

AMADO F. GADOR, PETITIONER, VS. COMMISSION ON ELECTIONS AS REPRESENTED BY ITS CHAIRMAN, HON. LEONARDO PEREZ, RESPONDENT.

G.R. No. 52365. January 22, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This petition for mandamus with a prayer for a writ of preliminary injunction was filed on January 21, 1980 at 4:47 o'clock in the afternoon seeking the following relief:

"WHEREFORE, it is most respectfully prayed that the respondent be immediately ordered to include the name of the herein petitioner in the list of candidates for Mayor of the City of Ozamiz which shall be printed and distributed soon to all voting centers in the City of Ozamiz."

The petition alleges that the petitioner is a candidate for the Office of Mayor of the City of Ozamiz as Independent this coming January 30, 1980 local election; that he filed his certificate of candidacy with the Election Registrar of Ozamiz City on January 7, 1980; that the petitioner filed his certificate of candidacy for Mayor on January 7, 1980 on the basis of a news item in the Bulletin Today, January 6, issue; that on January 8, 1980, the petitioner wired the Chairman of the Commission on Elections informing him of the filing of the certificate of candidacy and at the same time requesting him to release the approval of the said certificate; that on January 11, 1980, the petitioner caused the Election Registrar of Ozamiz City to wire the Chairman, Commission on Elections, reiterating the information that the petitioner had filed a certificate of candidacy on January 7; that he was already in the thick of campaigns and was asking about the status of his candidacy; that in view of the President's announcement that the resolution of the respondent, Commission on Elections, for the extension of time for filing certificates of candidacy from January 4 to January 10 had been denied, there is a strong probability that the petitioner's name as candidate for Mayor may not be included in the list of candidates to be voted which is to be printed soon and distributed in Ozamiz City; and that on grounds of fairness, principles of equity and for the best interest of the people of Ozamiz City, judgment should be rendered commanding the respondent, Commission on Elections, to immediately include the petitioner in the list of candidates for Mayor.

The only issue is whether or not the certificate of candidacy of the petitioner which was filed on January 7, 1980 is valid.

Section 7, Batasang Pambansa Bilang 52, provides that "The sworn certificate of candidacy shall be filed in triplicate not later than January 4, 1980." It is a fact admitted by the petitioner that the President had not extended the period within which to file the certificate of candidacy.

This Court is powerless to grant the remedy prayed for in the petition. Having been filed beyond January 4, 1980, the certificate of candidacy of the petitioner is void.

In as much as the election is only eight (8) days away, it is to the interest of all concerned, specially the petitioner

himself, that this matter be resolved immediately.

WHEREFORE, the petition for mandamus is hereby DISMISSED for lack of merit.

SO ORDERED.

Fernando, C.J., Barredo, Makasiar, Antonio, Aquino, Concepcion, Jr., Santos, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Teehankee, J., took no part.

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