

FEDERICO R. AGCAOILI, PETITIONER, VS. HON. RAMON FELIPE, IN HIS CAPACITY AS CHAIRMAN OF THE COMMISSION ON ELECTIONS; HON. ALBERTO ROMULO, IN HIS CAPACITY AS MINISTER OF THE BUDG...

G.R. No. 77224. April 29, 1987

Ponente: CORTES, J.

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CORTES, J.:

This is a petition for certiorari, prohibition and mandamus with prayer for writ of preliminary injunction by a taxpayer and registered voter challenging the constitutionality of Section 198 (d) in relation to Section 262, 263 and 264 of the Omnibus Election Code which requires the indelible marking of the forefinger as requisite or condition to the exercise of suffrage and insofar as it penalizes failure to comply or refusal to submit to said requisite.

The Solicitor General duly filed Comment and the petitioner a Reply.

Considering the pleadings filed and the arguments raised therein;

Considering further the Philippine milieu and recalling the Holmes' aphorism that "The life of the law has not been logic; it has been experience," the Court takes judicial notice of the continuing concern over the pernicious practice of multiple or flying voting which subverts the electoral process;

Considering furthermore that the will of the sovereign people expressed through suffrage is a human right guaranteed by the constitution and by the International Covenant on Civil and Political Rights to which the Philippines is a party;

Considering moreover that in prescribing ways of safeguarding the integrity of the ballot the state may adopt appropriate and reasonable measures regulating the electoral process such as the marking of the forefinger of voters to prevent multiple voting;

Considering finally that (1) the petitioner has failed to make a clear, palpable and plain showing that the statute complained of violates the constitution by encroaching on his dignity as a human person; (2) that the petitioner seeks to substitute his judgment through this Court in place of that of the legislature on the wisdom of the appropriation of public funds for the purchase of silver nitrate and commassie blue to be used in said marking of the forefinger during the election as a safeguard against multiple or flying voting; and (3) that the petitioner's objection to having his forefinger marked and the long-term remedies he suggests to counter flying voting must yield to the greater, immediate and compelling public interest to safeguard the integrity of the right of suffrage, which is a human right guaranteed to the totality of electors who are the sovereign people.

WHEREFORE, the Court resolved to DISMISS this petition for want of merit.

Teehankee, C.J., Yap, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin,

and Sarmiento, JJ., concur.

Fernan, J., took no part for having proposed this requirement in the Omnibus Election Code as a member of Batasang Pambansa.

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