

## EN BANC

[ G.R. No. 141489, November 29, 2002 ]

**SENATOR AQUILINO Q. PIMENTEL, JR., REPRESENTATIVES MELVYN D. EBALLE, LEONARDO Q. MONTEMAYOR, CRESENTE C. PAEZ, LORETTA ANN P. ROSALES AND PATRICIA M. SARENAS, PETITIONERS, VS. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL, JUSTICES JOSE A.R. MELO, VICENTE V. MENDOZA AND JOSE C. VITUG, AND REPRESENTATIVES ASANI S. TAMMANG, RAUL M. GONZALES, DIDAGEN P. DILANGALEN, DANTON Q. BUESER,<sup>[1]</sup> NAPOLEON R. BERATIO, SIMEON E. GARCIA AND SPEAKER MANUEL B. VILLAR, JR., RESPONDENTS.**

[G.R. NO. 141490, NOVEMBER 29, 2002]

**SENATOR AQUILINO Q. PIMENTEL, JR. REPRESENTATIVES MELVYN D. EBALLE, LEONARDO Q. MONTEMAYOR, CRESENTE C. PAEZ, LORETTA ANN P. ROSALES AND PATRICIA M. SARENAS, PETITIONERS, VS. COMMISSION ON APPOINTMENTS, ITS CHAIR, SENATE PRESIDENT BLAS F. OPLE, AND MEMBERS, NAMELY: SENATORS FRANKLIN M. DRILON, RENATO L. CAYETANO, LOREN LEGARDA-LEVISTE, ROBERT Z. BARBERS, ANNA DOMINIQUE M.L. COSETENG, GREGORIO HONASAN, RAMON B. MAGSAYSAY, JR., TERESA AQUINO-ORETA, RAUL S. ROCO, FRANCISCO S. TATAD, VICENTE C. SOTTO III AND REPRESENTATIVES LUIS A. ASISTIO, EMILIO R. ESPINOSA, JR., WIGBERTO E. TAÑADA, MANUEL M. GARCIA, SIMEON A. DATUMANONG, ANTONIO M. DIAZ, FAUSTINO S. DY, JR., PACIFICO M. FAJARDO, ERNESTO F. HERRERA, NUR G. JAAFAR, CARLOS M. PADILLA, ROGELIO M. SARMIENTO AND SPEAKER MANUEL B. VILLAR, JR., RESPONDENTS.**

## D E C I S I O N

**CARPIO, J.:**

### The Case

Before this Court are two original petitions for prohibition and *mandamus* with prayer for writ of preliminary injunction. Petitioners assail the composition of the House of Representatives Electoral Tribunal ("HRET" for brevity)<sup>[2]</sup> and the Commission on Appointments ("CA" for brevity).<sup>[3]</sup> Petitioners pray that respondents be ordered to "alter, reorganize, reconstitute and reconfigure" the composition of the HRET and the CA to include party-list representatives in accordance with Sections 17 and 18, Article VI of the 1987 Constitution and Republic Act No. 7941, otherwise known as the Party-List System Act. Petitioners further pray that the

HRET and the CA be enjoined from exercising their functions until they have been reorganized.

### **Antecedent Facts**

Section 5, Article VI of the 1987 Constitution provides for a party-list system in the House of Representatives ("House" for brevity), as follows:

"Sec. 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional and sectoral parties or organizations.

(2) The party-list representatives shall constitute twenty *per centum* of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth and such other sectors as may be provided by law except the religious sector."

On March 3, 1995, the Party-List System Act took effect. The Act sought to "promote proportional representation in the election of representatives, to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives."<sup>[4]</sup>

On May 11, 1998, in accordance with the Party-List System Act, national elections were held which included, for the first time, the election through popular vote of party-list groups and organizations whose nominees would become members of the House. Proclaimed winners were 14 party-list representatives from 13 organizations, including petitioners from party-list groups Association of Philippine Electric Cooperatives<sup>[5]</sup> (APEC), Alyansang Bayanihan ng mga Magsasaka, Manggagawang Bukid at Mangingisda (ABA), NATCO Network Party (COOP-NATCCO), Akbayan! Citizens Action Party (AKBAYAN), and Abanse! Pinay (ABANSE). Due to the votes it garnered, APEC was able to send 2 representatives to the House, while the 12 other party-list groups had one representative each. Also elected were district representatives belonging to various political parties.

Subsequently, the House constituted its HRET and CA contingent<sup>[6]</sup> by electing its representatives to these two constitutional bodies. In practice, the procedure involves the nomination by the political parties of House members who are to occupy seats in the HRET and the CA.<sup>[7]</sup> From available records, it does not appear that after the May 11, 1998 elections the party-list groups in the House nominated any of their representatives to the HRET or the CA. As of the date of filing of the

instant petitions, the House contingents to the HRET and the CA were composed solely of district representatives belonging to the different political parties.

On January 18, 2000, Senator Aquilino Q. Pimentel, Jr. wrote two letters addressed to then Senate President Blas F. Ople,<sup>[8]</sup> as Chairman of the CA, and to Associate Justice of the Supreme Court Jose A. R. Melo (now retired),<sup>[9]</sup> as Chairman of the HRET. The letters requested Senate President Ople and Justice Melo to cause the restructuring of the CA and the HRET, respectively, to include party-list representatives to conform to Sections 17 and 18, Article VI of the 1987 Constitution.

In its meeting of January 20, 2000, the HRET resolved to direct the Secretary of the Tribunal to refer Senator Pimentel's letter to the Secretary-General of the House of Representatives.<sup>[10]</sup> On the same day, HRET Secretary Daisy B. Panga-Vega, in an Indorsement<sup>[11]</sup> of even date, referred the letter to House of Representatives Secretary General Roberto P. Nazareno.

On February 2, 2000, petitioners filed with this Court their Petitions for Prohibition, Mandamus and Preliminary Injunction (with Prayer for Temporary Restraining Order) against the HRET, its Chairman and Members,<sup>[12]</sup> and against the CA, its Chairman and Members.<sup>[13]</sup> Petitioners contend that, under the Constitution and the Party-List System Act, party-list representatives should have 1.2 or at least 1 seat in the HRET,<sup>[14]</sup> and 2.4 seats in the CA.<sup>[15]</sup> Petitioners charge that respondents committed grave abuse of discretion in refusing to act positively on the letter of Senator Pimentel. In its Resolution of February 8, 2000,<sup>[16]</sup> the Court *en banc* directed the consolidation of G.R. No. 141490 with G.R. No. 141489.

On February 11, 2000, petitioners filed in both cases a motion<sup>[17]</sup> to amend their petitions to implead then Speaker Manuel B. Villar, Jr. as an additional respondent, in his capacity as Speaker of the House and as one of the members of the CA. The Court granted both motions and admitted the amended petitions.

Senator Pimentel filed the instant petitions on the strength of his oath to protect, defend and uphold the Constitution and in his capacity as taxpayer 'and as a member of the CA. He was joined by 5 party-list representatives from APEC, ABA, ABANSE, AKBAYAN and COOP-NATCCO as co-petitioners.

Petitioners cite as basis Sections 17 and 18, Article VI of the 1987 Constitution, to wit:

"Sec. 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be **chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system** represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman."

"Sec. 18. There shall be a Commission on Appointments consisting of the President of the Senate, as *ex officio* Chairman, twelve Senators and twelve Members of the House of Representatives, **elected by each House on the basis of proportional representation from the political parties and parties or organizations registered under the party-list system** represented therein. The Chairman of the Commission shall not vote, except in case of a tie. The Commission shall act on all appointments submitted to it within thirty session days of the Congress from their submission. The Commission shall rule by a majority vote of all the Members,"<sup>[18]</sup> (Emphasis supplied)

Petitioners also invoke the following provision of Section 11 of Republic Act No. 7941:

"Sec. 11. *Number of Party-List Representatives.* - The party-list representatives shall constitute twenty *per centum* (20%) of the total number of the members of the House of Representatives including those under the party-list. xxx"<sup>[19]</sup>

According to the Solicitor General's Consolidated Comment,<sup>[20]</sup> at the time petitioners filed the instant petitions the House had 220 members, 14 of whom were party-list representatives, constituting 6.3636% of the House. Of the remaining 206 district representatives affiliated with different political parties, 151 belonged to LAMP (68.6354%), 36 belonged to LAKAS (16.3636%), 13 to the Liberal Party (5.9090%), 1 member (0.4545%) each to KBL, PDRLM, Aksyon Demokratiko, Reporma and PROMDI, and 1 representative was an independent.

In their Reply to Consolidated Comment,<sup>[21]</sup> petitioners alleged that, following the Solicitor General's computation, the LP and LAKAS were over-represented in the HRET and the CA. Petitioners particularly assail the presence of one LP representative each in the HRET and the CA, and maintain that the LP representatives should be ousted and replaced with nominees of the 14 party-list representatives.

### **The Issues**

Petitioners raise the following issues:

1. WHETHER THE PRESENT COMPOSITION OF THE HOUSE ELECTORAL TRIBUNAL VIOLATES THE CONSTITUTIONAL REQUIREMENT OF PROPORTIONAL REPRESENTATION BECAUSE THERE ARE NO PARTY-LIST REPRESENTATIVES IN THE HRET.
2. WHETHER THE PRESENT MEMBERSHIP OF THE HOUSE IN THE COMMISSION ON APPOINTMENTS VIOLATES THE CONSTITUTIONAL REQUIREMENT OF PROPORTIONAL REPRESENTATION BECAUSE THERE ARE NO PARTY-LIST REPRESENTATIVES IN THE CA.
3. WHETHER THE REFUSAL OF THE HRET AND THE CA TO RECONSTITUTE THEMSELVES TO INCLUDE PARTY-LIST REPRESENTATIVES CONSTITUTES GRAVE ABUSE OF DISCRETION.

On the other hand, the Solicitor General argues that the instant petitions are procedurally defective and substantially lacking in merit for having been filed'