

SIXTO S. BRILLANTES, JR., PETITIONER, VS. HAYDEE B. YORAC, IN HER CAPACITY AS ACTING CHAIR-PERSON OF THE COMMISSION ON ELECTIONS, RESPONDENT.

G.R. No. 93867. December 18, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

The petitioner is challenging the designation by the President of the Philippines of Associate Commissioner Haydee B. Yorac as Acting Chairman of the Commission on Elections, in place of Chairman Hilario B. Davide, who had been named chairman of the fact-finding commission to investigate the December 1989 coup d'etat attempt.

The qualifications of the respondent are conceded by the petitioner and are not in issue in this case. What is the power of the President of the Philippines to make the challenged designation in view of the status of the Commission on Elections as an independent constitutional body and the specific provision of Article IX-C, Section 1(2) of the Constitution that "(I)n no case shall any Member (of the Commission on Elections) be appointed or designated in a temporary or acting capacity."

The petitioner invokes the case of *Nacionalista Party v. Bautista*, 85 Phil. 101, where President Elpidio Quirino designated the Solicitor General as acting member of the Commission on Elections and the Court revoked the designation as contrary to the Constitution. It is also alleged that the respondent is not even the senior member of the Commission on Elections, being outranked by Associate Commissioner Alfredo E. Abueg, Jr.

The petitioner contends that the choice of the Acting Chairman of the Commission on Elections is an internal matter that should be resolved by the members themselves and that the intrusion of the President of the Philippines violates their independence. He cites the practice in this Court, where the senior Associate Justice serves as Acting Chief Justice in the absence of the Chief Justice. No designation from the President of the Philippines is necessary.

In his Comment, the Solicitor General argues that no such designation is necessary in the case of the Supreme Court because the temporary succession cited is provided for in Section 12 of the Judiciary Act of 1948. A similar rule is found in Section 5 of BP 129 for the Court of Appeals. There is no such arrangement, however, in the case of the Commission on Elections. The designation made by the President of the Philippines should therefore be sustained for reasons of "administrative expediency," to prevent disruption of the functions of the COMELEC.

Expediency is a dubious justification. It may also be an overstatement to suggest that the operations of the Commission on Elections would have been disturbed or stalemated if the President of the Philippines had not stepped in and designated an Acting Chairman. There did not seem to be any such problem. In any event, even assuming that difficulty, we do not agree that "only the President (could) act to fill the hiatus," as the Solicitor General maintains.

Article IX-A, Section 1, of the Constitution expressly describes all the Constitutional Commissions as "independent." Although essentially executive in nature, they are not under the control of the President of the Philippines in the discharge of their respective functions. Each of these Commissions conducts its own proceedings under the applicable laws and its own rules and in the exercise of its own discretion. Its decisions, orders and rulings are subject only to review on certiorari by this Court as provided by the Constitution in Article IX-A, Section 7.

The choice of a temporary chairman in the absence of the regular chairman comes under that discretion. That discretion cannot be exercised for it, even with its consent, by the President of the Philippines.

A designation as Acting Chairman is by its very terms essentially temporary and therefore revocable at will. No cause need be established to justify its revocation. Assuming its validity, the designation of the respondent as Acting Chairman of the Commission on Elections may be withdrawn by the President of the Philippines at any time and for whatever reason she sees fit. It is doubtful if the respondent, having accepted such designation, will not be estopped from challenging its withdrawal.

It is true, as the Solicitor General points out, that the respondent cannot be removed at will from her permanent position as Associate Commissioner. It is no less true, however, that she can be replaced as Acting Chairman, with or without cause, and thus deprived of the powers and perquisites of that temporary position.

The lack of a statutory rule covering the situation at bar is no justification for the President of the Philippines to fill the void by extending the temporary designation in favor of the respondent. This is still a government of laws and not of men. The problem allegedly sought to be corrected, if it existed at all, did not call for presidential action. The situation could have been handled by the members of the Commission on Elections themselves without the participation of the President, however well-meaning.

In the choice of the Acting Chairman, the members of the Commission on Elections would most likely have been guided by the seniority rule as they themselves would have appreciated it. In any event, that choice and the basis thereof were for them and not the President to make.

The Court has not the slightest doubt that the President of the Philippines was moved only by the best of motives when she issued the challenged designation. But while conceding her goodwill, we cannot sustain her act because it conflicts with the Constitution. Hence, even as this Court revoked the designation in the Bautista case, so too must it annul the designation in the case at bar.

The Constitution provides for many safeguards to the independence of the Commission on Elections, foremost among which is the security of tenure of its members. That guaranty is not available to the respondent as Acting Chairman of the Commissions on Elections by designation of the President of the Philippines.

WHEREFORE, the designation by the President of the Philippines of respondent Haydee B. Yorac as Acting Chairman of the Commissions on Elections is declared UNCONSTITUTIONAL, and the respondent is hereby ordered to desist from serving as such. This is without prejudice to the incumbent Associate Commissioners of the Commission on Elections restoring her to the same position if they so desire, or choosing another member in her place, pending the appointment of a permanent Chairman by the President of the Philippines with the consent of the Commission on Appointments.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Gancayco, Padilla, Bidin, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Feliciano, J., on leave.

Sarmiento, J., no part.

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