

CARMELO F. LAZATIN, PETITIONER, VS. THE COMMISSION ON ELECTIONS, FRANCISCO R. BUAN, JR., AND LORENZO G. TIMBOL, RESPONDENTS.

G.R. No. 80007. January 25, 1988

Ponente: PARAS, J.

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PARAS, J.:

Petitioner filed the instant petition assailing the jurisdiction of the COMELEC to annul his proclamation after he had taken his oath of office, assumed office, and discharged the duties of Congressman of the First District of Pampanga. The petitioner claims that the House Electoral Tribunal and not the COMELEC is the sole judge of all election contests. (Sec. 17, Art. 6 of the 1987 Constitution)

In the Comments of candidates Buan, Jr., and Timbol, they allege that the instant petition has become moot and academic because the assailed COMELEC Resolution had already become final and executory when the Supreme Court issued a temporary restraining order on October 6, 1987. They also allege that the COMELEC hastily proclaimed petitioner Lazatin without first resolving their separate written protests against the Election returns in Pampanga, docketed as SPC Nos. 87-234, 87-358, 87-351.

In the COMMENT of the Solicitor General, he alleges that the instant petition should be given due course because the proclamation was valid. The Telex Order issued by the COMELEC directing the canvassing board “to proclaim the winner if warranted under Section 245 of the Omnibus Election Code,” was in effect a grant of authority by the COMELEC to the canvassing board, to proclaim the winner.

A Separate Comment was filed by the COMELEC, alleging that the proclamation of petitioner was illegal and void because the board simply corrected the returns contested by the petitioner without waiting for the final resolutions of the petitions of candidates Timbol, Buan, Jr., and the petitioner himself, against certain election returns.

The Consolidated Reply filed by the petitioner, reiterates previous arguments.

The Supreme Court, in a Resolution dated November 17, 1987 resolved to give due course to the petition.

The petition is impressed with merit because petitioner has been proclaimed winner of the Congressional elections in the first district of Pampanga, has taken his oath of office as such, and assumed his duties as Congressman. For this Court to take cognizance of the electoral protest against him would be to usurp the functions of the House Electoral Tribunal. The alleged invalidity of the proclamation (which had been previously ordered by the COMELEC itself) despite alleged irregularities in connection therewith, and despite the pendency of the protests of the rival candidates, is a matter that is also addressed, considering the premises, to the sound judgment of the Electoral Tribunal.

WHEREFORE, the revocation by the COMELEC of petitioner’s proclamation is hereby SET ASIDE.

SO ORDERED

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

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