

MERSON C. CALUBAG, PETITIONER, VS. COMMISSION ON ELECTIONS AND KIMBERLY P. JOSEPH, RESPONDENTS.

G.R. No. 279008, April 08, 2026

Ponente: KHO, JR., J.

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KHO, JR., J.:

Before the Court is a Petition for Certiorari[1] under Rule 64 of the Rules of Court filed by petitioner Merson C. Calubag (Merson), which assails the Resolution[2] dated October 10, 2023 of public respondent Commission on Elections (COMELEC) Second Division, and the Resolution[3] dated January 24, 2025 of the COMELEC En Banc in SPA No. 23-023 (BRGY). The COMELEC cancelled Merson's certificate of candidacy (COC) for Sangguniang Kabataan (SK) Chairperson on the ground that he misrepresented in his COC that he is not related, within the second degree of consanguinity or affinity, to any incumbent elected regional, provincial, city, municipal, or barangay official in the locality where he seeks to be elected.

The Facts

On August 28, 2023, Merson filed his COC[4] for Chairperson of the SK of Barangay Magtangale, San Francisco, Surigao del Norte, in the 2023 Barangay and Sangguniang Kabataan Elections (2023 BSKE).

On September 2, 2023, private respondent Kimberly P. Joseph (Kimberly) filed a Petition[5] seeking to cancel and deny due course to Merson's COC. According to him, Merson materially misrepresented in his COC that he is not related within the second civil degree of consanguinity or affinity to any incumbent elected national official or to any incumbent elected regional, provincial, city, municipal, or barangay official in the locality where he seeks to be elected. The truth, according to Kimberly is that Merson's mother, Marilyn C. Calubag (Marilyn) is an incumbent member of the Sangguniang Barangay (SB) of Barangay Magtangale.[6]

To support the Petition, Kimberly attached Marilyn's Panunumpa sa Katungkulan[7] as SB Member dated June 25, 2018, and her Barangay Official Information Sheet,[8] indicating that she is a SB Member for Barangay Magtangale and that one of her beneficiaries is her son, named Merson C. Calubag.[9]

According to the COMELEC, despite receipt of its summons, Merson did not file an answer or any responsive pleading.[10]

Meanwhile, on October 25, 2023, the COMELEC En Banc issued an Omnibus Order[11] administratively suspending the proclamation of several candidates, including Merson, in case they win their respective electoral contests, pending the petitions for cancellation of COC or disqualification pending against them.

COMELEC's Ruling

In its Resolution[12] dated October 10, 2023, the COMELEC Second Division granted the Petition. It cancelled and denied due course to Merson's COC. The records of the case were also forwarded to the COMELEC's Law Department for the conduct of a preliminary investigation regarding the election offense aspect of the case.[13]

The COMELEC Second Division found that the Petition presented substantial evidence that Merson misrepresented a material fact in his COC. On this note, the COMELEC Second Division pointed out that Section 10[14] of Republic Act No. 10742[15] provides that an official of the SK must, among others, not be related within the second civil degree of consanguinity or affinity to any incumbent elected national official or to any incumbent elected regional, provincial, city, municipal, or barangay official, in the locality where they seek to be elected. Here, Merson certified that the facts stated in his COC are true and correct, it included Item No. 10, which states: "I am not related within the 2[nd] civil degree of consanguinity or affinity to any incumbent elected national official or to any incumbent elected regional, provincial, city, municipal, or barangay official, in the locality where I seek to be elected." [16] The reverse being true, the COMELEC Second Division found him guilty of misrepresenting a material fact in his COC.[17]

Merson moved for reconsideration,[18] where he first denied receiving the COMELEC's summons, whether personally, by registered mail, or electronic mail. Then, he denied the charge of material misrepresentation. According to him, on August 25, 2023, his mother, Marilyn, resigned from her position as SB Member. To prove this, he attached a copy of Marilyn's resignation letter,[19] ostensibly dated August 25, 2023, which also indicates that the Mayor of San Francisco, Surigao del Norte acknowledged receipt of the letter.[20]

Kimberly opposed[21] Merson's Motion for Reconsideration, pointing out that apart from Merson's allegation, he did not present any proof that no copy of the summons was served on him. He also belied Merson's claim that Marilyn had already resigned from her post before Merson filed his COC. To prove this, he attached the logbook[22] of the barangay showing that Marilyn still reported for duty on August 30, 2023, five days after she allegedly resigned. Further, he attached the joint affidavit of the barangay secretary and treasurer, where both officials attested to Marilyn reporting for duty even after her supposed resignation.[23] The barangay secretary also attested that on September 1, 2023, Marilyn approached him to seek assistance in drafting her resignation letter; and that it was only on September 6, 2023 that Marilyn handed her resignation letter to the members of the barangay council.[24]

In its Resolution[25] dated January 24, 2025, the COMELEC En Banc denied Merson's Motion for Reconsideration and affirmed the cancellation of his COC.[26] In so ruling, the COMELEC En Banc noted that the summons was served, not only personally but also electronically, through the e-mail address that Merson indicated in his COC. The COMELEC En Banc explained that under COMELEC Resolution No. 10924,[27] candidates filing their COCs are held responsible for ensuring that the e-mail address or physical address that they provide is accurate and accessible at all times. Thus, the COMELEC En Banc held that Merson's failure to check his e-mail account for any notices from the COMELEC should be taken against him.[28]

For his failure to file an answer, the COMELEC En Banc held that Merson may not be allowed to submit controverting evidence in his Motion for Reconsideration. At any rate, Kimberly presented substantial evidence that Merson materially misrepresented his qualifications in his COC.[29]

Hence, this Petition.

The Issues Before the Court

The core issues for the Court's resolution are as follows: procedurally, whether the COMELEC gravely abused its discretion in cancelling Merson's COC despite non-receipt of summons; and substantively, whether the COMELEC gravely abused its discretion in cancelling Merson's COC despite Marilyn's resignation from her position.

Merson argues that the COMELEC gravely abused its discretion in cancelling his COC despite not serving summons on him and the fact that at the time he filed his COC, his mother had already resigned from her

position.[30]

In its Comment,[31] the COMELEC, through the Solicitor General, insists that it committed no grave abuse of discretion in canceling Merson's COC. It also faults him for filing the present petition despite the fact that the assailed Resolutions are based on substantial evidence.

The Court's Ruling

The Petition is without merit.

I

On the procedural issue, COMELEC Resolution No. 10924 sets out the rules, regulations, and general guidelines for the 2023 BSKE. Its Section 594(8) states:

(8.) If the Petition is not summarily dismissed, the [Office of the Clerk of the Commission] (OCOC) shall issue the corresponding summons directly to the respondent or through the appropriate field office having jurisdiction over the party, via E-mail or, in areas where E-mail is inaccessible, through personal service services. The concerned field office shall serve [sic] personally serve a copy of the summons, Petition and annexes to the respondent.

Within a non-extendible period of three (3) days from receipt of the E-mail, the field office concerned shall send an affidavit of service and/or acknowledgment receipt to the OCOC through E-mail.

The same Resolution, particularly Section 169(11), requires that the COC shall be under oath and state, among others, the "[o]fficial e-mail address of the aspirant, for notice and election purposes[.]" Relevantly, Section 594(2) also states:

(2.) Any notice or document sent to the E-mail address provided in the COC shall be considered received by the candidate, and shall be binding on the candidate as if the notice or document had been personally served. The candidate shall be responsible for ensuring that the E-mail address or physical address provided in the COC is accurate and accessible at all times[.] (Emphasis supplied)

The COMELEC's records show that summons was sent to Merson electronically through the e-mail address he himself indicated in his COC, apart from through registered mail. It was thus incumbent upon him to explain and submit evidence that the summons electronically sent to him was not actually received. To note, it is Merson's responsibility to ensure that his e-mail address is always accessible. Thus, even assuming that the summons was not physically served on him, the COMELEC rules allow electronic service of summons.[32]

Notably, Merson merely alleged without proof that he did not receive summons from the COMELEC. This is insufficient. To warrant the extraordinary remedy of certiorari, the party seeking it must prove that the government agency committed grave abuse of discretion.

Case law defines "grave abuse of discretion" as the "arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law." [33] This arbitrary or despotic exercise of power manifests in COMELEC resolutions that are issued despite the lack of substantial evidence supporting their legal conclusions; [34] or when the resolution in question violates the Constitution. [35]

From this standout, the Court is convinced that: first, Merson failed to prove that the summons was not electronically served on him, and second, consequently, the issuance of the COMELEC Resolutions despite the alleged non-receipt of summons was not attended by grave abuse of discretion.

This procedural issue having been settled, the Court now proceeds to the substantive issue at hand.

II

Among other qualifications, Republic Act No. 10742 also requires that a candidate for a position in the SK "must not be related within the second civil degree of consanguinity or affinity to any incumbent elected national official, or to any incumbent elected regional, provincial, city municipal, or barangay official, in the locality where [they] seek to be elected." [36] During the legislative deliberation of the bills that will eventually become this law, lawmakers referred to this requirement as the "Anti-Dynasty clause." [37]

Implementing this law, the COMELEC required SK candidates to swear, through Item No. 10 of their COC, that they are not related within the second civil degree of consanguinity or affinity to any incumbent elected national official, or to any incumbent elected regional, provincial, city, municipal, or barangay official, in the locality where they seek to be elected. Merson signed his COC and in doing so, swore that he is not so related to any incumbent official when he filed his COC.

Substantial evidence, however, contradicts him. As discussed, records show that at the time of the filing of his COC, Merson's mother, Marilyn, was an incumbent SB Member in the same barangay where Merson sought to be elected as SK Chairperson.

In his Petition before the Court, Merson avoids altogether the evidence presented by respondent Kimberly, which clearly shows that Marilyn reported for duty despite supposedly resigning on August 25, 2023. Further, the barangay secretary even stated in his sworn statement that Marilyn was drafting her resignation as late as September 1, 2023, which again Merson neither responded to nor rebutted. [38] Instead, he insists, despite evidence to the contrary, that his mother resigned on an earlier date. Thus, Merson clearly misrepresented a material fact in relation to his qualifications in his COC. Following the law, [39] his COC must be cancelled.

As stated earlier, the Court, in reviewing COMELEC's rulings, must determine whether the electoral body issued the assailed resolution with grave abuse of discretion. Anchored as it is on substantial evidence and statute, the COMELEC Resolution cannot be considered as issued with or tainted by grave abuse of discretion. Hence, must be sustained.

III

The Court recognizes the legislative framework provided in Republic Act No. 10742 for preventing the creation and expansion of political dynasties in the country as the Legislative's answer to the constitutional call to define political dynasties, at least at the barangay and SK levels. [40] It breathes life to the constitutionally enshrined policy of the sovereign to prohibit political dynasties. In Republic Act No. 10742, the Legislative acted on this policy and prohibited the entry into politics of SK candidates who are related to other incumbent national or local officials within the second civil degree. The Court is also aware that apart from Republic Act No. 10742, no law before or since has provided a workable definition of what constitutes a political dynasty. Furthermore, Republic Act No. 10742 is restricted in its application to those seeking SK election and does not apply to candidates for higher local and national election offices.

Meanwhile, with the founding of the Fifth Republic came the constitutional prohibition against political dynasties. Despite this, however, these dynasties have been neither prohibited nor curtailed. Quite the opposite, the Philippine Center for Investigative Journalism reports that as of 2024, 216 of the country's 253 legislative districts are represented by "individuals who at least have one other relative previously or currently elected into public office." [41] Local governments fare no better. As of this year, 113 of the country's 149 cities are helmed by mayors who belong to political dynasties. [42]

That 80% of the district seats in the House of Representatives and 75% of the country's cities are "ruled" by political dynasties is an affront to the Constitution. To be clear, the reasons behind the prohibition of political dynasties are not difficult to discern. Time and again, the concentration of political power to a few families or clans, long held to be the aim and effect of political dynasties,[43] has been shown to "skew economic and political institutions to favour and protect the private interests of elites." [44] And perhaps more unfortunately, political dynasties and elite interests thrive and become even more predatory the more underdeveloped and farther their localities are from the national capital.[45] The Constitution, to say the least, does not countenance this. As a nation, neither should We.

ACCORDINGLY, the Petition is DENIED. The Resolution dated October 10, 2023 of the Commission on Elections Second Division, and the Resolution dated January 24, 2025 of the Commission on Elections En Banc in SPA No. 23-023 (BRGY) are AFFIRMED in toto.

The certificate of candidacy filed by petitioner Merson C. Calubag for the position of chairperson, Sangguniang Kabataan of Barangay Magtangale, San Francisco, Surigao del Norte for the 2023 Barangay and Sangguniang Kabataan Elections is DENIED DUE COURSE and CANCELLED.

Let a copy of the Decision in this case be furnished to the House of Representatives and the Senate of the Philippines for their reference.

SO ORDERED.

Gesmundo, C.J., Leonen, S.J., Caguioa, Hernando, Lazaro-Javier, Inting, Zalameda, Gaerlan, Rosario, Lopez, Dimaampao, Marquez, and Villanueva, JJ., concur.
Singh,[*] J. on leave.

[*] On leave.

[1] Rollo, pp. 4-17.

[2] Id. at 20-25. Signed by Presiding Commissioner Marlon S. Casquejo and Commissioners Rey E. Bulay and Nelson J. Celis.

[3] Id. at 28-33. Signed by Chairperson George Erwin M. Garcia and Commissioners Socorro B. Inting, Marlon S. Casquejo, Aimee P. Ferolino, Rey B. Bulay, Ernesto Ferdinand P. Maceda, Jr., and Nelson J. Celis.

[4] Id. at 41-42.

[5] Id. at 34-37.

[6] Id. at 34.

[7] Id. at 43.

[8] Id. at 38-40.

[9] Id. at 39.

[10] Id. at 21.

[11] Id. at 69-72.

[12] Id. at 20-25. Signed by Presiding Commissioner Marlon S. Casquejo and Commissioners Rey E. Bulay and Nelson J. Celis.

[13] Id. at 25.

[14] SECTION 10. Qualifications. — An official of the Sangguniang Kabataan, either elective or appointee, must be a citizen of the Philippines, a qualified voter of the Katipunan ng Kabataan, a resident of the barangay for not less than one (1) year immediately preceding the day of the elections, at least eighteen (18) years but not more than twenty-four (24) years of age on the day of the elections, able to read and write Filipino, English, or the local dialect, must not be related within the second civil degree of consanguinity or affinity to any incumbent elected national official or to any incumbent elected regional, provincial, city, municipal, or barangay official, in the locality where he or she seeks to be elected, and must not have been convicted by final judgment of any crime involving moral turpitude.

[15] An Act Establishing Reforms in the Sangguniang Kabataan Creating Enabling Mechanisms for Meaningful Youth Participation in Nation-Building, and for other purposes (2015).

[16] Rollo, p. 41.

[17] Id. at 24.

[18] Id. at 45-51.

[19] Id. at 53.

[20] Id. at 54.

[21] Id. at 59-61.

[22] Id. at 63-64.

[23] Id. at 65-66.

[24] Id.

[25] Id. at 28-33.

[26] Id. at 32.

[27] General Guidelines and other Related Rules and Regulations for the October 30, 2023 Barangay and Sangguniang Kabataan Elections and All Succeeding BSKEs thereafter (2023).

[28] Rollo, pp. 30-31.

[29] Id. at 32.

[30] Id. at 8-10.

[31] Id. at 82-107.

[32] Id. at 31-32.

[33] *Beluso v. Commission on Elections*, 635 Phil. 436, 443 (2010) [Per J. Peralta, En Banc],

[34] *De Alban v. Commission on Elections*, 921 Phil. 524 (2022) [Per J. M. Lopez, En Banc].

[35] *Atty. Macalintal v. Commission on Elections*, 943 Phil. 212 (2023) [Per J. Kho, Jr., En Banc].

[36] Republic Act No. 10742 (2015), sec. 10.

[37] See II Record, Senate, 16[th] Congress, 2[nd] Session (February 3, 2015); II Record, Senate, 16[th] Congress, 2[nd] Session (February 4, 2015); Bicameral Conference Committee Hearing, 16[th] Session, 3[rd] Regular Session, October 6, 2015.

[38] Rollo, pp. 63-66.

[39] OMNIBUS ELECTION CODE, sec. 78 in relation to sec. 74.

[40] CONST., art. 11, sec. 26.

[41] 8 in every 10 district rcps belong to dynasties. More than half are reelectionists in 2025, Guinevere Latoza and Maujerie Miranda, <https://pcij.org/2024/10/26/lower-house-district-representatives-political-dynasties-reelection>, (last accessed on September 30, 2025).

[42] 113 out of 149 Philippine cities also ruled by political dynasties, Guinevere Latoza, Angela Ballerda, and Gabriel Oliveros, <https://pcij.org/2025/01/26/113-out-of-149-philippine-cities-also-ruled-by-political-dynasties/>, (last accessed on September 30, 2025).

[43] J. Carpio, Dissenting Opinion, *Navarro v. Ermita*, 663 Phil. 546, 623 (2011) [Per J. Nachura, En Banc].

[44] Structural Inequality in the Philippines: Oligorch, (Im)mobility, and Economic Transformation, Philip Arnold Tuaño and Jerik Cruz, 36 JOURNAL OF SOUTHEAST ASIAN ECONOMICS, 304, 322 (2019).

[45] Political dynasties, business, and poverty in the Philippines, Ronald U. Mendoza, Jurel K. Yap, Gabrielle Ann S. Mendoza, Leonardo Jaminola III, and Erica Celine Yun, JOURNAL OF GOVERNMENT AND ECONOMICS, <https://doi.org/10.1016/j.jgc.2022.100051>, (last accessed October 1, 2025).

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