within three (3) days from completion of the said publication. No substitution shall be valid without compliance with the requirements on publication and submission of proof thereof .

A nominee who withdraws his acceptance to the nomination shall not be eligible for re-nomination by the same party or nomination by other parties.

SECTION 5. Nomination of Party-List representatives. — A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate for any elective office or a person who has lost his bid for an elective office in the immediately preceding election. No change of names or alterations of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, becomes incapacitated, or there is valid withdrawal and substitution of nominees as provided in the preceding section, in which case the name of the substitute nominee shall be placed last in the list.

NO substitution shall be VALID beyond the deadline provided in the preceding section unless the list of nominees originally submitted has been exhausted due to death and/or incapacity of the nominees. The party, within ten (10) days from [sic] the exhaustion of the original list, shall file with the Law Department a list of its substitute nominees, their certificates of nominations and acceptance, and an affidavit executed by the secretary-general and the chairperson or president of the party attesting that the substitute nominees possess all the qualifications and none of the disqualifications provided by law. Provided that substitutions due to the death and/or incapacity of the nominees under this paragraph shall be allowed only up to mid-day of election day.

The party shall cause the publication of its NEW and COMPLETE list of nominees in two (2) national newspapers of general circulation within five (5) days from the filing with the Law Department. The party shall submit proof of publication of its list of substitute nominees with the Law Department within three (3) days from completion of said publication. No substitution shall be valid without compliance with the requirements on publication and submission of proof thereof.

In all cases where a nominee dies or becomes incapacitated, the party shall file with the Law Department within ten (10) days from the fact thereof a notice and proof of such death or incapacity. (Emphasis supplied)

An initial reading of Sections 4 and 5, as amended, appears confusing because of the seemingly overlapping provisions. It may appear at first that substitution is allowed only until November 15, 2021, but upon reading the rest of the amendments, it would seem that substitution is allowed any time, even after the close of the polls.

To clarify, substitution under Section 4, as amended, applies where a party-list nominee withdraws acceptance of the nomination in writing, with November 15, 2021 as the set deadline for substitution. Withdrawals and substitutions before November 15, 2021 would not affect the choice of the electorate because the publication of the approved list of nominees is within 15 days from November 15, 2021.[54]

Here, when respondent P3PWD filed for withdrawal and substitution of its first list of nominees on November 5, 2021, it was within the deadline and before the publication of the approved list of candidates.[55]

Meanwhile, substitution under Section 5 applies where a party-list nominee dies or is incapacitated. Its first paragraph pertains to the list of nominees and party states:

No change of names or alterations of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, becomes incapacitated, or there is valid withdrawal and substitution of nominees as provided in the preceding section, in which case the name of the substitute nominee shall be placed last in the list. (Emphasis supplied)

The phrase "or there is valid withdrawal and substitution of nominees as provided in the preceding section" means the names can be changed due to a valid withdrawal as long as it was submitted before the deadline set by the COMELEC, and not after.

The second paragraph of Section 5 is a point of contention, because of its confusing phraseology. It states:

NO substitution shall be VALID beyond the deadline provided in the preceding section unless the list of nominees originally submitted has been exhausted due to death and/or incapacity of the nominees. The party, within ten (10) days from [sic] the exhaustion of the original list, shall file with the Law Department a list of its substitute nominees, their certificates of nominations and acceptance, and an affidavit executed by the secretary-general and the chairperson or president of the party attesting that the nominees possess all the qualifications and none of the disqualifications provided by law. Provided that substitutions due to the death and/or incapacity of the nominees under this paragraph shall be allowed only up to mid-day of election day.

Section 5, as amended, provides the general rule: Substitution beyond November 15, 2021 is invalid. But Section 5 also provides the exception: exhaustion of the list of nominees due to death or incapacity, in which case substitution can be had within a new deadline: "mid-day of election day." The deletion of the phrase "or withdraws in writing his nomination" in the amended provision means the COMELEC no longer allows substitution due to withdrawal in writing after mid-day of election day.

In sum, withdrawal of nomination and substitution before the deadline is allowed because this is done before the list of candidates and party-list organizations is published.

Withdrawal and substitution after the deadline and up until mid-day of election day is not allowed. It may only be allowed when: (1) the list of nominees has been exhausted; and (2) such exhaustion was caused by death or incapacity of all remaining nominees. Withdrawal of acceptance of nomination for other reasons, or without reason at all, is not allowed.

Withdrawal and substitution of all nominees after mid-day of election day and any time after that shall not be allowed. If the remaining nominees choose to resign as members of the party-list, thereby exhausting the list of nominees, substitution shall not be allowed. As explained in the ponencia, what cannot be done directly cannot be done indirectly.[56]

Thus, here, the COMELEC should not have allowed the withdrawal of the nominees in the second list, it being done after the elections. Besides, only Yeneza gave a valid reason to justify her withdrawal after the elections. The second to fifth nominees either gave a reason that was not death or incapacity, or did not bother to give a reason at all.

COMELEC Resolution No. 10690 imposed stricter conditions for allowing withdrawal and substitution. The prevailing rule for the 2022 elections does not include exhaustion of the list due to withdrawal of acceptance of nomination, or due to resignation as party-list member.

Thus, I agree with the ponencia that *Angcos v. Duterte Youth*[57] is not binding precedent.[58] Not only was that case dismissed through a minute resolution, but the prevailing rules then were different from the prevailing rules now.

Notably, COMELEC Resolution No. 10690 provides a timetable of deadlines for the 2022 elections, which further shows the COMELEC's intent to be strict on substitutions done after November 15, 2021:

ACTIVITY

NEW DEADLINES

Filing of Petitions for Registration and Manifestation of Intent to Participate of Registering Party-List Groups, Coalitions or Organizations.

March 31, 2021

Filing of Manifestation of Intent to Participate of Existing Party-List Groups, Coalitions or Organizations

March 31, 2021

Filing of Oppositions to Petitions for Registration

Not later than the date when the case is submitted for resolution.

Submission of List of Nominees of Registering Parties

Within the period designated by the Commission for filing of Certificates of Candidacy.

Submission of List of Nominees of Existing Parties

Within the period designated by the Commission for filing of Certificates of Candidacy.

Filing of Petition to Deny Due Course to a Manifestation of Intent to Participate of Registered/Registering Party-List Groups, Organizations and Coalition

Within ten (10) days from the date of publication of the Manifestation of Intent to Participate

Filing of Petition to Deny Due Course and/or Cancellation of Nomination of Party-List Nominees

Within ten (10) days from the date of publication of the list of nominees by the EID, or in case of subsequent publication by reason of substitution, within ten (10) days from the submission of proof of publication by the party-list groups, organizations, or coalitions of its new and complete list of nominees, with respect to the substitute nominees.

Filing of Petition for Disqualification of Party-List Nominees

Any day not later than the date of proclamation.

Substitution of Party-list Nominees by Reason of Withdrawal

November 15, 2021

Publication of the Approved List of Nominees by the [Education and Information Department]

Within fifteen (15) days from November 15, 2021

Substitution of Party-list Nominees by Reason of Death or Incapacity

Up to mid-day of Election Day

Publication by the Party-List Organization of their New List of Nominees (By Reason of Withdrawal on or before November 15, 2021)

Within five (5) days FROM the filing of the new list of substitute nominees, their certificates of nomination and acceptance, and affidavit with the Law Department.

Publication by the Party-List Organization of their New List of Nominees (By Reason of Death or Incapacity AND in case of exhaustion of the list)

In this case, the party, organization, or coalition concerned may submit a new list only when the original list is exhausted.

Within five (5) days from the filing of the list of its substitute nominees, their certificates of nomination and acceptance, and affidavit with the Law Department.[59]

The COMELEC, therefore, committed grave abuse of discretion in allowing nominees to resign and withdraw their nominations after the close of the polls. There is no valid reason why it would strictly apply the deadline for substitutions involving district representatives, but not for substitutions of party-list representatives.

The power to grant registration of a party-list includes the power to deny or cancel such registration. In the same manner, the approval of a nominee's certificate of acceptance of nomination includes the power to deny a nominee's withdrawal. To rule that the deadlines are merely directory after the close of polls, as respondents would suggest,[60] is to set a dangerous precedent. It would allow abuse of the party-list system and violate the voters' right to be informed of who will sit as the party-list representative.

From a different standpoint, once a party-list is proclaimed, the seat for that winning party-list is taken. Technically, there is no vacancy. The lack of nominee is not the same as vacancy.

Interestingly, when respondent Guanzon was a sitting COMELEC commissioner, she argued against substitution of party-list nominees after the deadline. In her own words: "How is it that there is no deadline for party-list and the congressmen congresswomen . . . they can only be substituted at a certain time and in case of death, incapacity, chuchu."[61]

She later wrote a dissenting opinion posted on her social media account, stating:

As the constitutional organ entrusted with the sacred duty to protect the electoral processes, the Commission must, with all its might, resist any attempt at manipulation by those who are consumed by their own ignoble self-interest. We must put an absolute end to this unrelenting travesty and derogation, not only of the Commission's authority, but also of the democratic institutions and processes for which the Commission stands.[62]

The COMELEC should have been more circumspect here. The list was exhausted because the nominees withdrew acceptance of the nomination, not because of death or incapacity. Hence, Section 4 should apply. The substitutions were beyond November 15, 2021, and thus, the COMELEC should not have allowed them. Ironically, respondent Guanzon was a sitting commissioner when COMELEC Resolution No. 10690 was issued, and was in fact its signatory. She should have been the first person to uphold the COMELEC rules.

This is not the first time that the COMELEC allowed all party-list nominees to withdraw at the same time and granted the substitution of all its nominees after elections. During the 2019 and 2022 elections, it also approved the post-elections withdrawal and substitution of the party-list nominees of Duterte Youth—indeed, petitioner itself—and Magkakasama sa Sakahan, Kaunlaran Party-List (Cahigan/Villamin/Cortez Wing), respectively.[63] This reveals even more how lackadaisical the COMELEC has been in allowing mass withdrawals and substitutions.

IV

The COMELEC also acted with grave abuse of discretion in failing to put in place the proper mechanisms to ensure that nominees of party-lists representing marginalized and underrepresented sectors either belong to the sector it seeks to represent or possess a track record of advocacy for such sector.

In *Atong Paglaum, Inc. v. Commission on Elections*,^[64] this Court ruled that party-lists need not belong to marginalized and underrepresented sectors. They can also be "small ideology-based and caused-oriented parties [that] lack 'well-defined political constituencies[.]'"^[65] For party-lists representing marginalized and underrepresented sectors, not only must majority of their members be marginalized and underrepresented, but also, their nominees "must belong to the sector, or must have a track record of advocacy for the sector represented":^[66]

The phrase "marginalized and underrepresented" should refer only to the sectors in Section 5 that are, by their nature, economically "marginalized and underrepresented." These sectors are: labor, peasant, fisherfolk, urban poor, indigenous cultural communities, handicapped, veterans, overseas workers, and other similar sectors. For these sectors, a majority of the members of the sectoral party must belong to the "marginalized and underrepresented." The nominees of the sectoral party either must belong to the sector, or must have a track record of advocacy for the sector represented. Belonging to the "marginalized and underrepresented" sector does not mean one must "wallow in poverty, destitution or infirmity." It is sufficient that one, or his or her sector, is below the middle class. More specifically, the economically "marginalized and underrepresented" are those who fall in the low income group as classified by the National Statistical Coordination Board.

The recognition that national and regional parties, as well as sectoral parties of professionals, the elderly, women and the youth, need not be "marginalized and underrepresented" will allow small ideology-based and cause-oriented parties who lack "well-defined political constituencies" a chance to win seats in the House of Representatives. On the other hand, limiting to the "marginalized and underrepresented" the sectoral parties for labor, peasant, fisherfolk, urban poor, indigenous cultural communities, handicapped, veterans, overseas workers, and other sectors that by their nature are economically at the margins of society, will give the "marginalized and underrepresented" an opportunity to likewise win seats in the House of Representatives.^[67] (Citation omitted)

Respondent P3PWD is a party-list that aims to advocate for and represent the "rights and interests of patients, persons with disabilities and senior citizens, among other marginalized sectors of society."^[68] Following *Atong Paglaum*, its nominees should either belong to this specific sector or possess a track record of their advocacy.

Yet, while respondent Guanzon has shown that she satisfied the requirement, the other nominees in the third list failed to do so.^[69] Neither did the COMELEC, in approving the substitutions with undue haste, show that it took steps or placed mechanisms to ensure that the nominees in the third list indeed possessed the requirements in *Atong Paglaum*.

V

Likewise palpable is the conflict of interest in the sequence of events that led to the withdrawal and substitution of the party-list nominees.

To begin with, respondent Guanzon was a sitting commissioner when respondent P3PWD's registration for the party-list system was approved. Thus, she was not eligible to be a substitute nominee.

On March 23, 2021, respondent P3PWD filed a Petition for Registration and Accreditation as a regional sectoral organization based in the National Capital Region, which the COMELEC Second Division then approved.^[70] On

December 1, 2022, the COMELEC En Banc, which respondent Guanzon was a part of, released COMELEC Resolution Nos. 10733[71] and 10735.[72] The former pertained to the rules of the conduct of raffle of party-lists to determine the order of their listing in the official ballot for the 2022 elections. The latter stated that respondent P3PWD was one of the registered party-lists who participated in the raffle.

On February 2, 2022, as mentioned earlier, respondent Guanzon retired as commissioner after her seven-year term had ended.[73] On February 4, 2022, she became a member of respondent P3PWD, and had been so for a total of 94 days[74]—just about making the 90-day cutoff requirement for party-list nominees before the May 9, 2022 elections.[75]

On March 29, 2022, respondent Guanzon posted a reel on her Instagram account with the handle @guanzonbing. In her reel, she is seen recording, stating: "Ito po si Rowena Guanzon, kandidato ng P3PWD Party-List. Panahon na para iboto ang P3PWD, number 54 sa balota." [76]

After the May 9, 2022 elections, respondent P3PWD won enough votes to be entitled to one seat in the House of Representatives.[77]

On May 14, 2022, respondent Guanzon posted a livestreaming video on her Facebook account with the handle Rowena Guanzon. In the video, she is seen seated talking to an audience, and behind her is a television flashing a photo with the word "VICTORY" at the top. Around the 5:55 mark, she mentions that Yeneza, the first nominee, was considering resigning and that she would be the substitute. In her own words:

Tayo, uupo tayo one seat. At mag-oath-taking muna si Ma'am Grace Yeneza, magkasama kami sa proclamation sa [May] 18. At mag-assume siya ng office mga July 1, pero dahil nga sa 'yung anak niya ay may cancer, she already informed the Board na she will resign eventually and I will substitute. So 'yung substitution na 'yan is according to law, according to COMELEC rules, may proseso lang diyan, baka isang buwan 'yan, pero . . . , that is . . . the remedy kung may mag-teresign na party-list. Kasi 'yung mga . . . sa party-list lang may ganyan eh. 'Yung after the election 'pag nanalo, uupo muna, saka mag-teresign. Pwede mag-substitute. . . . So, 'wag kayong mag-alala, talagang uupo ako diyan.[78]

Curiously, this statement was made before the other nominees filed their withdrawal.

As it so happened, on May 26, 2022, respondent P3PWD was declared to have won one seat.[79] And soon enough, its earlier nominees withdrew en masse coupled with a third list of nominees, including respondent Guanzon as its first nominee.

Republic Act No. 6713, or Code of Conduct and Ethical Standards for Public Officials and Employees, prohibits public officials from directly or indirectly having any financial or material interest in any transaction which require their approval. Section 7(a) of Republic Act No. 6713 provides:

SECTION 7. Prohibited Acts and Transactions. — In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

(a)

Financial and material interest. — Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office.

(b)

Outside employment and other activities related thereto. — Public officials and employees during their

incumbency shall not:

(1)

Own, control, manage or accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law;

(2)

Engage in the private practice of their profession unless authorized by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions; or

(3)

Recommend any person to any position in a private enterprise which has a regular or pending official transaction with their office.

These prohibitions shall continue to apply for a period of one (1) year after resignation, retirement, or separation from public office, except in the case of subparagraph (b) (2) above, but the professional concerned cannot practice his profession in connection with any matter before the office he used to be with, in which case the one-year prohibition shall likewise apply. (Emphasis supplied)

Here, the timeline of events shows that respondent Guanzon was a sitting commissioner at the time respondent P3PWD applied to register as a party-list. While she may not have been part of the Second Division that granted the application, she was part of the En Banc that oversaw all of the COMELEC's divisions, departments, and committees involved in preparing for the 2022 elections. She was also one of the signatories to the resolution which allowed respondent P3PWD to participate in the raffle for the order in the official ballot.

When her term ended, she actively campaigned for respondent P3PWD and eventually admitted, during the campaign period, that she would be its nominee. After respondent P3PWD had won a seat and it became clear that she was not the nominee on record, she stated that she would be a substitute.

Evidently, a conflict of interest exists since respondent Guanzon herself, in the discharge of her official duties as a commissioner, paved the way for respondent P3PWD to become a registered party-list. This sort of undue advantage is exactly what Republic Act No. 6713 aims to avoid.

Worse is how fast respondent Guanzon became a member of respondent P3PWD—merely two days after retiring from the COMELEC, which gave her a scant four days of buffer to meet the 90-day threshold from the date of elections. As pointed out by petitioner, respondent Guanzon has performed legal acrobatics showing "abuse and misuse of her legal knowledge and influence."^[80]

VI

Nonetheless, I join the ponencia in dismissing the indirect contempt charge against respondent Guanzon.

In *ABS-CBN v. Ampatuan*,^[81] this Court emphasized that a petition for indirect contempt "must spell out the clear and present danger of a speech to the court's administration of justice, identifying the interest of the court that is violated and ought to be punished." *ABS-CBN* also listed the four ultimate facts that must be alleged in a petition for indirect contempt:

First, public statements were made regarding the merits of the case while it is pending before the courts. The

petition must clearly state the contemptible conduct and reproduce the content of the speech ought to be punished.

Second, since intent is necessary in criminal contempt, the required mental element of the speaker who uttered the contemptuous speech in a judicial proceeding must be specifically alleged. It must appear from the story that the "ultimate purpose" of its publication is to impede, obstruct or degrade the administration of justice. This is inferred from the totality of the story, the context of its publication, the wording used, the manner of reporting, and other relevant factors which may be derived from the story.

Third, the clear and present danger of the utterance to the court's administration of justice must be alleged, specifically identifying the importance and saliency of the information on the ability of courts to make an impartial decision. There must be a showing of the serious and imminent threat of an utterance on the court's administration of justice for it to be subject to subsequent punishment.

Finally, the effect of the speech on the administration of justice must be shown, particularly, that the utterance will influence the court's independence in ruling on a case, which will, in turn, affect public confidence in the Judiciary.[82]

Here, respondent Guanzon allegedly violated the sub judice rule because of her statements to the media regarding the COMELEC's, as well as this Court's, jurisdiction over the case.[83] However, the Petition for indirect contempt failed to satisfy the requirements in ABS-CBN.

First, respondent Guanzon had not yet received a copy of the Petition when she answered questions from the media. Whatever she might have known about the case were all sourced from media reports. As far as she was concerned, there was still no pending case against her.

Second, the Petition failed to show that her intent in giving an interview was to impede, obstruct, or degrade the administration of justice.[84] As the ponencia points out, respondent Guanzon's use of disclaimers such as "in my humble opinion"[85] and "without meaning to jump the gun on the Supreme Court" shows her deference to this Court's authority and its administration of justice.[86]

Third, the Petition failed to show that respondent Guanzon's utterances presented an imminent threat to this Court's administration of justice that would create a clear and present danger.

Finally, her statements were not shown to have shaken public confidence in the Judiciary.

Thus, the ponencia rightly upheld respondent Guanzon's freedom of expression with the dismissal of the indirect contempt charge against her.

VII

I likewise concur with the ponencia that the COMELEC retained jurisdiction over this case, to the exclusion of the House of Representatives Electoral Tribunal (HRET).[87] While the Temporary Restraining Order issued by this Court prevented the HRET from acquiring jurisdiction over the controversy, it is not the only reason for jurisdiction to remain with the COMELEC.

The HRET is the "sole judge of all contests relating to the election, returns, and qualifications"[88] of members of the House of Representatives. Article VI, Section 17 of the 1987 Constitution provides:

SECTION 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House

of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.

An electoral tribunal only came about under the 1935 Constitution. The HRET in particular was constituted under the 1987 Constitution. Justice Reynato Puno's concurring opinion in *Arroyo v. House of Representatives Electoral Tribunal*[89] traced the history of electoral tribunals in the Philippines:

Under the Philippine Bill of 1902 legislative power was vested in the Philippine Assembly and the Assembly as a body was the judge of the election, returns, and qualifications of its members. Then came the Act of Congress of August 29, 1916, commonly known as the Jones Law. Its Section 18 provides: ". . . the Senate and the House of Representatives, respectively, shall be the sole judges of the election, returns, and qualifications of their elective members." Early in the case of *Veloso vs. Boards of Canvassers of Leyte and Samar*, this Court, stressing the use of the word "sole" before "judges" held that the grant of power to the Senate and the House of Representatives is "full, clear and complete."

In 1935, a change was made on the body that will judge the election of members of Congress. Our Constitution of 1935 transferred "in its totality all the powers previously exercised by the Legislature in matters pertaining to contested elections of its members, to an independent and impartial tribunal." In the 1936 benchmark case of *Angara vs. Electoral Commission, et al.*, this Court observed: "With this end in view, a composite body in which both the majority and minority parties are equally represented to off-set partisan influence in its deliberations was created, and further endowed with judicial temper by including in its membership three justices of the Supreme Court." Thus, Section 11 of Article VI of our 1935 Constitution provide:

"Sec. 11. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or of the House of Representatives, as the case may be, who shall be chosen by each House, three upon nomination of the party having the largest number of votes and three of the party having the second largest number of votes therein. The senior Justice in each Electoral Tribunal shall be its Chairman."

. . . .

Our constitutional odyssey took a new turn in 1973, when we adopted the 1973 Constitution which installed a modified form of parliamentary government and a unicameral legislature, the Batasang Pambansa. Its Article XII (c) Section 2 (2) vested the COMELEC with the power to "be the sole judge of all contests relating to the election, returns, and qualifications of all members of the Batasang Pambansa . . ." In accord with this grant of power, COMELEC did act as sole judge of these contests and aggrieved parties challenged its decisions in this Court by invoking its certiorari jurisdiction, the traditional remedy against acts constitutive of grave abuse of discretion.

Finally, in 1987, we adopted the present Constitution as an aftermath of the EDSA revolution. Among others, the 1987 Constitution restored the two houses of Congress and their Electoral Tribunals.[90] (Citations omitted)

As early as 1936, this Court in *Angara v. Electoral Commission*[91] held that an electoral tribunal's power to judge all challenges on the election, returns, and qualifications of National Assembly members commences upon certification by the provincial board of canvasser of the member-elect.[92] Since then, this Court has consistently ruled that upon the proclamation of a winning candidate, jurisdiction is transferred from the COMELEC to the electoral tribunal over issues relating to election, returns, and qualifications of a winning candidate.[93]

As a recognition of the source of its authority, the 2015 HRET Rules repeated the HRET's constitutional mandate and listed the requisites for membership into the House of Representatives:

RULE 15. Jurisdiction. — The Tribunal is the sole judge of all contests relating to the election, returns, and qualifications of the Members of the House of Representatives.

To be considered a Member of the House of Representatives, there must be a concurrence of the following requisites: (1) a valid proclamation; (2) a proper oath; and (3) assumption of office.

Uy v. Commission on Elections,[94] referring to the House of Representatives' internal rules and echoing this Court's resolution in Reyes v. Commission on Elections,[95] cited the oath before the House speaker in open session as the "proper oath" required for membership in the House of Representatives.[96] Nonetheless, a close scrutiny of Reyes shows that it was a "most unusual case"[97] where the majority dismissed the Petition outright but still attempted to declare a new doctrine on the COMELEC's jurisdiction vis-à-vis the HRET. Further, Reyes finds its basis in the pronouncement in Guerrero v. Commission on Elections,[98] which, as pointed out in a dissenting opinion, finds no jurisprudential support:

In Guerrero, this Court held that " . . . once a winning candidate has been proclaimed, taken his oath, and assumed office as a member of the House of Representatives, [the] COMELEC's jurisdiction over election contests relating to his election, returns, and qualifications ends, and the HRET's own jurisdiction begins." The case cited Aquino v. Commission on Elections and Romualdez-Marcos v. Commission on Elections to support the statement.

A closer reading of Aquino and Romualdez-Marcos will reveal that this Court did not rule that three requisites must concur so that one may be considered a "member" of the House of Representatives subject to the jurisdiction of the electoral tribunal. On the contrary, this Court held in Aquino that:

Petitioner conveniently confuses the distinction between an unproclaimed candidate to the House of Representatives and a member of the same. Obtaining the highest number of votes in an election does not automatically vest the position in the winning candidate.

. . . .

Under the above-stated provision, the electoral tribunal clearly assumes jurisdiction over all contests relative to the election, returns and qualifications of candidates for either the Senate or the House only when the latter become members of either the Senate or the House of Representatives. A candidate who has not been proclaimed and who has not taken his oath of office cannot be said to be a member of the House of Representatives subject to Section 17 of Article VI of the Constitution. While the proclamation of the winning candidate in an election is ministerial, B.P. 881 in conjunction with Sec. 6 of R.A. 6646 allows suspension of proclamation under circumstances mentioned therein. . . .

In Romualdez-Marcos, this Court held that:

As to the House of Representatives Electoral Tribunal's supposed assumption of jurisdiction over the issue of petitioner's qualifications after the May 8, 1995 elections, suffice it to say that HRET's jurisdiction as the sole judge of all contests relating to the elections, returns, and qualifications of members of Congress begins only after a candidate has become a member of the House of Representatives. Petitioner not being a member of the House of Representatives, it is obvious that the HRET at this point has no jurisdiction over the question.

To be sure, the petitioners who were the winning candidates in Aquino and Romualdez-Marcos invoked the jurisdiction of the House of Representatives Electoral Tribunal though they had not yet been proclaimed. Thus, this Court held that the Commission on Elections still had jurisdiction over the disqualification cases.

This Court did not create a new doctrine in Aquino as seen in the Concurring and Dissenting Opinion of Justice Francisco where he said:

The operative acts necessary for an electoral candidate's rightful assumption of the office for which he ran are

his proclamation and his taking an oath of office. Petitioner cannot in anyway be considered as a member of the House of Representatives for the purpose of divesting the Commission on Elections of jurisdiction to declare his disqualification and invoking instead HRET's jurisdiction, it indubitably appearing that he has yet to be proclaimed, much less has he taken an oath of office. Clearly, petitioner's reliance on the aforecited cases which when perused involved Congressional members, is totally misplaced, if not wholly inapplicable. That the jurisdiction conferred upon HRET extends only to Congressional members is further established by judicial notice of HRET Rules of Procedure, and HRET decisions consistently holding that the proclamation of a winner in the contested election is the essential requisite vesting jurisdiction on the HRET.

In fact, the Separate Opinion of Justice Mendoza in Romualdez-Marcos will tell us that he espoused a more radical approach to the jurisdiction of the electoral tribunals. Justice Mendoza is of the opinion that "the eligibility of a [candidate] for the office [in the House of Representatives] may only be inquired into by the [House of Representatives Electoral Tribunal]," even if the candidate in Romualdez-Marcos was not yet proclaimed. Justice Mendoza explained, thus:

Three reasons may be cited to explain the absence of an authorized proceeding for determining before election the qualifications of a candidate.

....

Third is the policy underlying the prohibition against pre-proclamation cases in elections for President, Vice President, Senators and members of the House of Representatives. (R.A. No. 7166, Section 15) The purpose is to preserve the prerogatives of the House of Representatives Electoral Tribunal and the other Tribunals as "sole judges" under the Constitution of the election, returns, and qualifications of members of Congress of the President and Vice President, as the case may be.

Thus, the pronouncement in Guerrero that is used in the main ponencia as the basis for its ruling is not supported by prior Decisions of this Court. More importantly, it cannot be considered to have changed the doctrine in Angara v. Electoral Commission. Instead, it was only made in the context of the facts in Guerrero where the Decision of the Commission on Elections En Banc was issued only after the proclamation and the assumption of office of the winning candidate. In other words, the contention that there must be proclamation, taking of the oath, and assumption of office before the House of Representatives Electoral Tribunal takes over is not ratio decidendi.[99] (Citations omitted)

This Court in Javier v. Commission on Elections[100] explained how "election, returns, and qualifications" should be interpreted:

The phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title. But if it is necessary to specify, we can say that "election" referred to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of the votes; "returns" to the canvass of the returns and the proclamation of the winners, including questions concerning the composition of the board of canvassers and the authenticity of the election returns; and "qualifications" to matters that could be raised in a quo warranto proceeding against the proclaimed winner, such as his disloyalty or ineligibility or the inadequacy of his certificate of candidacy.[101]

Here, it is not disputed that respondent P3PWD was proclaimed to be entitled to one seat. Neither is it disputed that respondent Guanzon took her oath.[102] However, the issue in question does not fall under "election, returns, and qualifications" of a winning candidate, but focuses on the validity of the substitution of respondent P3PWD's nominees after all five previous nominees had stepped down within two days, with four not even bothering to proffer a valid reason for their withdrawal. Clearly, jurisdiction remained with the COMELEC, not the HRET.

Surely, respondent Guanzon and the other nominees in the third list are more than capable of serving the sector

they seek to represent. Their desire to represent and advocate for the rights and interests of patients, persons with disabilities, and senior citizens in the House of Representatives is admirable; their advocacies certainly have a place in Congress. With their hearts fully dedicated to public service, they could run as elective public officials in the future, but not at this time.

Quite fittingly, party-list nominees, in submitting a sworn certificate of acceptance of nomination, declares that:

I AM ELIGIBLE for the office for which I am nominated as I possess all the legal qualifications and none of the disqualification. I will support and defend the Constitution of the Philippines, and will maintain true faith and allegiance thereto; I will obey all the laws, legal orders and decrees promulgated by the duly constituted authorities of the Republic of the Philippines; and I impose this obligation upon myself voluntarily, without mental reservation or purpose of evasion.[103]

Upholding the Constitution, maintaining faith and allegiance to it, and obeying the law—surely, these include respecting electoral processes.

The interest of the sovereign people in genuine representation is overriding. Minute Resolution No. 22-0774 defies the people's interest. It should be nullified. The withdrawals should never have been granted; the second list of nominees should stand.

ACCORDINGLY, I vote to GRANT the Petition and declare the Commission on Elections' Minute Resolution No. 22-0774 to be VOID for having been issued with grave abuse of discretion. I likewise vote that respondent Komunidad ng Pamilya, Pasyente, at Persons with Disabilities Party-List be DIRECTED to choose their nominee from its second list of nominees submitted to the Commission on Elections.

[1] II Record, Constitutional Commission 36, 84-85 (July 22, 1986).

[2] II Record, Constitutional Commission 36, 45 (July 21, 1986).

[3] II Record, Constitutional Commission 36, 84-85 (July 22, 1986).

[4] J. Leonen, Concurring and Dissenting Opinion in *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 741 (2013) [Per J. Carpio, En Banc].

[5] CONST., art II, sec. 1.

[6] J. Leonen, Concurring and Dissenting Opinion in *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 738 (2013) [Per J. Carpio, En Banc].

[7] *Lokin, Jr. v. COMELEC, et al.*, 635 Phil. 372-402 (2010) [Per J. Bersamin, En Banc].

[8] *COCOFED-Philippine Coconut Producers Federation, Inc. v. Commission on Elections*, 716 Phil. 19, 36 (2013) [Per J. Brion, En Banc].

[9] Republic Act No. 7941 (1995), sec. 2, Party-list System Act.

[10] Republic Act No. 7941 (1995), sec. 2.

[11] *ANGKLA: Ang Partido ng mga Pilipinong Marino, Inc. v. Commission on Elections*, 884 Phil. 333, 451 (2020) [Per J. Lazaro-Javier, En Banc].

[12] 884 Phil. 333 (2020) [Per J. Lazaro-Javier, En Banc].

[13] *Id.* at 451-452.

[14] Id.

[15] J. Leonen, Concurring and Dissenting Opinion in *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 752 (2013) [Per J. Carpio, En Banc].

[16] 635 Phil. 372 (2010) [Per J. Bersamin, En Banc].

[17] Id. at 397.

[18] CONST., art. II, sec. 1.

[20] 716 Phil. 19 (2013) [Per J. Brion, En Banc].

[21] Id. at 33-34.

[22] 707 Phil. 454 (2013) [Per J. Carpio, En Banc].

[23] J. Leonen, Concurring and Dissenting Opinion in *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 751-753 (2013) [Per J. Carpio, En Banc].

[24] Rollo (G.R. No. 261123), p. 254.

[25] Id. at 255.

[26] Id. at 254-255.

[27] Id. at 10.

[28] Id. at 145-149.

[29] Id. at 147.

[30] Id. at 590, Respondent P3PWD's Memorandum.

[31] Id. at 97. This letter was notarized by Atty. Ryan C. Cortez and bears the following details: Doc. No. 308; Page No. 62; Book No. XX; Series of 2022.

[32] Id. at 98. The letter was notarized by a certain Atty. Concepcion M. Juatas and bears the following details: Doc. No. 244; Page No. 17; Book No. 34; Series of 2022.

[33] Id. at 99. His letter of resignation was also notarized by Atty. Ryan C. Cortez and bears the following details: Doc. No. 433; Page No. 87; Book No. XII; Series of 2022. His letter was notarized at a later date yet the notarial detail states that it can be found in Book XII, while the resignation letter of Pozon bearing an earlier date can be found in Book XX. Interestingly, the Affidavit of Acceptance of Cherrie B. Belmonte-Lim was also notarized by Atty. Ryan C. Cortez. Her affidavit was notarized on June 10, 2022 and bears the following details: Doc No. 114; Page No. 23; Book No. LX-B, Series of 2022. (See rollo, p. 113). Yet, the day before, Atty. Cortez notarized Peter Jonas R. David's letter of resignation, recorded in Book XII. There appears to be irregularities in the notarized documents.

[34] Id. at 100. The letter of resignation was notarized by Atty. Raymond A. Ramos and bears the following details: Doc. No. 488; Page No. 99; Book No. 219; Series of 2022.

[35] Id. at 96. The letter was notarized by Atty. Cecilia M. Misola and bears the following details: Doc. No. 11; Page No. 25; Book No. XVIII; Series of 2022.

[36] Id. at 255-256.

[37] Id. at 254-261.

[38] Id. at 256.

[39] Id. at 266.

[40] Id. at 47.

[41] Id. at 3-34.

[42] Id. at 265-267.

[43] Id. at 266. Commissioner Aimee P. Ferolino voted to defer action because her office had yet to receive a copy of the documents submitted by respondent P3PWD as proof of compliance. See id. at 268.

[44] Id. at 269-274.

[45] Id. at 273-274. Commissioner Aimee P. Ferolino again voted to defer action because her office was not provided with copies of the supporting documents. See id. at 275.

[46] Id. at 161.

[47] Id. at 150.

[48] Id. at 47-48.

[49] Id. at 40-43.

[50] Id. at 42.

[51] Id. at 8.

[52] TSN, Oral Arguments, November 14, 2023, p. 34.

[53] Republic Act No. 7941 (1995), sec. 18.

[54] COMELEC Resolution No. 10690 (2021), sec. 1.

[55] Ponencia, p. 4.

[56] Ponencia, p. 32.

[57] G.R. No. 253805, November 3, 2020 [Unsigned Resolution, En Banc].

[58] Ponencia, p. 31.

[59] COMELEC Resolution No. 10690 (2021), sec. 1.

[60] Ponencia, p. 23.

[61] Interview by Karen Davila, Journalist with Maria Rowena Amelia V. Guanzon, ANC Headstart (August 23, 2019), available at <https://youtu.be/OU-pwAktKjk?si=h-l4PQ79-ItJLnma&t=830> (last accessed on November 5, 2024).

[62] In re Cardema, Dissenting Opinion, p. 17, photos posted on respondent Guanzon's Facebook account with the handle "Rowena Guanzon," September 23, 2019, available at <https://www.facebook.com/photo/?fbid=1120116658188880&set=a.408044696062750> (last accessed on June 14, 2024.)

[63] Rollo (G.R. No. 261123), p. 851.

[64] 707 Phil. 454 (2013) [Per J. Carpio, En Banc].

[65] Id. at 543.

[66] Id.

[67] Id. at 543-544.

[68] Rollo (G.R. No. 261123), p. 45.

[69] Id. at 88-94, 111-125.

[70] Rollo (G.R. No. 261123), p. 711, Respondent P3PWD's Memorandum. The grant was issued by Commissioners Socorro B. Inting and Antonio T. Kho, Jr. (now a member of this Court) of the Second Division, Commission on Elections.

[71] COMELEC Resolution No. 10733 (2021), available at https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10733.pdf (last accessed on November 6, 2024).

[72] COMELEC Resolution No. 10735 (2021), available at https://comelec.gov.ph/php-tpls-attachments/2022NLE/Resolutions/com_res_10735.pdf (last accessed on November 6, 2024).

[73] Rollo (G.R. No. 261123), p. 8.

[74] TSN, Oral Arguments, November 14, 2023, pp. 33-34.

[75] Republic Act No. 7941 (1995), sec. 9.

[76] Instagram Reel, March 29, 2022, available at <https://www.instagram.com/tv/CbrRGLUhUE1/?igsh=dHdtdTY0aWxyaG8=> (last accessed on November 6, 2024).

[77] Rollo (G.R. No. 263123), p. 147.

[78] Facebook Live, May 14, 2022, available at <https://web.facebook.com/attyrowenaguanzon/videos/2361417014011708> (last accessed on November 6, 2024).

[79] Rollo (G.R. No. 621123), p. 149.

[80] Id. at 690, Duterte Youth's Memorandum.

[81] G.R. No. 227004, April 25, 2023 [Per J. Leonen, En Banc].

[82] Id. at 108. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[83] Ponencia, pp. 34, 36.

[84] RULES OF COURT, Rule 71, sec. 3(d). See also *ABS-CBN v. Ampatuan*, G.R. No. 227004, April 25, 2023 [Per J. Leonen, En Banc] at 108.

[85] Ponencia, p. 36.

[86] Id. at 38.

[87] Id. at 19-21.

[88] CONST., art. VI, sec. 17.

[89] 316 Phil. 464 (1995) [Per J. Francisco, En Banc].

[90] Id. at 501-504.

[91] 63 Phil. 139 (1936) [Per J. Laurel, En Banc].

[92] Id. at 180.

[93] *Vinzons-Chato v. Commission on Elections*, 548 Phil. 712, 725-726 (2007) [Per J. Callejo, Sr., En Banc]; *Jalosjos, Jr. v. Commission on Elections*, 689 Phil. 192, 198 (2012) [Per J. Abad, En Banc].

[94] G.R. No. 260650, August 8, 2023 [Per J. M. Lopez, En Banc].

[95] 712 Phil. 192 (2013) [Per J. Perez, En Banc].

[96] *Uy v. Commission on Elections*, G.R. No. 260650, August 8, 2023 [Per J. M. Lopez, En Banc] at 9. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[97] J. Brion, Dissenting Opinion in *Reyes v. Commission on Elections*, 712 Phil. 192, 222 (2013) [Per J. Perez, En Banc].

[98] 391 Phil. 344 (2000) [Per J. Quisumbing, En Banc].

[99] J. Leonen, Dissenting Opinion in *Reyes v. Commission on Elections*, 720 Phil. 174, 299-302 (2013) [Per J. Perez, En Banc].

[100] 228 Phil. 193 (1986) [Per J. Cruz, En Banc].

[101] Id. at 205-206.

[102] Ponencia, p. 7.

[103] Copy of Certificate of Acceptance, available at https://comelec.gov.ph/php-tpls-attachments/References/ComelecResolutions/NLE/2013NLE/com_res_9366_Certof_Acceptance.pdf (last accessed on November 6, 2024).

DISSENTING OPINION

CAGUIOA, J.:

Before the Court are two consolidated petitions:

First, G.R. No. 261123, an Urgent Petition for Certiorari^[1] (Substitution Petition) where petitioners Duty to Energize the Republic Through the Enlightenment of the Youth Party-List (DUTERTE Youth) and Ronald Gian Carlo L. Cardema and Ducielle Marie S. Cardema seek to annul the following resolutions of the Commission on Elections (COMELEC):

a)

Minute Resolution No. 22-0774^[2] dated June 15, 2022 (First Assailed Resolution) which granted the withdrawal of the nominations of the previous set of nominees of private respondent Komunidad ng Pamilya,

Pasyente, at Persons with Disabilities Party-List (P3PWD), and which likewise gave due course to the latter's new list of nominees;

b)

Minute Resolution No. 22-0798[3] dated June 22, 2022 (Second Assailed Resolution) noting the Manifestation of P3PWD regarding the proof of publication of its New List of Nominees, and considering the same as satisfactory compliance with the First Assailed Resolution; and

c)

Minute Resolution No. 22-0810[4] dated June 22, 2022 (Third Assailed Resolution) denying DUTERTE Youth's Opposition for lack of merit.

Second, G.R. No. 261876, a Petition for Indirect Contempt (Contempt Petition) against respondent Ma. Rowena Amelia V. Guanzon (Guanzon) for the purported violation of the Court's Temporary Restraining Order[5] (TRO) issued on June 29, 2022 in the Substitution Petition.

The ponencia grants the Substitution Petition, declares null and void the COMELEC's First Assailed Resolution, and makes permanent the Court's previously-issued TRO dated June 29, 2022. Consequently, it directs P3PWD to submit additional nominees pursuant to Section 16[6] of Republic Act No. 7941[7] and strictly enjoins it from renominating for the 19[th] Congress the five nominees whose substitutions were declared null and void by the ponencia, including Guanzon.

Upon the other hand, the ponencia dismisses, for lack of merit, the Contempt Petition.

While I concur as to the dismissal of the Contempt Petition, I strongly dissent to the ponencia's ruling in the Substitution Petition.

In this Dissenting Opinion, I make clear my position that:

- 1) COMELEC has the exclusive jurisdiction to rule on the withdrawal and substitution of party-list nominees;
- 2) the Third Assailed Resolution—the one which resolved the Opposition filed by DUTERTE Youth—was issued in the COMELEC's exercise of its quasi-judicial powers. Not having been previously resolved by the COMELEC Division before the COMELEC en banc issued said resolution, the same is void;
- 3) the voting requirement for COMELEC in resolving quasi-judicial matters is a majority of all its incumbent Members;
- 4) it was ultra vires for COMELEC to set deadlines on the substitution of nominees of party-list groups;
- 5) the submission of additional party-list nominees does not violate the people's right to information on matters of public concern;
- 6) considering that the deadlines set by COMELEC are void, there is no legal basis to find that COMELEC committed grave abuse of discretion in allowing the substitution beyond such deadlines. The reasons advanced in the ponencia are not legal grounds; and
- 7) even on the assumption that the deadlines are valid, the same merely renders void the acts of P3PWD relating to its belated substitution of nominees, not its choice of nominees. The belated substitution could not have affected the qualifications of the individual nominees. Thus, it is egregious error for the ponencia to

enjoin P3PWD from renominating the same individuals.

COMELEC has the exclusive jurisdiction to rule on the withdrawal and substitution of party-list nominees

P3PWD questions the COMELEC's jurisdiction in issuing the assailed resolutions, contending that Guanzon had already become a Member of the House of Representatives (HoR) so that the case now falls under the exclusive jurisdiction of the House of Representatives Electoral Tribunal (HRET).

P3PWD is mistaken. Guanzon had not become a Member of the HoR. In any case, the nature or subject-matter of the case places it outside the jurisdiction of HRET.

HRET's jurisdiction is provided under Article VI, Section 17 of the 1987 Constitution, thus:

The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman. (Emphasis supplied)

This constitutional provision is echoed in the HRET's Rules of Procedure[8] (HRET Rules):

RULE 15. Jurisdiction.—The Tribunal is the sole judge of all contests relating to the election, returns, and qualifications of the Members of the House of Representatives.

To be considered a Member of the House of Representatives, there must be a concurrence of the following requisites: (1) a valid proclamation; (2) a proper oath; and (3) assumption of office. (Emphasis supplied)

What is clear from these provisions is the intent of its framers to limit the jurisdiction of HRET to only contests relating to the election, returns, and qualifications of Members of the HoR.

Thus, there are two tiers in determining whether the constitutional jurisdiction of HRET has attached: the first involves the status of respondent—that is, he or she must have already become a Member of the HoR; and the second involves the nature of the action—that is, that it must be a contest relating to the election, returns, and qualifications of respondent.

Anent the first tier, settled in jurisprudence are the three requisites to become a "Member" of the HoR for purposes of determining if the HRET's jurisdiction has already attached, namely: that the candidate has had (1) a valid proclamation, (2) a proper oath, and (3) assumption of office.[9] This is also reiterated in the above Rule 15 of the HRET Rules.

Even as the first two requisites to becoming a Member of the HoR are present in the instant case, the last requisite did not occur since it was effectively prevented from happening by the Court's TRO.

Anent the first requisite, it is undisputed that Guanzon was validly proclaimed by COMELEC sitting as the National Board of Canvassers.[10]

On the second requisite of a valid oath of office, I agree with the ponencia insofar as it ruled that "Guanzon ... already ... took her oath." [11] Indeed, Guanzon satisfied the requisite of a proper oath of office when she took the same before Court of Appeals Associate Justice Edwin D. Sorongon (Justice Sorongon) on June 23, 2022.[12]

This is consistent with Section 4 of the Rules of the House of Representatives of the 19[th] Congress (HoR Rules) which relevantly requires only "the administration of an oath for the office by a duly authorized public

officer." [13] It is also aligned with Section 6 of the same HoR Rules which declares as "valid" such oath taken before a duly-authorized public officer, and, at the same time, declares as merely a "ceremonial affirmation" of such valid oath, the subsequent oath of office in open session taken before the House Speaker, the practice of which has become a tradition and a "parliamentary precedent," thus:

Section 6. Oath or Affirmation of Members. – Members shall take their oath or affirmation collectively or individually before the Speaker in open session. The oath of office administered by the Speaker in open session to all Members present is a ceremonial affirmation of prior and valid oaths of office administered to them by duly authorized public officers. Following parliamentary precedents, Members take their oath before the Speaker in open session to enable them to enter into the performance of their functions and participate in the deliberations and other proceedings of the House. (Emphasis supplied)

During the oral arguments, the nature of the oath-before-the-Speaker requirement as merely a ceremonial affirmation of the prior valid oath before a duly-authorized public officer—and not itself a requisite for the validity of the latter oath—was brought to the fore. As it turns out, the latter notion—that both oaths taken before the public officer and before the speaker are necessary—not only runs counter to the plain language of the relevant law, but is quite literally impossible to achieve, so that even DUTERTE Youth's own counsel could not help but admit that Guanzon, who indisputably has not taken an oath before the Speaker, had already complied with the "valid oath" requirement of the law when she took the same before Justice Sorongon—a duly authorized public officer:

[ATTY. EDWARD G. GIALOGO (DUTERTE Youth's Counsel)]:

And my personal opinion on the matter, Your Honor, is that, the oath required before the [HRET] can assume jurisdiction is an oath taken before any officer authorized to administer oath, Your Honor.

....

[ASSOCIATE JUSTICE ALFREDO BENJAMIN S. CAGUIOA]:

Let's go to Rule 2, Section 4 of the Rules of the House of Representatives. It says, an oath of office may be administered by any, and I quote: "duly authorized public officer," correct?

ATTY. GIALOGO:

Yes, Your Honor, I confirm the same, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

So in other words, an oath of office before a public officer is enough?

ATTY. GIALOGO:

Yes, Your Honor, for purposes of HRET acquiring jurisdiction, Your Honor.

....

ASSOCIATE JUSTICE CAGUIOA:

Okay. I will leave it there and let me go back to the question of the oath. Okay, under [Article VI, Section 7] of the Constitution, the term of office of members of the House commences at noon of June 30 after the elections, correct?

ATTY. GIALOGO:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

And under Rule 1, Section 1 of the Rules of the House, the Speaker is elected on the first meeting of the House?

ATTY. GIALOGO:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

Which is set on the fourth Monday of July after the elections, correct?

ATTY. GIALOGO:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

And under [Article VI, Section 16(1)] of the Constitution, the Speaker is elected by a majority vote of all the Members of the House, correct?

ATTY. GIALOGO:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

And is it also required that the Speaker is a Member of the House, correct?

ATTY. GIALOGO:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

But a winning candidate is not considered a member unless he took a valid oath of office, correct?

ATTY. GIALOGO:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

So, if the oath required to become a Member of the House is an oath before the Speaker, there can be no Member of the House prior to the fourth Monday of July, correct?

ATTY. GIALOGO:

Yes, Your Honor, if we follow the decision of the majority of this Honorable Court in the case of Uy v. COMELEC, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

And if there are no members, no one can vote for a Speaker, correct?

ATTY. GIALOGO:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

And if there are no members, no one is qualified to be a Speaker, correct?

ATTY. GIALOGO:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

So do you agree with me that requiring the oath before the Speaker to become a Member of the House is illogical? You're talking to the other Members of the Court as well, if I may remind you.

ATTY. GIALOGO:

I'm sorry to say, Your Honor, but it appears to be that "Yes," Your Honor.[14] (Emphasis supplied)

Be that as it may, there is no dispute as to Guanzon failing to meet the third requisite of assumption to office, because the same was legally prevented by the Court's TRO issued on June 29, 2022, or one day prior to the June

30, 2022 start of the term of all elected officials in the 2022 National and Local Elections, which would have included Guanzon, pursuant to Article VI, Section 7[15] of the Constitution.

Guanzon's camp has raised an issue regarding the legal effect of the TRO—specifically, whether, considering its language, the same had effectively prevented the constitutional effect of the arrival of June 30, 2022, or Guanzon's assumption of office. The TRO reads:

ISSUE a TEMPORARY RESTRAINING ORDER, effective immediately and continuing until further orders from this Court, enjoining (i) respondent [COMELEC] from implementing its assailed resolution approving the substitution of the original nominees of P3PWD Party-List with five (5) new nominees led by former COMELEC Commissioner, Rowena Amelia V. Guanzon, and issuing a Certificate of Proclamation to the substituting nominees and (ii) respondent House of Representatives from allowing Guanzon and the other substituting nominees to assume office as Member of the House of Representatives during the pendency of this case[.][16] (Emphasis in the original)

On this specific issue, I agree with the ponencia's finding that the TRO indeed worked to stop Guanzon's assumption to office despite the passage of June 30, 2022. Based on its language, the TRO is a directive to COMELEC preventing it from executing the First Assailed Resolution, which granted the substitution of P3PWD's original nominees; and an instruction to HoR from allowing Guanzon and the other nominees from assuming office. Manifest is the Court's intention to restrain Guanzon's assumption to the office of a Member of the HoR. This is unequivocal; and while Guanzon may nitpick on the language of the TRO—particularly, the absence of an instruction to Guanzon, specifically, not to assume office, or to mention that she be considered exempted from the June 30, 2022 start of the term under the Constitution—she cannot reasonably deny that the ultimate objective of the Court in issuing the TRO was to stay her assumption to office pending the resolution of the case.

Thus, Guanzon did not become a Member of the HoR. The first tier in the two-tiered test is not satisfied.

In any case, the second tier—that the nature or subject matter of the case should be that it is a contest involving the election, returns, or qualifications of a Member of the HoR, is also not satisfied. The nature of the Substitution Petition is nowhere near what is required in the second tier of the test to determine HRET's jurisdiction, the case being one only concerning the withdrawal of nominations of P3PWD, and the submission of the list of the substitute nominees beyond the deadline set by COMELEC. Simply put, the case is not a "contest involving the election, returns and qualifications of a Member of the [HoR]" (even on the assumption that Guanzon assumed office as such Member).

In *Javier v. COMELEC*,^[17] the Court had the occasion to dissect the nature of a case that falls under the HRET's jurisdiction. Specifically, Javier defined the phrase "elections, returns, and qualifications," to wit:

The phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title. But if it is necessary to specify, we can say that "election" referred to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of the votes; "returns" to the canvass of the returns and the proclamation of the winners, including questions concerning the composition of the board of canvassers and the authenticity of the election returns; and "qualifications" to matters that could be raised in a quo warranto proceeding against the proclaimed winner, such as his disloyalty or ineligibility or the inadequacy of his certificate of candidacy.^[18] (Emphasis supplied)

Applying *Javier* to the instant case, it cannot be said that there is an issue as to the election or returns of respondents here. Perhaps, what can be more controversial is the question of whether the case involves the "qualifications" of a Member of the HoR. It does not.

The qualifications and eligibilities of a Member of the HoR are laid down in Article VI, Section 6 of the 1987 Constitution, Sections 12 and 68 of the Omnibus Election Code,[19] Section 40 of the Local Government Code of 1991,[20] and for party-list nominees, Section 9 of Republic Act No. 7941. None of these qualifications and eligibilities are at issue in the present case. Likewise, to state the obvious, these qualifications and eligibilities clearly cannot pertain to the party-list as they can only attach to persons.

Indeed, in the case of party-lists, although they are the ones which voters vote for during the elections, they do not become "Members" of the HoR once elected; rather, it is their nominees who assume office as such Members and who must observe the qualifications of the office under Article VI, Section 6 of the 1987 Constitution. This is the Court's ruling in *ABC (Alliance for Barangay Concerns) Party List v. COMELEC*.^[21] This distinction is important in determining which between HRET and COMELEC has jurisdiction over a case affecting a party-list who has a nominee sitting as an incumbent representative in the HoR. As it is the nominee—and not the party-list—who is the Member of the HoR, then the HRET's jurisdiction is limited only to cases involving the election, returns, and qualifications of the sitting nominee, and not those of the party-list.

That the subject-matter of the present case is the validity of the substitution of P3PWD's nominees and that the same falls under the jurisdiction of COMELEC, and that, finally, the same cannot fall under the jurisdiction of HRET—all these are matters expressly admitted by Atty. Christian Robert S. Lim, counsel for respondents P3PWD and Guanzon:

ASSOCIATE JUSTICE CAGUIOA:

Okay. According to Section 17, Article 6 of the Constitution, HRET is the sole judge of all contests relating to the election[,] returns[,] and qualifications of their respective members. You just mentioned earlier that Atty. Guanzon has all the eligibility requirements, and she has not been disqualified.

ATTY. LIM:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

What is involved here is not election or returns, correct?

ATTY. LIM:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

What is involved here as ASG mentioned is the validity of the substitution, correct?

ATTY. LIM:

In light of the COMELEC deadline.

ASSOCIATE JUSTICE CAGUIOA:

In light of the COMELEC deadline.

ATTY. LIM:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

Is that an issue that the HRET should address?

ATTY. LIM:

No, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

It should be this Court?

ATTY. LIM:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

Therefore, do I understand you correctly that in fact to determine who has jurisdiction, there are four requirements, proclamation.

ATTY. LIM:

Valid proclamation.

ASSOCIATE JUSTICE CAGUIOA:

Oath, assumption of office[,] and the nature of the controversy?

ATTY. LIM:

Yes, Your Honor.

ASSOCIATE JUSTICE CAGUIOA:

And if the nature of the controversy is one that does not fall in, and I quote, "Election contest relating [to] election[,] returns[,] and qualification[s]", then it should not be with the HRET?

ATTY. LIM:

Yes, Your Honor.[22] (Emphasis supplied)

In sum, not only is jurisdiction properly retained by COMELEC for failure of Guanzon to assume office pursuant to the Court's TRO, but also because the nature of the case involves a subject matter cognizable solely by COMELEC.

The issue involves a quasi-judicial matter which should have first been heard and tried before the COMELEC Division

The ponencia rules that all three assailed resolutions issued by COMELEC were purely administrative matters. It ratiocinates that the substitution of P3PWD's nominees merely called for the enforcement of election laws and rules,[23] and that in resolving the same, COMELEC did not exercise discretionary authority, or adjudicatory power to hear and resolve the controversy.[24] This is because, per the ponencia, when COMELEC ruled on DUTERTE Youth's Opposition, no legal controversy arose because there was "no need to determine which between [DUTERTE] Youth and P3PWD was entitled to a seat"[25] in the HoR or any conflict of rights between these two party-lists.[26] Thus, the ponencia concluded that the filing of an opposition alone will not convert the issuance of the resolution into a quasi-judicial function.

I disagree. What comprises a legal controversy—and therefore what makes a matter quasi-judicial in nature—is far broader than the question of who between the parties is entitled to a seat in Congress.

Here, while the issuance of the first two assailed resolutions—the ones which merely granted the withdrawal of the nominees of P3PWD (without any opposition filed against such withdrawal) and that which noted P3PWD's manifestation regarding the publication of its new set of substitute nominees, respectively—involved merely the administrative powers of COMELEC, the issuance of the Third Assailed Resolution denying DUTERTE Youth's Opposition involved an exercise of the COMELEC's quasi-judicial powers, i.e., its power to resolve controversies arising from the enforcement of election laws. The Court expounded on this in *Villanueva v. Palawan Council for Sustainable Development*,[27] thus:

A government agency performs adjudicatory functions when it renders decisions or awards that determine the

rights of adversarial parties, which decisions or awards have the same effect as a judgment of the court. ... "[J]udicial or quasi-judicial function involves the determination of what the law is, and what the legal rights of the contending parties are, with respect to the matter in controversy and, on the basis thereof and the facts obtaining, the adjudication of their respective rights. In other words, the tribunal, board or officer exercising judicial or quasi-judicial function must be clothed with power and authority to pass judgment or render a decision on the controversy construing and applying the laws to that end." [28] (Emphasis supplied)

Here, DUTERTE Youth's Opposition filed before COMELEC raised a contrariety of rights, namely: the public interest of ensuring that election laws and regulations are faithfully executed, on the one hand, versus the assailed resolutions of COMELEC which allegedly violated said right when they allowed the substitution of P3PWD's nominees beyond the deadlines set by COMELEC itself, as well as P3PWD's claimed right to be allowed such substitution, on the other hand.

To recall, COMELEC set deadlines relating to substitution of nominees in COMELEC Resolution No. 10690, [29] when it provided that the "[w]ithdrawal of nominations and substitution of nominees ... shall be ... filed with the Law Department not later than NOVEMBER 15, 2021." [30] DUTERTE Youth, relying on the clear and express tenor of COMELEC Resolution No. 10690 as well as on alleged violations of Republic Act No. 3019 [31] and Republic Act No. 6713, [32] filed the Opposition to implore COMELEC to deny P3PWD's substitution of nominees. The Opposition, however, is not merely a call to enforce election laws and rules—it necessarily clashes with P3PWD's invoked right to substitute nominees under Republic Act No. 7941, and ultimately, its right to field representatives in Congress as a winning party list. It bears noting that during the Oral Arguments, DUTERTE Youth's position is that considering the mandatory deadlines in COMELEC Resolution No. 10690, P3PWD is absolutely precluded from submitting a list of substitute nominees, i.e., the effect of the initial nominees' withdrawal is forfeiture of P3PWD's seat in Congress. [33]

Clearly, the issues raised in the Opposition call for a determination of what the applicable law is and the contending parties' legal rights with respect to the matter in controversy, i.e., a party-list's right to field additional nominees post-elections vis-à-vis the general interest that prevailing laws and regulations are enforced according to their letter. Putting these contending views side-by-side reveals the end goal of adjudicating on these respective rights.

The ponencia, however, submits that a general interest cannot be the source of a conflict of rights. [34] This, however, is belied by the very language of the COMELEC Rules of Procedure, which explicitly recognizes that common or general interests may be the subject of an action brought before COMELEC:

PART III

INITIATION OF ACTIONS OR PROCEEDINGS BEFORE THE COMMISSION

Rule 5.—Parties to Actions or Proceedings

....

Sec. 5. Class Suit.—When the subject matter of the controversy is one of common or general interest to many persons, and the parties are so numerous that it is impracticable to bring them all before the Commission, one or more may sue or defend for the benefit of all. ... (Emphasis supplied)

While, indeed, there is no specific remedy in the COMELEC Rules of Procedure under which DUTERTE Youth's Opposition squarely falls, what is clear is that DUTERTE Youth filed an action asserting the public right to the faithful execution of laws, and the same allegedly runs counter to P3PWD's right to representation in Congress.

Further, as astutely observed by Associate Justice Mario V. Lopez in his Concurring and Dissenting Opinion, DUTERTE Youth's Opposition called for a reconciliation of an apparent conflict among Sections 8 and 16 of Republic Act No. 7941, the COMELEC resolutions implementing the law, and jurisprudence on the people's right to information with respect to party-list nominees.[35] Indeed, the Court has repeatedly ruled that when a case involves "the ascertainment of what laws are applicable to the dispute, the interpretation and application of those laws, and the rendering of a judgment based thereon,"[36] the dispute is "essentially judicial." [37]

The Opposition of DUTERTE Youth having raised a controversy requiring the COMELEC's exercise of its quasi-judicial powers, it should have first decided the matter through one of its divisions, pursuant to the clear mandate of Article IX-C, Section 3 of the Constitution, which provides:

Sec. 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc.

In a long line of jurisprudence, the Court has settled that "election cases" in Section 3 above refers only to quasi-judicial cases, as opposed to administrative matters which the COMELEC en banc can take cognizance of at the first instance.[38]

COMELEC, in failing to first refer the matter to its division, effectively resolved the Opposition without observing the basic tenets of due process. In *Aggabao v. COMELEC*, [39] the Court ruled that even in the absence of an express provision in the COMELEC's rules of procedure allowing for the referral of cases from the en banc to a division, the adherence to the due process requisites of notice and hearing—which it is mandated to observe when it is exercising its quasi-judicial powers—requires it to nevertheless make such referral so that the division can conduct the necessary hearing and decide on the case accordingly, thus:

Again, as correctly pointed out by Justice Caguioa, the COMELEC En Banc had, in several instances, referred matters to its Divisions for hearing. The COMELEC, therefore, should have similarly referred the administrative matter in this case to a Division and docketed the same as an election case, heard the parties thereon, and thereafter resolved the material issue as to who between Ayson and Navarro, and subsequently Aggabao was the real mayoralty candidate of Partido Reporma. That the COMELEC rules may be silent on how these conflicting CONAS and the disavowals of the concerned political party may be resolved did not justify its inaction. All it needed to do was adhere to the due process requisites of notice and hearing attendant to every adjudication it does in the exercise of its quasi-judicial functions. In *Engle v. COMELEC*, we held that in the exercise of its quasi-judicial functions, the COMELEC is mandated to hear and decide cases first by Division and, on motion for reconsideration, by the COMELEC En Banc. The Court further stressed that the opinion of the COMELEC Law Department is not binding and at most, is merely recommendatory. The COMELEC En Banc cannot short cut proceedings by acting without prior action by a Division because this deprives the candidate of due process.[40] (Emphasis supplied)

Nonetheless, considering that the instant petition deals with pure questions of law, there is no longer any need to remand the same to the COMELEC Division. This is especially true due to the urgency and transcendental importance of the matter at issue with its substantial impact to the upcoming party-list elections in 2025.[41]

The voting requirement for quasi-judicial matters before COMELEC is a majority vote of all incumbent members

The ponencia refuses to pass upon the meaning of the phrase "majority vote of all its Members" in Article IX-A, Section 7 of the Constitution, which provides for the voting requirement for COMELEC to decide quasi-judicial cases, thus:

SECTION 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof. (Emphasis supplied)

Per the ponente, as the matter before COMELEC was administrative in nature, and not quasi-judicial, Section 7's mandate is not applicable.[42]

I differ.

As discussed, the issuance of the Third Assailed Resolution was done in the exercise of the COMELEC's quasi-judicial powers. As such, Section 7 is very much applicable, and it is incumbent upon the Court to decide whether the same was observed in the COMELEC's decision. This is put in issue because the Third Assailed Resolution was signed only by three commissioners when the COMELEC en banc has seven seats. In other words, the question is whether the three signatures constitute a "majority vote of all its Members" as required in the Constitution.

On the issue of what constitutes "majority vote of all [of the COMELEC's] Members," *Dumayas, Jr. v. COMELEC*[43] is instructive. There, the Court rejected the attempt to nullify a COMELEC resolution that was issued with a vote of only 3 to 1 for not being able to meet the constitutional threshold because "majority of all its Members" was being suggested to mean majority of all seven seats reserved for Members in all cases. The Court rejected such theory and ruled that the basis of the majority should be the incumbent Members when the case was decided. Thus, the Court ruled:

In the present case, with the cancellation of the votes of retired Commissioners Gorospe and Guiani, the remaining votes among the four incumbent commissioners at the time of the resolution's promulgation would still be 3 to 1 in favor of respondent. Noteworthy, these remaining Commissioners still constituted a quorum. In our view, the defect cited by petitioner does not affect the substance or validity of respondent Commission's disposition of the controversy. The nullification of the challenged resolution, in our view, would merely prolong the proceedings unnecessarily.[44] (Emphasis supplied)

Similar to *Dumayas*, in the present case, as confirmed by COMELEC through the Office of the Solicitor General, COMELEC only had four sitting Members when the Third Assailed Resolution was issued. Thus, pursuant to *Dumayas*, these four incumbent Members should be the basis of the majority requirement, and not the seven seats reserved for a fully-occupied COMELEC en banc. The three commissioners who voted for the subject resolution's passage was therefore enough to meet the constitutional standard.[45]

The crux of the issue really is, does the word "Members" in the constitutional provision's required voting in quasi-judicial cases of "Majority of all its Members" refer to the seats in COMELEC or the persons who are, at any given time, actually occupying those seats? Put more simply, are the "Members" the seats or the persons occupying those seats?

Basic logic dictates that "Members" herein can only pertain to natural persons. Needless to say, legal abstracts as "seats" cannot actually cast votes nor even meet the qualifications or avoid the disqualifications or the limitations to the Members' powers which are all provided in Article IX-A of the Constitution.

It was ultra vires for COMELEC to set deadlines for substitution of party-list nominees

It is the duty of the Court to apply the law as it is worded.[46] This is the plain meaning rule, as expressed in the

maxim verba legis non est recedendum, or from the words of a statute there should be no departure.[47] As elucidated in *Victoria v. COMELEC*:^[48]

Under the principles of statutory construction, if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This plain-meaning rule or verba legis derived from the maxim, *index animi sermo est* (speech is the index of intention) rests on the valid presumption that the words employed by the legislature in a statute correctly express its intent or will and preclude the court from construing it differently. The legislature is presumed to know the meaning of the words, to have used words advisedly, and to have expressed its intent by the use of such words as are found in the statute. ...^[49]

Here, a plain reading of Section 8 of Republic Act No. 7941 reveals that while it sets a deadline for the submission of the list of nominees of party-lists—not later than 45 days before the election—there is no such deadline in the exceptional cases of death, withdrawal in writing, or incapacity of a nominee wherein a change of names is allowed in the list submitted. Equally absent is any authority given to COMELEC to set such a deadline:

Section 8. Nomination of Party-List Representatives. Each registered party, organization or coalition shall submit to the COMELEC not later than forty-five (45) days before the election a list of names, not less than five (5), from which party-list representatives shall be chosen in case it obtains the required number of votes.

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate for any elective office or a person who has lost his bid for an elective office in the immediately preceding election. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned. (Emphasis supplied)

Despite the foregoing, COMELEC Resolution No. 9366, as amended by COMELEC Resolution No. 10690, imposes two distinct deadlines for substitution of party-list nominees on account of: (i) withdrawal in writing, i.e., November 15, 2021;^[50] and (ii) death or incapacity, i.e., mid-day of the day of the election.^[51]

As observed by the ponencia, even COMELEC itself admitted to altering the language of Republic Act No. 7941, viz.: "its own Resolution No. 9366 modifies Sections 8 and 16 of [Republic Act No. 7941] by adding restrictions on when a party-list can substitute its nominees after its deadline, thus overriding substantive law."^[52]

Notably, the ponencia acknowledges the case of *Federico v. COMELEC*,^[53] which upheld the COMELEC's imposition of deadlines for the filing of the Certificates of Candidacy (CoCs) for the 2010 National and Local Elections, including those of substitute candidates, to facilitate the conduct of the first National and Local Elections using an Automated Election System (AES).^[54] In *Federico*, the Court upheld the COMELEC's power to impose substitution deadlines, heavily relying on another statute—Republic Act No. 9369^[55] or the Election Automation Law of 2007—which mandates COMELEC to set deadlines for the filing of CoCs, petitions for registration and manifestations to participate in the election, for the purpose of prescribing the format of the electronic display and/or the size and form of the official ballot.^[56]

Unfortunately, *Federico* and Section 13 of Republic Act No. 9369 do not apply in the present case because the express purpose for which COMELEC was given the authority to set election deadlines—to facilitate the fixing of the ballot's final format or "face" for purposes of printing of such ballots—does not obtain in the case of substitutions in the nominees of party-lists.

To recall, in *Federico*, Renato M. Federico (Federico) was a substitute mayoralty candidate whose proclamation was annulled on account of his invalid substitution of the original mayoralty candidate. In particular, Federico's substitute CoC and Certificate of Nomination and Acceptance (CONA) from his political party were filed on May 5, 2010 or beyond the December 14, 2009 deadline imposed by COMELEC. Federico, on petition for certiorari before the Court, argued that a COMELEC resolution cannot prevail over Section 77 of the Omnibus Election Code which allows for substitution until mid-day of election day. The Court rejected Federico's position and held that COMELEC is empowered by law to prescribe such deadlines "so as to make efficacious and successful the conduct of the first national automated election." [57] As mentioned, the Court relied on Section 13 of Republic Act No. 9369 which expressly granted COMELEC the power to "set the deadline for the filing of certificate of candidacy/petition of registration/manifestation to participate in the election," thus:

Under [Section 13 of R.A. No. 9369], "the [COMELEC], which has the constitutional mandate to enforce and administer all laws and regulations relative to the conduct of an election," has been empowered to set the dates for certain pre-election proceedings. In the exercise of such constitutional and legislated power, especially to safeguard and improve on the [AES], [COMELEC] came out with Resolution No. 8678.

As automated elections had been mandated by law, there was a need for the early printing of the ballots. So that all candidates would be accommodated in the ballots, the early filing of COCs was necessary. If there would be late filing and approval of COCs, the names of aspiring candidates would not be included in the ballot, the only document to be read by the Precinct Count Optical Scan (PCOS) machines. [58] (Citations omitted; emphasis supplied)

Section 13 of Republic Act No. 9369 provides for an amended Section 11, now Section 15, of Republic Act No. 8436. The amended provision now reads:

SEC. 15. Official Ballot. - The Commission shall prescribe the format of the electronic display and/or the size and form of the official ballot, which shall contain the titles of the position to be filled and/or the proposition to be voted upon in an initiative, referendum or plebiscite. Where practicable, electronic displays must be constructed to present the names of all candidates for the same position in the same page or screen, otherwise, the electronic displays must be constructed to present the entire ballot to the voter, in a series of sequential pages, and to ensure that the voter sees all of the ballot options on all pages before completing his or her vote and to allow the voter to review and change all ballot choices prior to completing and casting his or her ballot. Under each position to be filled, the names of candidates shall be arranged alphabetically by surname and uniformly indicated using the same type size. The maiden or married name shall be listed in the official ballot, as preferred by the female candidate. Under each proposition to be vote upon, the choices should be uniformly indicated using the same font and size.

A fixed space where the chairman of the board of election inspector shall affix his/her signature to authenticate the official ballot shall be provided.

For this purpose, the Commission shall set the deadline for the filing of certificate of candidacy/petition of registration/manifestation to participate in the election. ...

....

With respect to a paper-based election system, the official ballots shall be printed[.]

....

The official ballots shall be printed and distributed to each city/municipality at the rate of one ballot for every registered voter with a provision of additional three ballots per precinct. (Emphasis supplied)

Thus, as held in *Federico*, the law categorically declares the limited purpose for which the power of COMELEC

to set the deadlines therein stated is granted—to facilitate the duties of COMELEC laid down in Section 13 of Republic Act No. 9369 with respect to finalizing the ballot's face for printing towards ensuring that all candidates are included in the printed ballots.

This begs the question—what matters are included in the ballot so that non-submission thereof will prevent the finalization of the ballot's face and the printing of the final paper ballots?

Based on Section 13 above, the matters required to be included on the face of the ballot, both on the electronic display and the printed ballot, are: (1) the titles of the positions to be filled up; (2) the names of the candidates; and (3) a fixed space for the signature of the Chairperson of the Board of Election Inspectors. Thus, these information need to be submitted to COMELEC before it can finalize the format or face of the ballot before printing. For this purpose, COMELEC not only has the power but the duty to set deadlines to acquire such information. Specifically for the purpose of ensuring that item "(2)" above are included in the final print out of the ballots, COMELEC must set deadlines for the submission of such names of candidates.

On this note, it is well to emphasize that in the case of individual candidates, regardless if he or she belongs to a political party or group, their names are submitted to COMELEC in the form of a CoC. However, for juridical persons who are candidates in the elections, i.e., party-list groups and organizations, the manner in which they submit their names is via a petition for registration and/or manifestation of intent to participate in the party-list system of elections.

This is why Section 13 authorizes COMELEC to set deadlines specifically on the filing of CoCs, petitions to register, and manifestations of intent to participate.

None of these documents are involved in the case of substitute nominees of party-list groups. To stress, what individual nominees of party-list groups file with COMELEC are not CONAs.[59] For substitute nominees, the submission of their CONAs presupposes that the party-list group or organization had already previously filed with COMELEC a petition for registration and/or manifestation of intent to participate.[60]

Indeed, there is no point in setting deadlines for the submission of the names of nominees of party-lists because they are not required to be, nor are they actually, included in the electronic ballot face nor the final printed and official ballots. Only the names of the party-lists which nominated them appear on the ballots. Again, this is exactly why COMELEC is empowered to set deadlines only for the filing of CoCs, petitions for registration and/or manifestations of intent to participate in the elections. These are the documents that COMELEC needs to be able to complete the requirements of Section 13 on the matters that must be reflected in the official ballots. While the ponencia does not rely on Federico to uphold the deadlines on party-list nominee substitution, the above scrutiny of Federico and Republic Act No. 9369 reveals the operational distinctions between casting votes for individual candidates and party-lists, and highlights why Congress excludes CONAs from those documents which COMELEC can set deadlines for filing.

To stress, as opposed to other election candidates, including political party candidates, the names of the nominees of party-list groups are not printed in the official ballots. Rather, only the name of the party-list which nominated them appears therein. The portion of the official ballots for the election of party-list organizations, even those conducted using an AES, does not require the names of the party-list nominees. The reason behind this is that the electorate votes for a party-list group. This much is clear in the very language of Republic Act No. 7941:

Section 10. Manner of Voting. Every voter shall be entitled to two (2) votes: the first is a vote for candidate for member of the House of Representatives in his legislative district, and the second, a vote for the party, organizations, or coalition he wants represented in the [H]ouse of Representatives[.] (Emphasis supplied)

This distinction between representatives of legislative districts and party-list representatives is given emphasis in the congressional deliberations of Republic Act No. 7941 by its primary author, Atty. Michael O. Mastura:

[REP.] MASTURA: ...

In the case of the constituency representatives, they are individuals, they are persons who stand and who run for a seat and who are voted upon. But let me repeat, under the party-list system, only the party will be voted by the individual voter. That is the real distinctive feature.[61] (Emphasis supplied)

All told, the purpose for which COMELEC can set deadlines—to facilitate the printing of the ballots—does not obtain in the case of party-list substitutions of nominees. Moreover, the documents the submission of which COMELEC can set deadlines for—CoCs, petitions for registrations and/or manifestations of intent to participate in the elections—are not required to be submitted in the case of such substitutions. This leads to no other conclusion than that the deadlines set by COMELEC for party-lists to substitute its nominees in case any of them dies, withdraws in writing, or becomes incapacitated, are ultra vires and thus, void.

Indeed, the legislative intent seems to be that no deadlines should be imposed on party-lists to field their nominees via substitution in the instances that such substitution is allowed.

This is evident from a scrutiny of the counterpart provision of Section 8 of Republic Act No. 7941 in the Omnibus Election Code with respect to substitution of political party candidates. Section 77 of the Omnibus Election Code, in stark contrast to Section 8 of Republic Act No. 7941, expressly provides that in the event of the substitution of an official candidate of a registered or accredited political party on account of death, withdrawal, or disqualification, the substitute candidate's CoC must be filed by mid-day of the election day, viz.:

Sec. 77. Candidates in case of death, disqualification or withdrawal of another.—If after the last day for the filing of certificates of candidacy, an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, only a person belonging to, and certified by, the same political party may file a certificate of candidacy to replace the candidate who died, withdrew or was disqualified. The substitute candidate nominated by the political party concerned may file his certificate of candidacy for the office affected in accordance with the preceding sections not later than mid-day of the day of the election. If the death, withdrawal or disqualification should occur between the day before the election and mid-day of election day, said certificate may be filed with any board of election inspectors in the political subdivision where he is a candidate, or, in the case of candidates to be voted for by the entire electorate of the country, with the Commission. (Emphasis supplied)

To repeat, there is no such deadline set in the party-list law for substitution of party-list nominees.

Moreover, reading Section 8 in harmony with Section 16 of Republic Act No. 7941 on filling of vacancies reveals the legislative intent to ensure that elected party-lists will always have nominees to occupy their allotted seats in Congress, and corollary thereto, put forward additional nominees in case of withdrawal, death, or incapacity at any time even after the list has been submitted to COMELEC. To recall, Section 16 of Republic Act No. 7941 reads:

Section 16. Vacancy. In case of vacancy in the seats reserved for party-list representatives, the vacancy shall be automatically filled by the next representative from the list of nominees in the order submitted to the COMELEC by the same party, organization, or coalition, who shall serve for the unexpired term. If the list is exhausted, the party, organization, or coalition concerned shall submit additional nominees. (Emphasis supplied)

As aptly observed in the ponencia, a denial of P3PWD's substitution of nominees does not leave the party-list without recourse as Section 16 mandates the submission of additional nominees upon exhaustion of the list of

nominees during the term of a party-list representative.[62]

However, the ponencia makes a peculiar distinction as to the effect of Sections 8 and 16.

I agree with the ponencia's interpretation that Section 8 applies to changes in the names of nominees before a party-list has secured a seat in Congress while Section 16 applies to submission of additional nominees to fill a "vacancy" in a party-list seat or starting noon of June 30—the start of the term of the elected representatives.[63] However, I disagree that the determination of whether a situation is covered under Section 8 or 16 would effectively alter the right of a party-list to field nominees, in that: (i) if the case is under Section 8, COMELEC deadlines shall apply and no changes in the list of nominees is allowed from such deadline until noon of June 30; and (ii) from noon of June 30, Section 16 will apply and additional nominees may already be submitted upon exhaustion of the list.[64]

To my mind, Sections 8 and 16 cannot be interpreted in isolation of each other. Creating such a distinction between Sections 8 and 16 leads only to a strange void—that between the deadline set by COMELEC for substitution of party-list nominees and noon of June 30, a party-list is without recourse in the event that any, or all of its nominees become indisposed to represent the party-list. This obscure timeframe—where the very exercise of the party-list's representation is temporarily suspended—does not find any basis in logic or law.

In fact, a review of the congressional deliberations on Republic Act No. 7941 enlightens as to how the provisions which allow for the submission of additional nominees were introduced in the law. Representatives Alfredo Amor Abueg, Jr. and Edcel Lagman discussed the issue of whether exceptional circumstances should warrant a change in the name of the nominees submitted to COMELEC:

MR. LAGMAN. And again on Section 5, on the nomination of party-list representatives, I don't see any provision here which prohibits or for that matter allows the nominating party to change the nominees or to alter the order of prioritization of names of nominees. Is the implication correct that at any time after submission the names could still be changed or the order of listing altered, Your Honor?

MR. ABUEG. That is a good issue, Mr. Speaker, brought out by the distinguished Gentleman from Albay and perhaps a perfecting amendment may be introduced therein and the sponsoring committee will gladly consider the same.

MR. LAGMAN. In other words, what I would like to see, Your Honor, is that after the list is submitted to the COMELEC officially, no more changes should be made, not in the names, not in the order of listing.

MR. ABUEG. Well, if Your Honor please, there may be a situation wherein which the name of a particular nominee has been submitted to the Commission on Elections but before election day the nominee changed his political party affiliation and then the nominee is therefore no longer qualified to be included in the party list and the political party has a perfect right to change the name of that nominee who have [sic] changed his political party affiliation.

MR. LAGMAN. Yes of course. In that particular case, the change can be effected but that will be the exception rather than the rule. Another exception most probably is if the nominee listed dies, then there has to be a change but any change for that matter should always be at the last part of the list so that the prioritization made by the party will not be adversely affected.

MR. ABUEG. Your Honor, the sponsoring committee will gladly consider the suggestion.[65] (Emphasis supplied)

From the foregoing, it is clear that Congress acknowledged specific instances where a party-list has "the perfect right to change the name of the nominee." [66] While Congress initially proposed that the names of the nominees

shall be fixed, it admitted that exceptional circumstances may impair the capacity of a party-list to have a full list of representatives through no fault of its own—thus, the inclusion of the exceptions and procedures embodied in Sections 8 and 16.

Clearly, the intent of the legislature is for a party-list to always have nominees who will be able to represent it. Such intent is but an affirmation of the policy behind the party-list system of representation—to enable marginalized and under-represented sectors, organizations, and parties to contribute to the formulation and enactment of legislation as members of the HoR.[67] Indeed this policy is defeated if a party-list—a juridical entity who can only act through its representatives—is barred for even a specific window of time from designating natural persons to act on its behalf.

Moreover, this underscores the very distinction between the party-list and the district system of representation, in that in the former, it is the interest, cause or advocacy that is being represented while in the latter, it is the constituents of the area which comprise the district. In much the same way that a district cannot be deprived of a representative—which is why the law mandates the replacement of district representatives who fail in representing the district, i.e., fill up vacant seats in district representative offices via special elections,[68] the death, incapacity or withdrawal of a party-list representative should allow for a mode of filling the vacant seat left because otherwise, the interest, cause, or advocacy being advanced by the party-list is defeated. The mode to fill-up such vacant party-list seat is through substitution of the nominee who departed.

Instead of interpreting Sections 8 and 16 as creating a window where the party-list's right to field a nominee which can articulate the interest that the party-list represents, it is my considered submission that the distinction between these two provisions is as to the causes by which substitution is permissible.

As stated in *Lokin, Jr. v. COMELEC*,[69] Section 8 provides for three exclusive grounds when a party-list may be allowed to substitute its nominees, i.e., when a nominee: (a) dies; (b) withdraws in writing his or her nomination; or (c) becomes incapacitated.

Meanwhile, and as observed in the ponencia, the HoR Rules defines when there is considered a vacancy in a congressional seat, allowing for the operation of Section 16, i.e., when a Member: (a) dies; (b) resigns; (c) is permanently incapacitated; (d) is lawfully barred from performing the duties of a Member; or (e) is lawfully removed from office.[70]

Additionally, under Section 8, each instance of death, incapacity, or nominee withdrawal allows for the assignment of a substitute nominee who shall be placed last in the list. Meanwhile, under Section 16, the submission of additional nominees is permitted only upon the exhaustion of the list of nominees submitted to COMELEC.

With these substantial distinctions apparent in the language of Republic Act No. 7941, I submit that rather than formulating a few days when a party-list is completely constrained from substituting its nominees, the importance of determining whether Section 8 or 16 applies should only be to identify the applicable grounds and the procedure through which a party-list may exercise its right to substitute, as expressly granted under these two provisions of Republic Act No. 7941.

Having discussed that under both the principles of *verba legis* and *ratio legis*, there is neither instruction nor intent for COMELEC to set deadlines for the withdrawal and substitution of nominees, I staunchly submit that it was *ultra vires* for it to impose such deadlines and effectively curb the remedies afforded party-lists under Republic Act No. 7941. In promulgating Sections 6 and 7 of COMELEC Resolution No. 10690, COMELEC contradicted the law it seeks to implement, Republic Act No. 7941, which allows substitution at any time, provided the

procedures set forth in the law are observed.

In *Atty. Calleja v. Executive Secretary Medialdea*,^[71] the Court reiterated that the COMELEC's rule-making power is neither warrant nor cause for COMELEC to issue rules and regulations beyond the law it ought to implement:

The COMELEC, despite its role as the implementing arm of the Government in the enforcement and administration of all laws and regulations relative to the conduct of an election, has neither the authority nor the license to expand, extend, or add anything to the law it seeks to implement thereby. The IRRs the COMELEC issues for that purpose should always accord with the law to be implemented, and should not override, supplant, or modify the law. It is basic that the IRRs should remain consistent with the law they intend to carry out.

Indeed, administrative IRRs adopted by a particular department of the Government under legislative authority must be in harmony with the provisions of the law, and should be for the sole purpose of carrying the law's general provisions into effect. The law itself cannot be expanded by such IRRs, because an administrative agency cannot amend an act of Congress.^[72] (Emphasis supplied)

In the present case, the act of disallowing substitution due to withdrawal after November 15, 2022 and allowing substitution on account of death or incapacity only until mid-day of election day runs afoul of the clear language and intent of Republic Act No. 7941 and therefore, must be considered void.

Submission of additional party-list nominees does not impair the electorate's right to information on matters of public concern

The COMELEC's quasi-legislative powers cannot contradict the law that it seeks to implement even if the same is in the guise of protecting a supposed voter's right.

Indeed, in several cases, as cited in the ponencia, the Court has stated that the publication of the list of the party-list nominees serves the right of the people to information on matters of public concern: it enables the electorate to make intelligent and informed choices.^[73] Following this premise, the ponencia deems that the timing of the substitution is likewise a substantive requirement as it affects the publication of the list of nominees prior to the elections.^[74]

However, against the backdrop of the unequivocal text of Republic Act No. 7941, the records reflecting the legislative intent on the matter of substitution, and the election procedure with respect to party-lists which all point to allowing party-lists to submit additional nominees at any time for specific grounds, I respectfully object to, and accordingly disagree with the interpretation of the publication requirement of party-list nominees vis-à-vis the constitutional right of the people to information on matters of public concern.

It is my position that the "matter of public concern" in the case of publishing nominees' names does not pertain to facilitating the people's free and intelligent casting of votes for a party-list, but rather, enabling the electorate to challenge the qualifications and eligibility of individuals who may occupy a seat in Congress under the party-list system.

For one, the contention that COMELEC is justified in setting a deadline for the substitution of party-list nominees because of the electorate's right to know who they are casting their votes for before the election day is belied by the clear language of Section 16 of Republic Act No. 7941 which allows the submission of a list of new nominees in the event that the original list is exhausted during the term where a party-list has won seat/s in Congress. To recall, the provision reads:

Section 16. Vacancy. In case of vacancy in the seats reserved for party-list representatives, the vacancy shall be

automatically filled by the next representative from the list of nominees in the order submitted to the COMELEC ... who shall serve for the unexpired term. If the list is exhausted, the party, organization coalition concerned shall submit additional nominees.

As discussed in the ponencia, Section 16's reference to a "vacancy" and "unexpired term" demonstrates that the provision refers to a situation where a seat legally exists and the term of the representative has already begun, i.e., after the elections.[75] Obviously, then, whenever Section 16 is put into operation, the new nominees in the list would not have been known by the voters when they cast their votes—and yet, the law allows the submission of such additional nominees.

For another, and as discussed above, it is the party-list who is voted for and appears in the official ballots. That only a party-list's name appears in the ballot is not a mere procedural matter. Rather, it is the embodiment of the key policy behind the party-list system—that groups representing the marginalized and under-represented sectors, and those who lack well-defined political constituencies, be empowered to compete for and win seats in the legislature.[76]

It is not even the party-lists groups per se that are sought to be accorded agency by our party-list system of representation. As mentioned, it is the causes embodied by each of these groups that are what the Constitution protects and advances. Both the party-list and its nominees are merely vessels through which specific needs and interests of the marginalized and under-represented sectors of our nation are sought to be championed in Congress. This principle is astutely summarized by former Senior Associate Justice Estela M. Perlas-Bernabe in her Concurring Opinion in *ANGKLA v. COMELEC*,[77] citing the constitutional deliberations on the inclusion of the party-list system provisions:

Being based on "functional" rather than "territorial" representation, a party-list election is, at its core, "cause-centric" and not "person-centric" as in a traditional election. Although a party, being a juridical entity, can only conduct its business through natural persons (called nominees), in a party-list election, people actually vote for a particular cause, which is then advocated by the party-list through its nominee in Congress. The "cause-centric" nature of a party-list election is amply reflected in the constitutional deliberations as follows:

MR. MONSOD: What the voters will vote on is the party, whether it is UNIDO, Christian Democrats, BAYAN, KMU or Federation of Free Farmers, not the individuals. When these parties register with the COMELEC, they would simultaneously submit a list of the people who would sit in case they win the required number of votes in the order in which they place them. ...

But as far as the voters are concerned, they would be voting for party list or organizations, not for individuals.

....

MR. TADEO: Para sa marginalized sector, kung saan kaisa ang magbubukid, ang Sections 5 at 31 ang pinakamahalaga dito. Sinasabi namin na hindi na mahalaga kung ang porma ng pamahalaan ay presidential o parliamentary; ang pinakamahalaga ay ang "substance."

....

... Ibig naming mula doon sa politics of personality ay pumunta tayo sa politics of issue. Ano ang ibig naming sabihin? Kaming marginalized sector pag bumoboto, ang pinagpipilian lang namin sa two-party system ay ang lesser evil. Ngunit pag pumasok na kami dito, ang Section 5 ang pinakamahalaga sa amin. Ang bobotohan namin ay ang katangian ng aming organisasyon. Ang bobotohan namin ay ang issue at ang platform naming dinadala at hindi na iyang lesser evil o ang tinatawag nating "personality." Para sa amin ito ay napakahalaga.[78] (Citations omitted; emphasis in the original)

Accordingly, a vote under the party-list system is a vote for the cause that the party advocates and advances—not

the individuals who may merely act for such party-list in Congress. Thus, the electorate's knowledge of the particular nominees should not be deemed to affect their capacity to make an intelligent and informed choice as for which party-list they will cast their ballot. Again, the people vote neither for a person or a party-list per se—they vote for a cause. As long as they are aware of the cause represented by the party-list they cast their votes for—and this knowledge is presumed as voters are presumed to be casting their votes intelligently—the policy behind the party-list system of representation is not lost.

To stress, I acknowledge and uphold the right of the people to information on matters of public concern as embodied in Article III, Section 7 of the Constitution. Indeed, the Court has recognized that COMELEC is empowered to promulgate such rules and resolutions "aimed at providing the electorate with the basic information to make an informed choice about a candidate's eligibility and fitness for office." [79] The publication requirement for substitute party-list nominees serves such purpose: for the public to be apprised of any individual that intends to represent a party-list, and to have the opportunity to challenge should such individual suffer from any disqualification or ineligibility under the Constitution or relevant laws.

Notably, this purpose is not constrained to the timeline prior to the election day—each and every person who intends to occupy an elective seat, including substitute party-list nominees, must be subject to the scrutiny of the people as to their qualifications and eligibility to hold office.

This function of the publication requirement is bolstered by COMELEC Resolution No. 9366 which likewise requires the publication of a new list of nominees submitted after the elections by virtue of Section 16 of Republic Act No. 7941. Notably, the same resolution also reproduces Section 16 verbatim, viz.:

RULE 4

PARTY-LIST NOMINEES

....

SEC. 6. Vacancy. In case of vacancy in the seats reserved for party-list representatives, the vacancy shall be automatically filled by the next representative from the list of nominees in the order submitted to the COMELEC by the same party, organization, or coalition, who shall serve for the unexpired term. If the list is exhausted, the party, organization coalition concerned shall submit additional nominees.

....

SEC. 8. Publication. The Education and Information Department shall cause the immediate publication of the list of nominees in two (2) national newspaper of general circulation.

Obviously, then, the publication of the names of a party-list's nominees is not intended to allow the electorate "to make an intelligent and informed choice come election day" [80] as publication is mandatory even after the elections.

Notably, the ponencia interprets this recognition of the publication requirement—while at the same time invalidating the imposition of substitution deadlines for being *ultra vires*—as resulting in a "double standard." [81] Particularly, it was raised during the deliberations of this case that since requiring the publication of nominees' names and imposing deadlines for substitution are both not expressly provided for in Republic Act No. 7941, both should either be rejected for being *ultra vires* or adopted as a valid exercise of the COMELEC's duty to promulgate the necessary rules and regulations to carry out the purposes of Republic Act No. 7941. [82]

I respectfully disagree. The impression of a double standard only arises if it were submitted that COMELEC's setting of substitution deadlines is *ultra vires* solely based on the absence of an express language in Republic Act

No. 7941. However, this is not the case. As extensively discussed in the preceding section, the imposition of substitution deadlines is an *ultra vires* act—not merely for lack of express sanction under the law, but rather—because it: (1) renders absurd Section 16 of Republic Act No. 7941; (2) finds no basis even in subsequent legislation allowing for automated elections; (3) is expressly withheld by Congress when juxtaposed with the Omnibus Election Code; (4) fails to recognize the operational distinctions between casting votes for individual candidates and party-lists; and (5) runs afoul of the clear intent of the legislature for a party-list to always have natural persons to represent it, as evidenced by the congressional records.

For avoidance of doubt, I concur that COMELEC's issuances requiring the publication of the names of party-list nominees are valid, as it upholds the people's right to make an informed choice about a candidate's eligibility and fitness for office.[83] On the other hand, the imposition of substitution deadlines cannot be interpreted as a valid furtherance of Republic Act No. 7941's purposes, as it, to my mind, and contrary to the finding of the ponencia, indeed does "violence to the words and intent of [the law]."[84]

As the deadline for substitution is void, there is no legal basis to find that COMELEC committed grave abuse of discretion in approving the substitution of P3PWD's nominees

The ponencia finds that COMELEC committed grave abuse of discretion in approving P3PWD's post-election substitution of nominees, relying on the following instances: (i) the COMELEC's disregard of its own deadline under COMELEC Resolution No. 10690 "on what appears to be a blind adherence to the recommendation of its Law Department";[85] (ii) the speed at which COMELEC resolved the substitution of P3PWD's nominees, i.e., one day from P3PWD's physical filing;[86] (iii) the pre-approval of the new list of nominees pending compliance with the publication requirement;[87] and (iv) the fact that the matter involves a former COMELEC commissioner, and that the COMELEC's liberal application of relevant rules was "not done in another instance." [88]

Meanwhile, Senior Associate Justice Marvic M.V.F. Leonen points to a perceived conflict of interest, citing Section 7 of Republic Act No. 6713,[89] considering that Guanzon "paved the way" for P3PWD to become a registered party-list during her incumbency as a COMELEC Commissioner, and emphasizing the timeline at which Guanzon became a member and substitute nominee of P3PWD.[90] Further, it is noted that majority of the nominees whose names were published, withdrew for unspecified reasons after P3PWD was proclaimed as a winning party-list.[91]

Respectfully, all the above circumstances, do not lead to a conclusion that there is whimsicality or capriciousness in the actions of COMELEC.

For one, the fact that Guanzon is a former COMELEC Commissioner does not *ipso facto* lead to a conclusion that such former position influenced the decision-making of COMELEC, resulting in the constitutional body to act with grave abuse of discretion. To be sure, there is no evidence on record that the involvement of Guanzon affected how COMELEC resolved the substitution of P3PWD's nominees and DUTERTE Youth's Opposition.

For another, any perceived leniency that COMELEC afforded P3PWD was not proven to have been withheld from any other party-list. In fact, what the records reveal is that other party-lists had likewise had their substitution of nominees approved pending the publication of its revised list of nominees, including that of petitioner DUTERTE Youth itself in COMELEC Minute Resolution No. 19-0568 dated May 14, 2019.[92] In the said Resolution, COMELEC simultaneously granted the withdrawals of all five nominees of DUTERTE Youth, gave due course to the nomination of the party-list's substitutes, and directed DUTERTE Youth to publish its Revised List of Nominees.[93] This refutes the finding that the "giving [of] short shrift to the publication requirement ... was not done in another instance." [94]

Moreover, neither COMELEC nor P3PWD should be faulted for the sudden consecutive withdrawals of the latter's nominees. As aptly recognized in the ponencia, Republic Act No. 7941 does not prohibit the withdrawal of a nominee whether before, during, or after the elections, and "COMELEC technically may neither deny nor grant a withdrawal but merely note the same." [95] To be sure, Republic Act No. 7941 provides no qualification, ground, or timeline within which a nominee may exercise his or her prerogative to withdraw; what Section 8 only requires is that such withdrawal be in writing.

Finally and most importantly, the "speed" at which COMELEC resolved the substitution of P3PWD's nominees and DUTERTE Youth's Opposition should not be taken against COMELEC so long as the same is within the period sanctioned by law [96] and its rules of procedure. [97]

Moreover, as held in *Ocate v. COMELEC*, [98] "COMELEC's conclusion on a matter decided within its competence is entitled to utmost respect. It is not sufficient to allege that ... COMELEC gravely abused its discretion. Such allegation should also be justified." [99] As such, "in the absence of substantial showing that [the COMELEC's] findings are made from an erroneous estimation of the evidence presented, they are conclusive, and in the interest of stability of the governmental structure, should not be disturbed." [100]

In these lights, I caution the Court against ascribing grave abuse of discretion to an independent constitutional body, in an instance such as the one before us, on the basis of circumstantial evidence, suspicions, and suppositions—and where there is utterly no clear factual or legal grounds on which to firmly anchor the same.

There is no legal basis for the Court to enjoin the renomination of the same set of nominees subject of this case

The ponencia enjoins P3PWD from renominating the nominees whose substitutions are assailed in the Substitution Petition, relying on the doctrine that "what cannot be legally done directly cannot be done indirectly." [101]

Again, I disagree.

For one, as discussed above, the COMELEC's imposition of a deadline on the substitution of party-list nominees is *ultra vires*.

Moreover, even assuming that the deadlines imposed under Sections 6 and 7 of COMELEC Resolution No. 10690 are valid, the same should invalidate the substitution but cannot not, in any reasonable sense, operate as to disqualify the individual personalities that were nominated from being nominees in a subsequent substitution that is, as ruled by ponencia, now timely because it already falls under Section 16, i.e., the odd window of time in which P3PWD cannot substitute had already passed. That the deadlines—assuming *arguendo* they are valid—were not met does not constitute disqualifications attaching to the individual nominees. Thus, there is simply no basis in law to disallow P3PWD from re-nominating the same set of substitute nominees.

Even applying the doctrine that "what one cannot do directly, he or she cannot do indirectly" in this case, the COMELEC resolutions imposing deadlines only prohibit the filing of nominee withdrawals and substitutions beyond the prescribed periods. Assuming that the deadlines are valid, what party-lists may not do indirectly is to circumvent the schedule imposed by COMELEC. In no way can these COMELEC resolutions be read to directly or indirectly limit a party's choice of its nominees.

As expressly recognized in the ponencia itself, Section 16 of Republic Act No. 7941 even "mandates the submission of additional nominees upon exhaustion of the list of nominees during the term of the party-list representative." [102] There is nothing that can be circumvented or bypassed where the law itself sanctions the submission of new nominees and does not distinguish who such nominees should be.

Further, following the rationale in *Federico*, allowing COMELEC to impose a deadline is only designed to facilitate the printing of ballots under the AES. As such, the mere failure to meet the deadline should not amount to a "disqualification" that attaches to the nominees who belatedly substituted the original ones such that the former are no longer permitted to be designated by the party-list as its nominees.

For another, as raised by Associate Justice Mario V. Lopez in the deliberations of this case, any grave abuse of discretion that may be ascribed to COMELEC cannot justify the Court's limitation in the choice of representation of P3PWD as a winning party-list in the 2022 National and Local Elections.

Finally, there is no ground for disqualification or ineligibility under the Constitution, Omnibus Election Code, or Republic Act No. 7941 ascribed to any of the individuals in P3PWD's list of substitute nominees. Barring them from being re-nominated is, in essence, disqualifying them from a seat in Congress on account of either a supposed late submission of substitution documents or an alleged grave abuse of discretion on the part of COMELEC—not even of bad faith on the part of P3PWD or the nominees themselves. In fine, there is completely no lawful basis to bar these individuals from representing their winning party-list in Congress.

To end, I am not unaware of the shortcomings of the party-list system of representation, and the abuses in which it has been mired over the years. Inasmuch as its objectives and wisdom are lofty and ideal, what had become practice and the way the relevant laws are implemented leave much to be desired in terms of achieving the objectives of the system—to afford the marginalized and underrepresented a real chance of representation in the Congress, and thus, a platform for them to advance their interests through legislation.

Unfortunately, judicial legislation is not the mode to address these ills, but, rather, legislative reform. The Court must maintain fidelity, not only to the duties and powers imposed upon it by the Constitution, but, just as importantly, to the limits thereof. Lest the balance in the powers of the government so arduously being maintained by the Law be tossed aside, exposing the People to infinitely more abuses.

The Court must only apply the law or construe it in the event of vagueness, the latter only for the sole purpose of advancing the intent behind the law. Thus, for example, the Court cannot disallow substitution of party-list nominees on the basis of what it perceives to be abuses, if such perception has no basis at all in law. It cannot likewise effectively disqualify individuals from being nominated, if they are not suffering from a disqualification provided in law. As bitter a pill it is to swallow, especially in the context of such a widely-abused system as the party-list representation, the Court must restrain itself from altering the law even if, as in this case, it has the purest of intentions. Otherwise, it is sacrificing the far more consequential separation of powers under the Constitution.

ACCORDINGLY, I vote to DENY the Urgent Petition for Certiorari in G.R. No. 261123.

[1] *Rollo* (G.R. No. 261123), pp. 3-26.

[2] *Id.* at 254-261. Rendered by Acting Chairperson Socorro B. Inting, Commissioners Marlon S. Casquejo, Aimee P. Ferolino, and Rey E. Bulay. Commissioner Ferolino attached her comment, see *id.* at 262-264.

[3] *Id.* at 265-267. Rendered by Acting Chairperson Socorro B. Inting, Commissioners Marlon S. Casquejo, and Rey E. Bulay. Commissioner Ferolino voted to defer, see *id.* at 268.

[4] *Id.* at 269-274. Rendered by Acting Chairperson Socorro B. Inting, Commissioners Marlon S. Casquejo, and Rey E. Bulay. Commissioner Ferolino voted to defer, see *id.* at 275.

[5] *Id.* at 40-43.

[6] Section 16. Vacancy. In case of vacancy in the seats reserved for party-list representatives, the vacancy shall be automatically filled by the next representative from the list of nominees in the order submitted to the COMELEC by the same party, organization, or coalition, who shall serve for the unexpired term. If the list is exhausted, the party, organization coalition concerned shall submit additional nominees.

[7] Otherwise known as the "Party-List System Act" approved on March 3, 1995.

[8] THE 2015 REVISED RULES OF THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL.

[9] Reyes v. COMELEC, 720 Phil. 174, 201-202 (2013) [Per J. Perez, En Banc].

[10] Ponencia, p. 7.

[11] Id. at 19.

[12] Id. at 7.

[13] The full text of Section 4 of the HoR Rules reads:

Section 4. Composition. - The membership of the House shall be composed of elected representatives of legislative districts and those elected through the party-list system. Membership as Representative of a legislative district commences upon proclamation as a winning candidate, the administration of an oath for the office by a duly authorized public officer and assumption of office on June 30 following the election. ... (Emphasis supplied)

[14] TSN, Oral Arguments, January 23, 2024, pp. 24, 28-30.

[15] Section 7. The Members of the House of Representatives shall be elected for a term of three years which shall begin, unless otherwise provided by law, at noon on the thirtieth day of June next following their election.

....

[16] Rollo, p. 41.

[17] 228 Phil. 193 (1986) [Per J. Cruz, En Banc].

[18] Id. at 205-206.

[19] Batas Pambansa Blg. 881 (1985).

[20] Republic Act No. 7160 (1991).

[21] 661 Phil. 452 (2011) [Per J. Peralta, En Banc].

[22] TSN of the Oral Arguments held on January 23, 2024, pp. 61-63.

[23] Ponencia, p. 15.

[24] Id.

[25] Id. at 16.

[26] Id.

[27] 704 Phil. 555 (2013) [Per J. Del Castillo, Second Division].

[28] Id. at 566, citing Doran v. Judge Luczon, Jr., 534 Phil. 198, 204-205 (2006) [Per J. Sandoval-Gutierrez, Second Division].

- [29] Promulgated on January 27, 2021.
- [30] COMELEC Resolution No. 9366 (2012), Rule 4, sec. 4, as amended by Resolution No. 10690 (2021), sec. 6.
- [31] Anti-Graft and Corrupt Practices Act (1960).
- [32] Code of Conduct and Ethical Standards for Public Officials and Employees (1989).
- [33] TSN of the Oral Arguments held on November 14, 2023, p. 52; TSN of the Oral Arguments held on January 23, 2024, p. 42.
- [34] Ponencia, p. 16.
- [35] J. M. V. Lopez, Concurring and Dissenting Opinion, p. 3.
- [36] *Narra Nickel Mining and Development Corp. v. Redmont Consolidated Mines Corp.*, 775 Phil. 239, 259 (2015) [Per J. Perlas-Bernabe, First Division], citing *Gonzales v. Climax Mining Ltd.*, 492 Phil. 682, 695 (2005) [Per J. Tinga, Second Division].
- [37] *Id.*
- [38] See, for example, *Municipal Board of Canvassers of Glan v. COMELEC*, 460 Phil. 426 (2003) [Per J. Azcuna, En Banc].
- [39] G.R. No. 258456, July 26, 2022 [Per J. Lazaro-Javier, En Banc].
- [40] *Id.*
- [41] Ponencia, p. 13.
- [42] *Id.* at 28-29.
- [43] 409 Phil. 407 (2001) [Per J. Quisumbing, En Banc].
- [44] *Id.* at 418-419.
- [45] 1987 Constitution, Art. IX-C, sec. 1.
- [46] *Macalino v. Commission on Audit*, G.R. No. 253199, November 14, 2023 [Per J. Marquez, En Banc].
- [47] *Globe-Mackay Cable and Radio Corp. v. National Labor Relations Commission*, 283 Phil. 649, 660 (1992) [Per J. Romero, En Banc].
- [48] 299 Phil. 263 (1994) [Per J. Quiason, En Banc].
- [49] *Id.* at 268, citing *Globe-Mackay Cable and Radio Corp. v. National Labor Relations Commission*, *supra*.
- [50] Section 6. Withdrawal and Substitution Due to Withdrawal of Nomination.—...
- "Section 4. Withdrawal of nomination or acceptance of nomination. Withdrawal of nominations and substitution of nominees due to the withdrawal of the acceptance to the nomination shall be in writing and under oath, and filed with the Law Department not later than NOVEMBER 15, 2021. ..." (Emphasis supplied)
- [51] Section 7. Substitution Due to Death or Incapacity of the Substituted Nominees.—...
- "Section 5. Nomination of Party-List representatives. ...
- NO substitution shall be VALID beyond the deadline provided in the preceding section unless the list of nominees originally submitted has been exhausted due to death and/or incapacity of the nominees. ... Provided

that substitutions due to the death and/or incapacity of the nominees under this paragraph shall be allowed only up to mid-day of election day.

...." (Emphasis supplied)

[52] Ponencia, p. 26.

[53] 702 Phil. 68 (2013) [Per J. Mendoza, En Banc].

[54] Ponencia, p. 26.

[55] Amending Republic Act No. 8436, approved on January 23, 2007.

[56] See Republic Act No. 9369, sec. 13, amending Republic Act No. 8436, sec. 11.

[57] *Federico v. COMELEC*, supra, at 83.

[58] *Id.* at 85.

[59] See COMELEC Resolution No. 10690, sec. 6.

[60] *Id.* See also COMELEC Resolution No. 10690, sections 2 and 3.

[61] Record of the Deliberations of the House of Representatives, 4[th] Regular Session (1994-1995), December 5, 1994, p. 52.

[62] Ponencia, p. 32.

[63] *Id.* at 20-22.

[64] *Id.* at 20-22 and 32.

[65] Record of the Deliberations of the House of Representatives, 3[rd] Regular Session (1994-1995), Volume III, November 22, 1994, pp. 117-118.

[66] *Id.*

[67] Republic Act No. 7941, sec. 2.

[68] See 1987 Constitution, Article VI, sec. 9.

[69] 635 Phil. 372 (2010) [Per J. Bersamin, En Banc].

[70] Ponencia, p. 22.

[71] 918-B Phil. 1 (2021) [Per J. Carandang, En Banc].

[72] *J. Caguioa*, Concurring and Dissenting Opinion in *Atty. Calleja v. Executive Secretary Medialdea*, *id.* at 968, citing *Lokin, Jr. v. COMELEC*, supra note 69, at 411.

[73] Ponencia, pp. 24-25.

[74] *Id.*

[75] *Id.* at 21-22.

[76] Republic Act No. 7941, sec. 2.

[77] 884 Phil. 333 (2020) [Per J. Lazaro-Javier, En Banc].

- [78] J. Perlas-Bernabe, Separate Concurring Opinion in *ANGKLA v. COMELEC*, id. at 427-428.
- [79] *Velasco v. COMELEC*, 595 Phil. 1172, 1195 (2008) [Per J. Brion, En Banc]. (Emphasis supplied)
- [80] Ponencia, p. 24.
- [81] Id. at 27-28.
- [82] Id. at 26-27.
- [83] J. Perlas-Bernabe, Separate Concurring Opinion in *ANGKLA v. COMELEC*, supra note 77.
- [84] Ponencia, p. 27.
- [85] Id. at 30.
- [86] Id.
- [87] Id. at 32.
- [88] Id.
- [89] Code of Conduct and Ethical Standards for Public Officials and Employees, approved on February 20, 1989.
- [90] S.A.J. Leonen, Concurring and Dissenting Opinion, p. 22.
- [91] Id. at 10.
- [92] Rollo, pp. 271-272, COMELEC Minute Resolution No. 22-0810.
- [93] Id.
- [94] Ponencia, pp. 31-32.
- [[95]] Id. at 21.
- [96] Omnibus Election Code, sec. 52, the relevant portion of which reads:

Sec. 52. Powers and functions of the Commission on Elections. –

....
d. ...

Any controversy submitted to the Commission shall, after compliance with the requirements of due process, be immediately heard and decided by it within sixty days from submission thereof. No decision or resolution shall be rendered by the Commission either en banc or by division unless taken up in a formal session properly convened for the purpose.

- [97] COMELEC Rules of Procedure, Rule 18, sections 7 and 8, which read:

Sec. 7. Period to Decide by the Commission En Banc.—Any case or matter submitted to or heard by the Commission en banc shall be decided within thirty (30) days from the date it is deemed submitted for decision or resolution, except a motion for reconsideration of a decision or resolution of a Division in Special Actions and Special Cases which shall be decided within fifteen (15) days from the date the case or matter is deemed submitted for decision, unless otherwise provided by law.

Sec. 8. Period to Decide by a Division.—Any case or matter heard by a Division shall be decided within ten (10) days from the date it is deemed submitted for decision or resolution, except in Special Actions and Special Cases which shall be decided or resolved within five (5) days from the date they are deemed submitted for

decision or resolution, unless otherwise provided by law.

[98] 537 Phil. 584 (2006) [Per J. Carpio, En Banc].

[99] Id. at 595.

[100] *Ejercito v. COMELEC*, 748 Phil. 205, 258 (2014) [Per J. Peralta, En Banc], citing *Juan v. COMELEC*, 550 Phil. 294, 303 (2007) [Per J. Nachura, En Banc].

[101] Ponencia, p 32.

[102] Id.

DISSENTING OPINION

LOPEZ, J., J.:

During the May 2022 National and Local Elections, Komunidad ng Pamilya, Pasyente at Persons with Disabilities (P3PWD) Party-List earned a seat in the House of Representatives. On June 2, 2022, P3PWD first nominee Grace S. Yeneza (Yeneza) took her Oath of Office before Makati Regional Trial Court Judge Jose Y. Arreza. However, on June 14, 2022, all five original nominees of P3PWD filed with the Commission on Elections (COMELEC) Law Department a request to withdraw their respective Certificates of Nomination and Certificates of Acceptance of Nomination.[1] On the same day, P3PWD submitted a new list of nominees led by Ma. Rowena Amelia V. Guanzon (Guanzon), who was a sitting commissioner of COMELEC until her retirement on February 2, 2022.

On June 15, 2022, COMELEC En Banc, by a vote of 3-1, issued Minute Resolution No. 22-0774,[2] which approved the withdrawal and substitution of P3PWD's nominees, subject to compliance with the requirement to publish its new list of nominees. The dispositive portion of the Minute Resolution states that:

WHEREFORE, considering the foregoing, the Commission RESOLVED, as it hereby RESOLVES, to ADOPT, the recommendation of Atty. Maria Norina S. Tangaro-Casingal, Law, Law Department, to APPROVE, the following, subject to the compliance of the publication requirement, to wit:

1.

To GRANT the respective Withdrawal of Nomination of Grace S. Yeneza as Nominee No. 1; Ira Paulo A. Pozon as Nominee No. 2; Marianne Heidi C. Fullon as Nominee No. 3; Peter Jonas R. David as Nominee No. 4; and Lily Grace A. Tianco as Nominee No. 5; and

2.

To GIVE DUE COURSE the New List of Nominees as follows:

1. Ma. Rowena Amelia V. Guanzon
2. Rosalie J. Garcia
3. Cherrie B. Belmonte-Lim
4. Donnabel C. Tenorio
5. Rodolfo B. Villar, Jr.

Let the Law Department implement this Resolution.

SO ORDERED. (Emphasis in the original)

Commissioner Aimee P. Ferolino (Commissioner Ferolino) concurred in approving the withdrawal of P3PWD's original nominees but voted to defer the consideration of the new nominees. According to her, the most prudent action would have been to note the submission; await the party-list's compliance with the publication requirement; hear any opposition, if any; and then give or deny due course to the new list of nominees.[3]

On June 17, 2022, Duty to Energize the Republic through the Enlightenment of the Youth (Duterte Youth) Party-List filed its Verified Opposition to the substitution of P3PWD's nominees, arguing that COMELEC Resolution No. 10717 explicitly stated that the deadline for the substitution of party-list nominees is November 15, 2021. However, it must be pointed out that Duterte Youth, at this point, had not received a copy of Minute Resolution No. 22-0774.[4]

Meanwhile, P3PWD filed a Manifestation before the COMELEC Law Department submitting proof of publication of its New List of Nominees in two national newspapers of general circulation.[5]

On June 21, 2022, without waiting for the resolution of its Opposition and knowing the actual contents of Minute Resolution No. 22-0774, Duterte Youth filed an Urgent Petition for Certiorari with Prayer for Preliminary Injunction and/or Temporary Restraining Order and Motion for Conduct of Special Raffle, docketed as G.R. No. 261123, alleging that COMELEC committed grave abuse of discretion in promulgating the assailed Minute Resolutions, which allowed the substitution of P3PWD's representative in the House of Representatives. Duterte Youth claims that the substitution was invalid on account of: (1) the nullity of COMELEC Resolutions approving the same for lack of the required number of votes; and (2) its noncompliance with the procedures under Republic Act No. 7941,[6] otherwise known as the Party-List System Act, and COMELEC Resolution No. 9366, as amended by Resolution No. 10690.

On June 22, 2022, COMELEC En Banc promulgated Minute Resolution No. 22-0810,[7] which denied the Opposition of Duterte Youth for lack of merit. In addition, it issued Minute Resolution No. 22-0798,[8] which noted the Manifestation filed by P3PWD and considered the same as satisfactory compliance with Minute Resolution No. 22-0774. For both Minute Resolution Nos. 22-0798 and 22-0810, Commissioner Ferolino voted to defer consideration of these matters, considering that her office was not furnished a copy of P3PWD's Manifestation and all relevant attachments relating to the Verified Opposition.[9] Accordingly, only three commissioners signed the assailed Minute Resolutions.

Subsequently, COMELEC, acting as the National Board of Canvassers, proclaimed Guanzon as the qualified nominee of P3PWD in the 19th Congress.[10]

On June 23, 2022, Guanzon took her Oath of Office before Associate Justice Edwin D. Sorongon of the Court of the Appeals.[11]

On June 29, 2022, this Court issued a Temporary Restraining Order (TRO) enjoining: (1) COMELEC, its agents, representatives, or persons acting in its place or stead, from implementing its assailed Resolution approving the substitution of the original nominees of P3PWD Party-List with five new nominees; and (2) the House of Representatives from allowing Guanzon and the other substituting nominees to assume office as Member of the House of Representatives during the pendency of this case.

On June 30, 2022, Guanzon, as the qualified nominee of P3PWD, claimed to have assumed office and commenced with the performance of the functions of a party-list representative.

During the pendency of the case, this Court issued a Show Cause Order against P3PWD's nominee, Guanzon, in view of reports that she has been commenting on the merits of the Petition in her public appearances.

Guanzon filed her Compliance in which she claimed, among others, that it was Duterte Youth's counsel, Atty. Ferdinand Topacio (Atty. Topacio), and its Chairperson Ronald Gian Carlo L. Cardema (Cardema), who have been issuing public comments regarding the merits of the case and thus, should be cited for indirect contempt.

Meanwhile, on August 1, 2022, Duterte Youth filed a Petition docketed as G.R. No. 261876 seeking to cite Guanzon for indirect contempt. Duterte Youth maintains that through her acts and statements made to the media, she defied the TRO issued by this Court in G.R. No. 261123.

Through the ponencia, the Majority granted the Petition in G.R. No. 261123 and declared Minute Resolution No. 22-0774 null and void for having been issued with grave abuse of discretion for approving the substitution of the nominees of P3PWD. The party-list was directed to submit additional nominees pursuant to Section 16 of Republic Act No. 7941 but was strictly enjoined from renominating for the duration of the Nineteenth Congress the nominees whose substitutions were declared null and void.

I dissent.

I respectfully offer my views on two pivotal issues: (1) the validity of the assailed Minute Resolutions which Duterte Youth claims are void for not being approved by at least four members, i.e., the required minimum number of votes under Article IX-A, Section 7 of the Constitution; and (2) the declaration in the ponencia that COMELEC committed grave abuse of discretion in approving the post-election substitution of nominees.

The assailed Minute Resolutions were issued in the exercise of its administrative function and with the approval of a majority of all the members of COMELEC present at a meeting at which there was a quorum

As astutely pointed out by Justice Mario V. Lopez in his August 21, 2023 Letter, to resolve the issue on the validity of the assailed Minute Resolutions, there is a need to determine the nature of these issuances and the authority of COMELEC En Banc to pass upon the issues. Thus, it is imperative to address whether COMELEC issued the assailed Minute Resolutions in the exercise of its administrative function or quasi-judicial function to determine whether COMELEC En Banc had authority to resolve matters presented before it without first resorting to COMELEC Division.

Article IX-C, Section 2 of the Constitution enumerates the powers and functions vested in COMELEC. These include:

- (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.
- (2) Exercise 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.

Decisions, final orders, or rulings of the Commission on election contests involving elective municipal and barangay offices shall be final, executory, and not appealable.

- (3) Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.

- (4) Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.

(5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.

(6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters, investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.

(7) Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidacies.

(8) Recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.

(9) Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.

The foregoing constitutionally vested powers of COMELEC are classified in this wise:

Under Section 2, Article IX-C of the 1987 Constitution, the COMELEC exercises both administrative and quasi-judicial powers. The COMELEC's administrative powers are found in Section 2 (1), (3), (4), (5), (6), (7), (8), and (9) of Article IX-C. The 1987 Constitution does not prescribe how the COMELEC should exercise its administrative powers, whether en banc or in division. The Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "may sit en banc or in two divisions." Clearly, the COMELEC en banc can act directly on matters falling within its administrative powers. Indeed, this has been the practice of the COMELEC both under the 1973 and 1987 Constitutions.[12]

In *Bedol v. COMELEC*,[13] this Court expounded:

The powers and functions of the COMELEC, conferred upon it by the 1987 Constitution and the Omnibus Election Code, may be classified into administrative, quasi-legislative, and quasi-judicial. The quasi-judicial power of the COMELEC embraces the power to resolve controversies arising from the enforcement of election laws, and to be the sole judge of all pre-proclamation controversies; and of all contests relating to the elections, returns, and qualifications. Its quasi-legislative power refers to the issuance of rules and regulations to implement the election laws and to exercise such legislative functions as may expressly be delegated to it by Congress. Its administrative function refers to the enforcement and administration of election laws. In the exercise of such power, the Constitution (Section 6, Article IX-A) and the Omnibus Election Code (Section 52 [c]) authorize the COMELEC to issue rules and regulations to implement the provisions of the 1987 Constitution and the Omnibus Election Code.

The quasi-judicial or administrative adjudicatory power is the power to hear and determine questions of fact to which the legislative policy is to apply, and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law[.][14] (Emphasis supplied)

In the recent case of *Aggabao v. COMELEC*,[15] this Court reiterated that matters within the purview of the

quasi-judicial power of COMELEC must first be heard and decided by Division and the motion for reconsideration, by COMELEC En Banc. COMELEC En Banc cannot circumvent proceedings by acting without prior action by a division because this deprives the candidate of due process. This Court further stressed that:

[W]here the situation calls for the power of the COMELEC to exercise its judgment or discretion involving a determination of fact, or resolution of controversies where parties adduce evidence in support of their contentions, the COMELEC ought to perform its quasi-judicial functions[.][16] (Emphasis supplied)

Likewise, in *Baytan v. COMELEC*,[17] this Court echoed the rule that in the exercise of its quasi-judicial power, COMELEC should reckon with Article IX-C, Section 3 of the Constitution,[18] thus:

SECTION 3. The Commission on Elections may sit en banc or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission en banc.[19]

On the contrary, the administrative powers of COMELEC, as enumerated under Article IX-C, Section 2(1), (3), (4), (5), (6), (7), (8), and (9) of the Constitution are exercised in this manner:

The 1987 Constitution does not prescribe how the COMELEC should exercise its administrative powers, whether en banc or in division. The Constitution merely vests the COMELEC's administrative powers in the "Commission on Elections," while providing that the COMELEC "may sit en banc or in two divisions." Clearly, the COMELEC en banc can act directly on matters falling within its administrative powers. Indeed, this has been the practice of the COMELEC both under the 1973 and 1987 Constitutions. (Emphasis supplied)

The foregoing must be harmonized with the COMELEC Rules of Procedure, which states that:

Section 2. The Commission En Banc. — The Commission shall sit en banc in cases hereinafter specifically provided, or in pre-proclamation cases upon a vote of a majority of the members of the Commission, or in all other cases where a division is not authorized to act, or where, upon a unanimous vote of all the Members of a Division, an interlocutory matter or issue relative to an action or proceeding before it is decided to be referred to the Commission en banc.

Section 3. The Commission Sitting in Divisions. – The Commission shall sit in two (2) Divisions to hear and decide protests or petitions in ordinary actions, special actions, special cases, provisional remedies, contempt, and special proceedings except in accreditation of citizen's arms of the Commission.

Party-list registration, which necessarily includes the determination of party-membership and the nomination of party-list representatives, entails only the discharge of COMELEC's administrative power. This is supported by this Court's ruling in *COCOFED-Philippines Coconut Producers Federation, Inc. v. COMELEC*.^[20] Citing the cases of *Baytan* and *Magdalo Para sa Pagbabago v. COMELEC*,^[21] this Court explicitly stated that:

The Court had already ruled that the registration of party-list groups involves the exercise of the COMELEC's administrative power, particularly its power to enforce and administer all laws related to elections.^[22] (Citation omitted)

Verily, the singular power to rule upon questions of party identity and leadership is exercised by COMELEC as an incident to its enforcement powers.^[23] Thus, it is an exercise of administrative power.

Despite the vehement opposition of Duterte Youth on the substitution of P3PWD's nominees, COMELEC En Banc's approval of the substitution did not cease to be an exercise of administrative power. It merely entailed the implementation of the governing election laws and regulations on withdrawal and substitution of party-list nominees. Accordingly, COMELEC En Banc did not act with grave abuse of discretion in taking cognizance and

in approving the substitution of P3PWD's nominees.

Having settled that COMELEC En Banc had jurisdiction to rule on the substitution of P3PWD's nominees, I now offer my view on the validity of the assailed Minute Resolutions.

To recall, during the oral arguments, it was pointed out that Minute Resolution No. 22-0774, which was promulgated on June 14, 2022, was signed by only three commissioners, namely: Commissioner Socorro B. Inting (Commissioner Inting); Commissioner Marlon S. Casquejo (Commissioner Casquejo); and Commissioner Rey E. Bulay (Commissioner Bulay). Commissioner Ferolino concurred in approving the withdrawal of P3PWD's original nominees but voted to defer the consideration of its new nominees. Likewise, Minute Resolution Nos. 22-0798 and 22-0810, both issued on June 22, 2022, were approved by only three commissioners, the same commissioners who approved Minute Resolution No. 22-0774. The ponente concluded that "[t]he assailed Resolutions being issued in the exercise of administrative functions, a majority vote of all commissioners present at a meeting, at which there is a quorum, is valid[.]"[24]

The effect of the ruling in the cases of *Estrella v. COMELEC*[25] and *Marcoleta v. COMELEC*[26] were discussed at length during the oral arguments in concluding that a majority of all members of COMELEC means at least four votes. Notably, these cases referred to Article IX-A, Section 7 of the Constitution that requires the majority vote of all members of the Commission in deciding cases brought to it.

It is settled that the majority vote requirement in Article IX-C, Section 1 of the Constitution pertains only to decisions, orders, or rulings issued in the exercise of the Commission's quasi-judicial power. This Court explicitly stated in *Querubin v. COMELEC En Banc*[27] that:

Though the provision appears unambiguous and unequivocal, the Court has consistently held that the phrase "decision, order, or ruling" of constitutional commissions, the COMELEC included, that may be brought directly to the Supreme Court on certiorari is not all-encompassing, and that it only relates to those rendered in the commissions' exercise of adjudicatory or quasi-judicial powers. In the case of the COMELEC, this would limit the provision's coverage to the decisions, orders, or rulings issued pursuant to its authority to be the sole judge of generally all controversies and contests relating to the elections, returns, and qualifications of elective offices.[28] (Emphasis in the original; citations omitted)

A majority vote of the Commission is necessary for the pronouncement of a decision, resolution, or order. This applies whether a Commission is sitting En Banc or in Division.[29] Article IX-A, Section 7 of the Constitution explicitly requires the majority vote of all its members, and not only of those who participated in the deliberations.[30] In requiring the vote of at least four members, this Court explained in *Estrella* that:

Under the rules of statutory construction, it is to be assumed that the words in which constitutional provisions are couched express the objective sought to be attained. Since the above-quoted constitutional provision states "all of its members," without any qualification, it should be interpreted as such.[31]

Similarly, in *Sevilla*, this Court declared that:

[T]he vote of four (4) members must always be attained in order to decide, irrespective of the number of Commissioners in attendance. Thus, for all intents and purposes, the assailed October 6, 2012 Resolution of the Comelec en banc had no legal effect whatsoever except to convey that the Comelec failed to reach a decision and that further action is required.[32] (Emphasis in the original)

As have already been discussed, the assailed Minute Resolutions were issued in the exercise of COMELEC's administrative function. Thus, the rulings in *Estrella* and *Marcoleta* cannot be applied to the present case. As such, the ponencia is correct in concluding that Section 2 of Resolution No. 9936, which requires approval by a majority of all the members of the Commission present at a meeting at which there is quorum, shall govern.

Pursuant to Rule 3, Section 5 of the COMELEC Rules, quorum is determined as follows: "[w]hen sitting en banc, four Members of the Commission shall constitute a quorum for the purpose of transacting business." [33] These provisions have been complied with when COMELEC issued the assailed Minute Resolutions.

Nevertheless, assuming that the assailed Minute Resolutions were issued in the exercise of COMELEC's quasi-judicial power, their validity must still be upheld. It is an opportune time to address the underlying controversy surrounding the majority requirement in Article IX-A, Section 7 of the Constitution and clarify, once and for all, its true meaning.

The majority vote requirement in Article IX-A, Section 7 of the Constitution must be read in conjunction with Article IX-C, Section 1 that specifies the composition of COMELEC as having one Chairman and six commissioners. Necessarily, if there are seven sitting commissioners, the majority vote would be four votes.

It bears noting that at the time the assailed Minute Resolutions were promulgated, there were only four sitting commissioners in the Commission, namely: (1) Commissioner Inting; (2) Commissioner Casquejo; (3) Commissioner Ferolino; and (4) Commissioner Bulay. The critical fact that the entire composition of COMELEC had not yet been filled up must be taken into consideration.

The positions left by Chairperson Sheriff Abas, then Commissioner Guanzon, and then Commissioner, now Associate Justice, Antonio T. Kho, Jr., had later been filled by Chairperson George Erwin M. Garcia (Garcia), Commissioner Nelson Java Celis (Celis), and Commissioner Ernesto Ferdinand Maceda, Jr. (Commissioner Maceda). However, the nature of the appointments of their successors must be carefully scrutinized to determine when their respective terms began.

In examining the nature of the appointment of the sitting commissioners of COMELEC, this Court is guided by Article VII, Section 16 of the Constitution, which states:

SECTION 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

The President shall have the power to make appointments during the recess of the Congress, whether voluntary or compulsory, but such appointments shall be effective only until after disapproval by the Commission on Appointments or until the next adjournment of the Congress.

Based on the foregoing provision, presidential appointments may be classified into two categories based on the manner it is made. These are: (1) regular appointments or those made while Congress is in session; and (2) ad interim appointments or those made while Congress is in recess. In *Pacete v. Sec. of the Comm. on Appointments*, [34] this Court distinguished regular appointments from ad interim appointments as follows:

A distinction is thus made between the exercise of such presidential prerogative requiring confirmation by the Commission on Appointments when Congress is in session and when it is in recess. In the former[,] the President nominates, and only upon the consent of the Commission on Appointments may the person thus named assume office. It is not so with reference to ad interim appointments. It takes effect at once. The individual chosen may thus qualify and perform his function without loss of time. His title to such office is complete. In the language of the Constitution, the appointment is effective "until disapproval by the Commission on Appointments or until the next adjournment of the Congress." [35] (Citation omitted)

It would be irrational to automatically equate the majority vote requirement under the Constitution to four votes. To demonstrate this absurdity, it is imperative to discuss the nature of the vacancies in the membership of COMELEC and the appointment of new commissioners in 2022. It must be clarified that then Commissioner Garcia was first appointed by President Rodrigo R. Duterte in March 2022 as commissioner of COMELEC, and this appointment was ad interim in nature.[36] His appointment took effect immediately without need of confirmation from the Commission on Appointments. However, since his appointment was not confirmed by the Commission on Appointments while Congress was in session, it expired at the next adjournment of Congress on June 1, 2022. It must be pointed out that the 19[th] Congress commenced its session only on July 25, 2022.[37]

Consequently, as Commissioner Garcia's ad interim appointment was not confirmed by the CA before the 18[th] Congress adjourned, he ceased to be an incumbent member of COMELEC at the time the assailed Minute Resolutions were issued in June 2022. As a matter of fact, with the failure of the CA to confirm his appointment, he had to be reappointed, this time, as COMELEC Chairperson on August 1, 2022[38] by President Ferdinand R. Marcos, Jr. He assumed office on August 3, 2022[39] and his regular appointment was confirmed by the Commission on Appointments in September 2022.[40]

Meanwhile, in the case of Commissioner Celis, he was appointed on August 11, 2022 through a regular appointment or while Congress was in session. For such appointment, confirmation from the Commission on Appointments is necessary to assume office. As the 19[th] Congress First Regular Session adjourned without confirming Commissioner Celis,[41] he was reappointed by the President in October 2022 while Congress was in recess. His ad interim appointment was confirmed by the Commission on Appointments in December 2022.[42]

On the other hand, Commissioner Maceda was appointed while Congress was in recess in October 2022 and the Commission on Appointments only confirmed his ad interim appointment in December 2022.[43]

Hence, it is my position that the rulings in Estrella and Marcoleta should be appreciated in their proper context. The specific number of votes stated in Marcoleta should not be imposed when there are multiple vacancies in the membership of the Commission, as in this case. The ruling in Estrella, Marcoleta, and Sevilla presupposes that the positions for the six commissioners and one chairperson are filled.

In the present case, in issuing the assailed Minute Resolutions, the concurrence of at least three commissioners constitutes the majority vote required by Section 7, Article IX-A of the Constitution and Section 5, Rule 3 of the COMELEC Rules.

The interpretation of the majority vote requirement under Article IX-A, Section 7 of the Constitution and Rule 3, Section 5 of the COMELEC Rules must mean the majority of all members who have validly assumed office. This must be so because the Constitution does not exempt COMELEC Commissioners from the requirement of confirmation of the Commission on Appointments before they assume office if the appointment was made during congressional session, and in case of ad interim appointment, before the end of the congressional session.

For regular appointments, pending confirmation by the Commission on Appointments, any nomination by the President cannot ripen into an appointment for the nominee to be considered a member of the Commission. As a nominee is not yet considered a member of the Commission, he or she should not be considered in determining the "majority vote of all its Members" under Article XI, Section 7 of the Constitution. Thus, among the four sitting members of the Commission, at least three votes are necessary to constitute the majority vote in promulgating the June 14, 2022 Resolution. Though Commissioner Ferolino dissented, the three votes in favor of allowing the substitution is sufficient.

It is worthy to point out that this is not the first time that COMELEC continued to perform its constitutional

mandate to resolve election controversies within its jurisdiction while there were multiple vacancies in the Commission. In *Dumayas, Jr. v. COMELEC*,^[44] this Court upheld the validity of a decision of COMELEC En Banc even if there were only four incumbent commissioners and of the four, one dissented. This Court explained:

However, unless the withdrawal of the votes would materially affect the result insofar as votes for or against a party is concerned, we find no reason for declaring the decision a nullity. In the present case, with the cancellation of the votes of retired Commissioners Gorospe and Guiani, the remaining votes among the four incumbent commissioners at the time of the resolution's promulgation would still be 3 to 1 in favor of respondent. Noteworthy, these remaining Commissioners still constituted a quorum. In our view, the defect cited by petitioner does not affect the substance or validity of respondent Commission's disposition of the controversy. The nullification of the challenged resolution, in our view, would merely prolong the proceedings unnecessarily.^[45] (Emphasis supplied)

To subscribe to the view that the concurrence of four votes is necessary under all circumstances, even if there were only four incumbent members of COMELEC, would prevent the Commission from carrying out its constitutional duties in the event of multiple vacancies in its membership. As the constitutional body vested with the task of ensuring that the will of the sovereign people will be upheld through the exercise of the right of suffrage, it should not be impeded from performing its function of resolving election controversies within its jurisdiction simply because there are multiple vacancies in its membership.

The assailed Minute Resolutions are valid

In nullifying the assailed Minute Resolutions, the ponencia pointed out COMELEC's purported disregard of its own deadline and stressed the alleged speed at which the substitution of P3PWD's nominees were approved which was one day from P3PWD's physical filing.^[46] The Memorandum of Commissioner Ferolino was likewise cited to illustrate the supposed pattern of whimsicality and arbitrariness in the approval of the substitution of the nominees.^[47]

To recall, the fallo of the ponencia states:

Respondent P3PWD Party-List is DIRECTED to submit additional nominees pursuant to Section 16 of Republic Act No. 7941 that is STRICTLY ENJOINED from renominating for the duration of the Nineteenth Congress the nominees whose substitutions were declared null and void by this Decision, namely Ma. Rowena Amelia V. Guanzon, Rosalie J. Garcia, Cherrie B. Belmonte-Lim, Donnabel C. Tenorio, and Rodolfo B. Villar, Jr.^[48] (Emphasis in the original)

Section 8 of Republic Act No. 7941 states:

Section 8. Nomination of Party-List Representatives. Each registered party, organization or coalition shall submit to the COMELEC not later than forty-five (45) days before the election a list of names, not less than five (5), from which party-list representatives shall be chosen in case it obtains the required number of votes.

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate for any elective office or a person who has lost his bid for an elective office in the immediately preceding election. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned.

Section 8 of Republic Act No. 7941 enumerates three instances in which the party-list can substitute another

person in place of the nominee whose name has been submitted to COMELEC, namely: (a) when the nominee dies; (b) when the nominee withdraws in writing his nomination; and (c) when the nominee becomes incapacitated. In *Lokin v. COMELEC*,^[49] this Court ruled that the enumeration is exclusive.^[50]

Meanwhile, Section 16 of Republic Act No. 7941 states:

Section 16. Vacancy. In case of vacancy in the seats reserved for party-list representatives, the vacancy shall be automatically filled by the next representative from the list of nominees in the order submitted to the COMELEC by the same party, organization, or coalition, who shall serve for the unexpired term. If the list is exhausted, the party, organization coalition concerned shall submit additional nominees. (Emphasis supplied)

The ponencia construed Section 16 of Republic Act No. 7941 as a provision that applies to a vacancy in a party-list seat during its term, i.e., from noon of the thirtieth day of June following the election. The justification given is that the seat of P3PWD did not legally exist until the end of the Eighteenth Congress at noon of June 30, 2022.^[51]

COMELEC Resolution No. 10717 was issued, mandating that all substitutions of party list nominees be made on or before November 15, 2021. Sections 11 and 12 of the said resolution states:

SECTION 11. Withdrawal of Nominations and Substitution of Party-list Nominees. — Withdrawal of nominations and substitution of nominees due to the withdrawal of the acceptance to the nomination shall be in writing and under oath, and filed with the Law Department not later than November 15, 2021 (Monday). Provided that no substitution shall be valid unless the party files with the Law Department a list of its substitute nominees, the certificates of nomination and acceptance of the substitute nominees, and an affidavit executed by the secretary-general and the chairperson or president of the party attesting that the substitute nominees possess all the qualifications and none of the disqualifications provided by law. The name of the substitute nominee shall be placed last in the list. The number of nominees in the new list shall be the same with the number of those previously submitted in the original list.

Within five (5) days from the filing of the list of substitute nominees, the party shall cause the publication of its new and complete list of nominees in two (2) national newspapers of general circulation. The party shall submit proof of publication of its new list of nominees with the Law Department within three (3) days from completion of the said publication. No substitution shall be valid without compliance with the requirements on publication and submission of proof thereof.

A nominee who withdraws his acceptance to the nomination shall not be eligible for re-nomination by the same party or nomination by other parties.

SECTION 12. Substitution of Party-list Nominees Due to Death or Incapacity of the Substituted Nominees. — No substitution shall be valid if filed beyond November 15, 2021 unless the list of nominees originally submitted has been exhausted due to death and/ or incapacity of the nominees. The party, within ten (10) days from the exhaustion of the original list shall file with the Law Department a list of its substitute nominees, their certificates of nominations and acceptance, and an affidavit executed by the secretary-general and the chairperson or president of the party attesting that the substitute nominees possess all the qualifications and none of the disqualifications provided by law. Provided that substitutions due to the death and/ or incapacity of the nominees under this paragraph shall be allowed only up to mid-day of election day.

The party shall cause the publication of its new and complete list of nominees in two (2) national newspapers of general circulation within five (5) days from the filing with the Law Department. The party shall submit proof of publication of its list of substitute nominees with the Law Department within three (3) days from completion of said publication. No substitution shall be valid without compliance with the requirements on publication and submission of proof thereof.

In all cases where a nominee dies or becomes incapacitated, the party shall file with the Law Department within ten (10) days from the fact thereof a notice and proof of such death or incapacity. (Emphasis in the original)

Sections 11 and 12 of COMELEC Resolution No. 10717 impose a period within which withdrawals and substitutions of nominees must be made in accordance with Section 8 of Republic Act No. 7941. On the other hand, Section 16 of Republic Act No. 7941, the provision from which the authority to withdraw and/or substitute party-list nominees in case of a vacancy emanates, does not provide for such deadline.

In *COCOFED-Philippine Producers Federation, Inc. v. COMELEC*,^[52] this Court harmonized Sections 8 and 16 of Republic Act No. 7941 as follows:

While the law allows the submission of additional nominees once the list is exhausted, the exhaustion of the list presupposes prior compliance with the requirement of Section 8 of RA No. 7941. Since the exhaustion of the list is an event that can rarely happen under this interpretation, then the law effectively upholds the people's right to make informed electoral judgments.^[53] (Emphasis supplied)

Noticeably, in harmonizing Sections 8 and 16 of Republic Act No. 7941 in *COCOFED*, this Court required "prior compliance with the requirement[s] of Section 8."^[54] It must be highlighted that Section 8 outlines the date and manner of submission of the nominees of a party-list group as a condition precedent for the registration of a new party-list group or for the participation in the elections in the case of a previously registered party-list group.^[55] Section 8 mandates the submission of five nominees of the party-list group at least 45 days prior to the date of the election. This Court explained the underlying principle behind the requirement as follows:

The publication of the list of nominees does not only serve as the reckoning period of certain remedies and procedures under the resolution. Most importantly, the required publication satisfies the people's constitutional right to information on matters of public concern. The need for submission of the complete list required by law becomes all the more important in a party-list election to apprise the electorate of the individuals behind the party they are voting for. If only to give meaning to the right of the people to elect their representatives on the basis of an informed judgment, then the party-list group must submit a complete list of five nominees because the identity of these five nominees carries critical bearing on the electorate's choice. A post-election completion of the list of nominees defeats this constitutional purpose.

. . . .

[A] party is not allowed to simply refuse to submit a list containing "not less than five nominees" and consider the deficiency as a waiver on its part. Aside from colliding with the plain text of the law, this interpretation is not in harmony with the statutory policy of enhancing the party-list-groups' chances to compete for and win seats in the legislature, and therefore does not serve as incentive to Filipino citizens belonging to these groups to contribute to the formulation and enactment of appropriate legislation.^[56] (Emphasis in the original)

Concededly, the ideal situation envisaged by the framers is that the representative/s of a winning party-list group will be chosen from the list of five nominees it submitted under Section 8. A party-list group cannot take part in the elections without submitting the requisite list of nominees within the period prescribed in Section 8. As the provision delineates the requirements that must be complied with for a party-list group to become a bona fide candidate, it necessarily follows that Section 8 covers only the pre-election phase. Compliance with the requirements is intended for the purpose of determining whether a party-list group may participate in the elections.

However, there are rare, but not impossible, situations that Section 8 does not cover and may only be resolved through the application of other provisions of Republic Act No. 7941. Section 8 does not cover situations in which

a vacancy in the list of nominees occurs after a party-list group has been declared a winner, regardless of the reason/s for the vacancy. On this score, the relevant provision is Section 16. While unusual, filling a vacancy that arises after an election does not defeat the constitutional objectives of transparency and informed judgment as mechanisms are put in place to ensure that these are observed, such as the publication requirement.

A closer scrutiny into the congressional deliberations reveals the intention of the framers of the law in introducing Section 16. The broad spectrum of causes that may give rise to a vacancy under the provision is evident from the excerpt of the deliberations quoted below:

MR. MENZON. Likewise, Your Honor, what kind of vacancy is contemplated under Section 11[sic]?

MR. ESPINOSA. They are the normal vacancies like that of resignation, incapacity and other change of political party.

MR. MENZON. Would Your Honor, sickness, for example, a Member of the House cannot attend all the sessions – in one year, can attend only two sessions. Can Congress declare his position vacant?

MR. ESPINOSA. Considering the rules of Congress that we have not expelled anybody by reason of absence, then I think that would also appropriately apply or properly apply to the situation connotated by the Gentleman, Madam speaker.[57] (Emphasis supplied)

Based on the foregoing, it is clear that Sections 8 and 16 supplement each other as they pertain to different but intrinsically related matters. Their differences are evident in at least two aspects: (1) the grounds that may be invoked for the substitution to become operative; and (2) the period when the substitution may be made.

As stated above, there are only three grounds for a substitution under Section 8 to be allowed. These are when a nominee "dies, or withdraws in writing his [or her] nomination, [or] becomes incapacitated." Meanwhile, the language of Section 16 does not limit the causes or grounds that may give rise to a vacancy that a party-list group must fill. It is evident from the quoted congressional deliberations that the framers of the law envisioned a wide array of causes that could produce a vacancy that must be filled.

As regards the period when the substitution may be made, I cannot subscribe to the construction in the ponencia that Section 16 applies to a vacancy in a party-list seat during the term, which begins from noon of the thirtieth day of June after the election.[58]

It bears stressing that in Section 16, the law used the phrases "[i]n case of vacancy in the seats reserved for party-list representatives" and "who shall serve for the unexpired term." These phrases presuppose that COMELEC already identified the winning party-list groups and seats have been allocated for their respective representatives. Contrary to the construction in the ponencia, the language of the provision is clear in that it is applicable for vacancies occurring after the election. It is not confined only to vacancies starting from noon of June 30.

It is an elementary rule in statutory construction that where the law does not distinguish, the courts should not distinguish. *Ubi lex non distinguit nec nos distinguere debemos*. No distinction should be made in the application of the law where none has been indicated. Where the law did not indicate the reckoning point from which vacancies may be filled pursuant to Section 16, this Court should not distinguish between a vacancy occurring immediately after the elections and one happening on or after noon of the thirtieth day of June after the election. To insist that Section 16 may be invoked only beginning at noon of June 30 is to read into the law something that the framers did not intend.

It is my humble view that interpreting the reckoning point in applying Section 16 as immediately after the

elections becomes even more relevant in a scenario where the vacancy arises after the elections but before a member of the House of Representatives commences his or her term of office. It must be pointed out that the provision did not explicitly state that it applies only when the vacancy occurs after the term of the party-list representative begins and the congressional session commences. A contrary interpretation would create an absurd situation in which a party-list is unduly deprived of its right to participate in Congress, despite having successfully hurdled the elections, when its list of nominees has been exhausted before noon of June 30 yet it may be allowed to make a substitution if the vacancy occurs after such period.

To stress, the objective of Republic Act No. 7941 is to:

. . . 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 marginalized and under-represented 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.

Harmonizing the noble objective of Republic Act No. 7941 with its provisions, it is more sensible to construe Section 16 as applicable to vacancies transpiring after the election, regardless of the cause of the vacancy. The period covered by the provision begins immediately from the moment a party-list group wins and is allocated its corresponding seat/s – not from noon of the thirtieth day of June after the elections.

In the ponencia, it was stated that "any perceived loophole or lacuna in the law which may result in the abuse and exploitation of the party-list system can only be remedied by the Legislature."^[59] However, given the construction of Section 16 discussed above, it is clear that there is no lacuna or gap in Republic Act No. 7941 as it addresses the case of P3PWD. The language of Section 16 does not prohibit the substitution of the nominees resigning or withdrawing from the party-list after the elections. Further, the provision even mandates that "[i]f the list is exhausted, the party, organization coalition concerned shall submit additional nominees." By using the word "shall," the law implies that this is a statutory duty that a winning party-list group must perform should the list be exhausted.

Since Section 16 of Republic Act No. 7941 provides a remedy in case the list has been exhausted after the elections, the assailed Minute Resolutions are valid. Thus, COMELEC did not commit grave abuse of discretion in approving the respective nominations of P3PWD's nominees, namely, Guanzon, Rosalie J. Garcia (Garcia), Cherrie B. Belmonte-Lim (Belmonte-Lim), Donnabel C. Tenorio (Tenorio), and Rodolfo B. Villar (Villar).

Given that the assailed Minute Resolutions are valid, there is no legal justification in enjoining the nomination or renomination of Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar

The ponencia declared that P3PWD is prohibited from renominating Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar for the duration of the Nineteenth Congress. It was explained that:

A ruling tainted with grave abuse of discretion is void and cannot be the source of any right or obligation. All acts pursuant to such decision and all claims emanating from it have no legal effect. Ergo, the approval of the substitution of nominees of P3PWD is hereby declared null and void.

Nevertheless, P3PW is not without recourse as Section 16 mandates the submission of additional nominees upon exhaustion of the list of nominees during the term of the party-list representative. Certainly, the misdeeds

of a few cannot be invoked to disenfranchise a greater number of the electorate, nay, an entire sector. In keeping however with the elementary principle that what cannot be legally done directly cannot be done indirectly, P3PWD is enjoined from renominating the nominees whose substitutions were nullified by this Decision for the duration of the Nineteenth Congress.[60] (Emphasis in the original; citations omitted)

To emphasize, the assailed Minute Resolutions challenging the approval of the substitution of Yeneza, Pozon, Fullon, David, and Tiangco are valid. Likewise, they all have expressed their respective intentions to resign from P3PWD, as stated in their Letters summarized below:

NOMINEE

DATE OF
RESIGNATION

REASON FOR
WITHDRAWAL

Grace S. Yeneza

June 10, 2022

Last December, [her] daughter was diagnosed with Stage III, aggressive carcinoma and will need [her] personal care to battle the disease. [She] took [her] oath of office on May 30, 2022 as a member of the House of Representatives but thinking it over, it would not be fair to their party constituents to carry on sitting as their representative in Congress if [she] cannot give [her] full attention to the job at hand.[61]

Ira Paulo A. Pozon

June 7, 2022

Due to personal reasons

Marianne Heidi C. Fullon

June 9, 2022

No stated reason

Peter Jonas R. David

June 9, 2022

Due to personal reasons

Lily Grace A. Tiangco

June 9, 2022

To assist her husband in their businesses[.][62]

At the risk of being repetitive, it must be underscored that this Court cannot recognize the recourse available under Section 16 of Republic Act No. 7941 of filling vacancies post-election and at the same time enjoin P3PWD from renominating the nominees whose substitutions were nullified in the ponencia. Declaring the assailed issuances void yet using the invalidity of the same issuances to effectively disqualify Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar from being renominated is inconsistent with the principle that a void judgment does not produce any effect. Having been declared null and void, it cannot be the source of any right or obligation and should not give rise to restricting them from being renominated.

Further, the directive barring Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar from remaining as the nominees of P3PWD effectively imposes punishment on them for the perceived grave abuse of discretion that the ponencia attributes to COMELEC. However, the alleged grave abuse of discretion was not proven as Section 16 of Republic Act No. 7941 permits their substitution. As discussed above, the assailed Minute Resolutions were validly issued. Such directive is a penalty that goes against the State's policy in establishing the party-list system in the country, as enshrined in Section 2 of Republic Act No. 7941:

Section 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. (Emphasis supplied)

It is inherent in the development of a "full, free and open party-list system" that aspiring party-list groups, including their respective nominees, be afforded their constitutional right to due process of law. A system is not "free" when restrictions are imposed on a winning party-list group that prevents them from selecting nominees it deems the effective representative who will champion its cause in Congress, within the parameters of Republic Act No. 7941. Imposing on a winning party-list group and its chosen nominees a penalty before they are given the opportunity to be heard to prove their competence and compliance with the qualifications provided in Republic Act No. 7941 contradicts the vision of its framers.

Singling out Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar by preventing P3PWD from nominating them is an unreasonable penalty when there is no direct proof that they possess any ground for their disqualification. It is contrary to the principles of fairness and equity from which the concept of due process is anchored. To equate the alleged failure of P3PWD to timely comply with the requirements for substitution under Republic Act No. 7941 would be prejudicial to the affected nominees, especially when there is no showing that they have participated or caused the perceived violation of the party-list group.

The respective qualifications of the affected nominees should be assessed in the appropriate proceedings where interested parties may be properly given the opportunity to be heard. Whether the nominees under the new list submitted post-election are qualified and do not possess any ground for disqualification is the proper subject of a separate proceeding. Prohibiting them from being renominated, solely on the ground that their substitution was made after the deadline prescribed by COMELEC, and not for any reason directly attributable to their competence, is tantamount to an imposition of punishment without due process of law.

The disqualification of Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar also poses serious ramifications on P3PWD's right to free association and its overarching interest of the party-list group to choose its own representative/s within the limitations provided by Republic Act No. 7941. It is settled that the basic tenets and principles that political parties observe also apply to party-list groups. In this regard, it is worth noting that:

[Po]litical parties are generally free to conduct its internal affairs pursuant to its constitutionally-protected right to free association. This includes the determination of the individuals who shall constitute the association and the officials who shall lead the party in attaining its goals. The political parties, through their members, are free to adopt their own constitution and by-laws that contain the terms governing the group in pursuing its goals. These terms, include the terms in choosing its leaders and members, among others. To the group belongs the

power to adopt a constitution; to them likewise belongs the power to amend, modify or altogether scrap it.[63]

Similarly, in *Sinaca v. Mula*,^[64] this Court recognized that:

A political party has the right to identify the people who constitute the association and to select a standard bearer who best represents the party's ideologies and preference. Political parties are generally free to conduct their internal affairs free from judicial supervision; this common-law principle of judicial restraint, rooted in the constitutionally protected right of free association, serves the public interest by allowing the political processes to operate without undue interference. Thus, the rule is that the determination of disputes as to party nominations rests with the party, in the absence of statutes giving the court's jurisdiction.^[65] (Citations omitted)

It would be an egregious error to recognize P3PWD's right to select its nominees and, at the same time, restrain its freedom of association by preventing the nomination of Guanzon, Garcia, Belmonte-Lim, Tenorio, and Villar. To reiterate, this Court has not determined that they possess any of the grounds for their disqualification under Republic Act No. 7941.

ACCORDINGLY, I vote to declare Minute Resolution Nos. 22-0774, 22-0798, and 22-0810 VALID.

Likewise, I vote to LIFT the Temporary Restraining Order dated June 29, 2022.

Lastly, I vote to DISMISS the Petition docketed as G.R. Nos. 261123 and 261876.

[1] Comment for P3PWD (G.R. No. 261123), p. 3.

[2] Comment for COMELEC (G.R. No. 261123), "In the Matter of Komunidad ng Pamilya, Pasyente, at Persons with Disabilities," pp. 21-28.

[3] Id. at 27-28.

[4] Id. at 6.

[5] Id.

[6] Republic Act No. 7941, An Act Providing for the Election of Party-List Representatives through the Party-List System, and Appropriating Funds therefor (1995).

[7] Comment for COMELEC (G.R. No. 261123), Annex "C," "In the Matter of the Comment and Recommendation of the Law Department on the Verified Opposition to the Substitution of P3PWD Party-List Nominees," pp. 36-41.

[8] Id. at pp. 32-34. "In the Matter of Compliance of Komunidad ng Pamilya, Pasyente, at Persons with Disabilities."

[9] Id. at 35.

[10] Comment for P3PWD (G.R. No. 261123), p. 4.

[11] Id.

[12] *Baytan v. COMELEC*, 444 Phil. 812, 824-825 (2003) [Per J. Carpio, En Banc].

[13] 621 Phil. 498 (2009) [Per J. Leonardo-De Castro, En Banc].

[14] Id. at 510.

- [15] G.R. No. 258456, July 26, 2022 [Per J. Lazaro-Javier, En Banc].
- [16] Id. at 16. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.
- [17] 444 Phil. 812 (2003) [Per J. Carpio, En Banc].
- [18] Id. at 826.
- [19] CONST., art. IX-C, sec. 3.
- [20] 716 Phil. 19 (2013) [Per J. Brion, En Banc].
- [21] 688 Phil. 293 (2012) [Per J. Sereno, En Banc].
- [22] 716 Phil. 19, 32 (2013) [Per J. Brion, En Banc].
- [23] *Laban ng Demokratikong Pilipino v. COMELEC*, 468 Phil. 70, 84 (2004) [Per J. Tinga, En Banc].
- [24] Ponencia, p. 27.
- [25] 473 Phil. 861 (2004) [Per J. Carpio Morales, En Banc].
- [26] 604 Phil. 608 (2009) [Per J. Carpio Morales, En Banc].
- [27] 774 Phil. 766 (2015) [Per J. Velasco, Jr., En Banc].
- [28] Id. at 797.
- [29] JOAQUIN BERNAS, *CONSTITUTIONAL LAW* 1039 (2009), citing *Cua v. COMELEC*, 240 Phil. 546, 548-549 (1987) [Per Curiam, En Banc].
- [30] *Estrella v. COMELEC*, 473 Phil. 861 (2004) [Per J. Carpio Morales, En Banc].
- [31] Id. at 865.
- [32] 706 Phil. 578, 586 (2013) [Per J. Brion, En Banc].
- [33] Ponencia, p. 30.
- [34] 148-B Phil. 55 (1971) [Per J. Fernando, En Banc].
- [35] Id. at 63.
- [36] CONST., art. VII, sec. 16 states:

SECTION 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

The President shall have the power to make appointments during the recess of the Congress, whether voluntary or compulsory, but such appointments shall be effective only until after disapproval by the Commission on Appointments or until the next adjournment of the Congress.

- [37] House sets schedule for 19th Congress' first regular session, August 2, 2022, available at

<https://newsinfo.inquirer.net/1639522/house-adopts-concurrent-reso-setting-calendar-for-19th-congress-first-regular-session> (last accessed on June 13, 2024).

[38] Marcos names George Garcia as new Comelec chair, August 1, 2022, available at <https://www.pna.gov.ph/articles/1180319> (last accessed on June 13, 2024).

[39] Commission on Elections, Chairman George M. Garcia, September 12, 2022, available at <https://comelec.gov.ph/?r=AboutCOMELEC/CommissionMembers/ChairGarciaProfile> (last accessed on June 13, 2024).

[40] CA confirms George Garcia as Comelec chair, September 7, 2022, available at <https://newsinfo.inquirer.net/1659723/ca-confirms-appointment-of-george-garcia-as-comelec-chair> (last accessed on June 13, 2024).

[41] Melvin Gascon, 14 Marcos picks bypassed, September 30, 2022 available at <https://newsinfo.inquirer.net/1672950/14-marcos-picks-bypassed> (last accessed on June 13, 2024).

[42] Comelec gets 2 new commissioners, October 6, 2022, available at <https://newsinfo.inquirer.net/1676325/comelec-gets-2-new-commissioners> (last accessed on June 13, 2024).

[43] Commission on Elections, Commissioner Ernesto Ferdinand P. Maceda, Jr., December 20, 2022, available at <https://comelec.gov.ph/?r=AboutCOMELEC/CommissionMembers/CommMacedaProfile> (last accessed on June 13, 2024).

[44] 409 Phil. 407 (2001) [Per J. Quisumbing, En Banc].

[45] Id. at 418-419.

[46] Ponencia, pp. 29-30.

[47] Id. at 30-31.

[48] Id. at 39.

[49] 635 Phil. 372 (2010) [Per J. Bersamin, En Banc].

[50] Id. at 397.

[51] Ponencia, pp. 22-23.

[52] 716 Phil. 19 (2013) [Per J. Brion, En Banc].

[53] Id. at 35.

[54] Id.

[55] Id. at 31-32.

[56] Id. at 34-37.

[57] Journal, House of Representatives, 9th Congress, 1st Session (November 8, 1994), p. 84.

[58] Ponencia, pp. 22-23.

[59] Id. at 31.

[60] Id.

[61] Comment for P3PWD (G.R. No. 261123), Annex "3."

[62] Comment for COMELEC (G.R. No. 261123), pp. 22-23.

[63] *Alcantara v. COMELEC*, 709 Phil. 523, 537 (2013) [Per J. Brion, En Banc].

[64] 373 Phil. 896 (1999) [Per C.J. Davide, Jr., En Banc].

[65] *Id.* at 912.

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