

BENEDICTO AUSTRIA ET AL., PETITIONERS, VS. THE SOLICITOR-GENERAL ET AL., RESPONDENTS.

G.R. No. 48054. March 11, 1941

Ponente: LAUREL, J.

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LAUREL, J.:

This is an original action of prohibition instituted in this Court to enjoin the Solicitor-General and the other respondents from proceeding with the investigation of the charge filed by the respondents against the petitioners under the provisions of section 166 of the Election Code (Commonwealth Act No. 357).

Petitioners were elected mayor, vice-mayor, and municipal councilors, respectively, of the municipality of San Pedro, Laguna, in the last general election of December 10, 1940. The proclamation of their election was made by the municipal board of canvassers of said town on December 23, 1940. The petitioners took their oath of office on January 1, 1941, in the prescribed official manner. On January 2, 1941, certain electors of San Pedro, Laguna, filed with the Bureau of Justice charges involving disloyalty to the Commonwealth Government under section 166 of the Election Code. On January 3, 1941, each of the petitioners was sent by registered mail a copy of said charges, together with notice from the First Assistant Solicitor-General requiring them to answer within ten days from receipt thereof. On January 10, 1941, the petitioners filed a motion to dismiss which was denied by the Solicitor-General on the same day. On January 12, 1941, petitioners filed another motion to dismiss which was denied on January 14, 1941. Hence, this action for a writ of prohibition. The respondent Solicitor-General and the attorney for the other respondents have filed their answer to the petition.

Section 166 of the Election Code provides:

"Any elector may contest the election of a provincial or municipal officer elect on the ground of disloyalty to the Commonwealth. The contest shall be filed with the Solicitor General within the week following the proclamation of the election of the contestee. The contest shall be investigated by the Solicitor-General immediately, giving ample opportunity to the parties to present their evidence and shall submit a report of the result, accompanied with the evidence submitted to him, to the President, who shall decide the case as soon as possible, and his decision shall be final. Should the President decide that the contest is well founded, he shall not confirm the election of the official elect and shall declare the office vacant."

It is a well-known principle of constitutional law that due process of law is not necessarily a judicial process. It might be an administrative or executive process (*Cornejo vs. Gabriel*, 41 Phil. 19,'5). Section 166 of the Election Code affords all municipal and provincial officers against whom the charge of disloyalty has been filed sufficient notice and ample opportunity to be heard and to defend themselves. The law does not discriminate against any person or class of persons since the same protection is accorded to all persons similarly situated. The equal protection of the laws clause is not thereby violated. Petitioners argue that the protest was not filed within the time prescribed by law since it was filed more than one week from December 23, 1940, the date of the proclamation of the election of the petitioners. This objection is not well taken. Considering that the 29th, 30th, 31st days of December, 1940, and the 1st day of January, 1941, were all legal holidays, the protest was filed within the period

provided by law. (Rule 28, sec. 1, Rules of Court.)

It is also contended that the Solicitor-General is not empowered to exercise judicial and discretionary authority under section 166 of the Election Code. As this section gives the Solicitor-General the power to investigate charges of disloyalty filed against provincial and municipal officers, it grants him the powers necessary to carry out and effectuate this specific grant. Moreover, in the conduct of investigation for disloyalty, the Solicitor-General virtually acts for the President of the Philippines, since it is the President who is called upon ultimately to decide the case. (Of. Planas vs. Gil, G. R. No. 46440, promulgated January 18, 1939.)

We deem it unnecessary to discuss the other points raised by the petitioners.

Petition is hereby dismissed, with costs against the petitioners. So ordered.

Imperial, Diaz, Moran, and Horrilleno, JJ., concur.

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