

EN BANC

[G.R. No. 151891, November 18, 2002]

**MAUYAG B. PAPANDAYAN, JR., PETITIONER, VS. COMMISSION
ON ELECTIONS AND FAHIDA P. BALT, RESPONDENTS.**

R E S O L U T I O N

CARPIO MORALES, J.:

The petition at bar has been rendered moot for the most part by our Decision of April 16, 2002 in G. R. No. 147909, also titled *Mauyag B. Papandayan, Jr. v. Commission on Elections and Fahida P. Balt* (the disqualification case), which reversed the Resolutions of the Commission on Elections (COMELEC) declaring petitioner disqualified to run for the position of Mayor of Tubaran, Lanao del Sur. The void proclamation of petitioner as duly elected mayor, however, necessitated this Resolution.

Petitioner Mauyag B. Papandayan, Jr. and respondent Fahida P. Balt were among the contenders for the post of Municipal Mayor of Tubaran, Lanao del Sur in the May 14, 2001 elections. Respondent Balt sought the disqualification of petitioner before the COMELEC on the ground that he was not a resident of Tubaran.

By Resolution of May 8, 2001, the COMELEC declared petitioner disqualified and accordingly ordered that his name be stricken off the list of candidates for mayor and that all votes cast in his favor should not be counted but considered as stray. Petitioner's motion for reconsideration of the said May 8, 2001 Resolution was, by Resolution of May 12, 2001, denied.

Petitioner, however, received the highest number of votes for mayor of Tubaran in the elections held on May 14, 2001. He thus filed with this Court on May 17, 2001 the disqualification case, a petition for Certiorari with prayer for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction, praying for the annulment of the COMELEC Resolutions of May 8 and 12, 2001 disqualifying him as a candidate.

Petitioner subsequently filed on May 19, 2001 with the COMELEC a petition, docketed as SPC No. 01-039, praying that the Board of Election Inspectors (BEI) of Tubaran be ordered to count and tally the votes cast in his favor pursuant to COMELEC Resolution No. 4116 dated May 7, 2001 mandating that if the disqualification had not become final and executory on the day of the elections, the BEI shall tally and count the votes of the disqualified candidate.

Respondent Balt in turn filed a pre-proclamation case before the COMELEC against petitioner, docketed as SPC No. 01-259 (the pre-proclamation case), for exclusion of election returns.

In the interim or on May 22, 2001, this Court issued in the disqualification case a TRO enjoining the COMELEC to desist from implementing its Resolutions of May 8

and 12, 2001 disqualifying petitioner as a candidate.

By Order of May 29, 2001, the COMELEC granted the petition in SP No. 01-039 of petitioner to count and tally the ballots cast in his favor with the qualification that in the event he wins, his proclamation be suspended pending the resolution by this Court of the disqualification case. The COMELEC disposed thus:

WHEREFORE, premises considered, the Petition is hereby granted. The Board of Canvassers of Tuburan, Lanao del Sur is ordered to count and tally the ballots cast in favor of the Petitioner. However, pending the resolution of the case for certiorari filed by the Petitioner with the Supreme Court, the same board is directed to immediately suspend the proclamation of the Petitioner, if winning, as mayor of Tuburan, Lanao del Sur.^[1]

Petitioner filed a motion for reconsideration of the above-said COMELEC May 29, 2001 Order in SP No. 01-039 insofar as it ordered the suspension of his proclamation, he arguing that the same constituted "an unlawful interference with process or proceedings of the High Court in [the disqualification case]." Pending the resolution by the COMELEC of petitioner's said motion for reconsideration or on June 3, 2001, the Municipal Board of Canvassers of Tuburan proceeded with petitioner's proclamation. Respondent Balt thus filed a motion dated June 19, 2001 for the annulment of the proclamation, which the COMELEC granted by Order of June 25, 2001, it holding that:

x x x. Clearly, the act of proclamation is in violation of the May 29, 2001 Order of this Commission (First Division). Moreover, the fact that the pre-proclamation case is also pending with the Commission, the Board should have deferred its proceedings pursuant to the provision of the Section 245 of the Omnibus Election Code as regards contested election returns, the pertinent portion which is quoted as follows:

"x x x

The board of canvassers shall not proclaim any candidate as winner unless authorized by the Commission after the latter has ruled on the objections brought to it on appeal by the losing party and any proclamation made in violation hereof shall be void ab initio, unless the contested returns will not adversely affect the results of the election."

Wherefore, premises considered, this Commission (First Division) hereby sets aside the proclamation of Petitioner Mauyag B. Papandayan Jr., last June 3, 2001 without prejudice to the filing of appropriate charges against the members of the Board who made the illegal proclamation.^[2] (Underscoring supplied).

Petitioner filed a motion for reconsideration of the COMELEC Order of June 25, 2001.

Meanwhile or on June 29, 2001, the COMELEC promulgated Resolution No. 4493 (Omnibus Resolution on Pending Cases) considering as terminated certain classes of pre-proclamation cases under which the pre-proclamation case filed by respondent Balt was classified.