370 Phil. 642

EN BANC

[G.R. No. 136351, July 28, 1999]

JOEL G. MIRANDA, PETITIONER, VS. ANTONIO M. ABAYA AND THE COMMISSION ON ELECTIONS, RESPONDENTS.

D E C I S I O N

MELO, J.:

Before us is a petition for *certiorari* with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction questioning the resolution of the Comelec *En Banc* dated December 8, 1998 in SPA Case No. 98-288 which disposed:

> ACCORDINGLY, judgment is hereby rendered to:
>
> 1. AMEND and RECTIFY the dispositive portion of the Resolution of the Commission (First Division) in SPA No. 98-019 promulgated on May 5, 1998, to read as follows:
>
>> "WHEREFORE, in view of the foregoing, the Commission (First Division) GRANTS the Petition. Respondent JOSE "PEMPE" MIRANDA's certificate of candidacy for the position of mayor of Santiago City in the May 11, 1998 national and local elections is hereby DENIED DUE COURSE AND/OR CANCELLED.
>>
>> SO ORDERED."
>
> 2. ANNUL the election and proclamation of respondent JOEL G. MIRANDA as mayor of Santiago City in the May 11, 1998 election and CANCEL the Certificate of Canvass and Proclamation (C.E. form 25) issued therefor;
>
> 3. DIRECT THE City board of Canvassers of Santiago City to RECONVENE, PREPARE a new certificate of canvass & proclamation and PROCLAIM the winning candidate among those voted upon as the duly elected mayor of Santiago City in the May 11, 1998 election; and
>
> 4. DIRECT the Clerk of Court of the Commission to furnish copies of this Decision to the Office of the President of the Philippines; the Department of Interior and Local Government; the Department of Finance, and the Secretary of the Sangguniang Panglunsod of Santiago City.
>
> SO ORDERED.

(pp. 90-91, *Rollo.*)

The aforementioned resolution dated December 8, 1998 reversed and set aside the earlier resolution of the First Division of the Comelec dated May 16, 1998, dismissing private respondent's petition to declare the substitution of Jose "Pempe" Miranda by petitioner as candidate for the City of Santiago's mayoralty post void.

Briefly, the pertinent factual backdrop is summarized as follows:

On March 24, 1998, Jose "Pempe" Miranda, then incumbent mayor of Santiago City, Isabela, filed his certificate of candidacy for the same mayoralty post for the synchronized May 11, 1998 elections.

On March 27, 1998, private respondent Antonio M. Abaya filed a Petition to Deny Due Course to and/or Cancel Certificate of Candidacy (pp. 26-33, *Rollo*), which was docketed as SPA No. 98-019. The petition was GRANTED by the Comelec in its resolution dated May 5, 1998 (pp. 36-43, *Rollo*). The Comelec further ruled to DISQUALIFY Jose "Pempe" Miranda.

On May 6, 1998, way beyond the deadline for filing a certificate of candidacy, petitioner Joel G. Miranda filed his certificate of candidacy for the mayoralty post, supposedly as a substitute for his father, Jose "Pempe" Miranda.

During the May 11, 1998 elections, petitioner and private respondent vied for the mayoralty seat, with petitioner garnering 22,002 votes, 1,666 more votes than private respondent who got only 20, 336 votes.

On May 13, 1998, private respondent filed a Petition to Declare Null and Void Substitution with Prayer for Issuance of Writ of Preliminary Injunction and/or Temporary Restraining Order, which was docketed as SPA No. 98-288. He prayed for the nullification of petitioner's certificate of candidacy for being void *ab initio* because the certificate of candidacy of Jose "Pempe" Miranda, whom petitioner was supposed to substitute, had already been cancelled and denied due course.

On May 16, 1998, Comelec's First Division dismissed SPA No. 98-288 *motu proprio* (pp. 57-61, *Rollo*). Private respondent moved for reconsideration (pp. 62-72, *Rollo*). On December 8, 1998, the Comelec *En Banc* rendered the assailed decision aforequoted, resolving to GRANT the motion for reconsideration, thus nullifying the substitution by petitioner Joel G. Miranda of his father as candidate for the mayoralty post of Santiago City.

On December 9, 1998, petitioner sought this Court's intercession via a petition for *certiorari*, with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction. On December 11, 1998, the Court resolved to issue a temporary restraining order and to require respondents to comment on the petition. On December 14, 1998, private respondent filed his Comment (pp. 140-187 and 188-234, *Rollo*) and on February 16, 1999, the Comelec, through its counsel, the Solicitor General, filed its Comment (pp. 254-265, *Rollo*). The Court required petitioner to file a consolidated reply within 10 days from notice, but petitioner twice asked for an extension of the period. Without granting the motions for extension of time to file consolidated reply, the Court decided to resolve the controversy in favor

of petitioner.

Tersely, the issues in the present case may be summarized as follows:

1. Whether the annulment of petitioner's substitution and proclamation was issued without jurisdiction and/or with grave abuse of discretion amounting to lack of jurisdiction; and

2. Whether the order of the Comelec directing the proclamation of the private respondent was issued with grave abuse of discretion amounting to lack of jurisdiction.

The Court finds neither lack of jurisdiction nor grave abuse of discretion attended the annulment of the substitution and proclamation of petitioner.

On the matter of jurisdiction, there is no question that the case at hand is within the exclusive original jurisdiction of the Comelec. As early as in *Herrera vs. Baretto* (25 Phil. 245 [1913]), this Court had occasion to apply the following principles:

> Jurisdiction is the authority to hear and determine a cause--the right to act in a case. Since it is the power to hear and determine, it does not depend either upon the regularity of the exercise of that power or upon the rightfulness of the decision made. Jurisdiction should therefore be distinguished from the exercise of jurisdiction. The authority to decide a cause at all, and not the decision rendered therein, is what makes up jurisdiction. Where there is jurisdiction over the subject matter, as we have said before, the decision of all other questions arising in the case is but an exercise of that jurisdiction.
>
> (p. 251)

On the issue of soundness of the disposition in SPA No. 98-288, the Court finds that the Comelec's action nullifying the substitution by and proclamation of petitioner for the mayoralty post of Santiago City, Isabela is proper and legally sound.

Petitioner insists that the substitution at bar is allowed under Section 77 of the Omnibus Election Code which provides:

> SEC. 77. *Candidates in case of death, disqualification or withdrawal*. -- If after the last day for the filing of certificates of candidacy, an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, only a person belonging to, and certified by, the same political party may file a certificate of candidacy to replace the candidate who died, withdrew or was disqualified. The substitute candidate nominated by the political party concerned may file his certificate of candidacy for the office affected in accordance with the preceding sections not later than mid-day of the day of the election. If the death, withdrawal or disqualification should occur between the day before the election and mid-day of election day, said certificate may be filed with any board of election inspectors in the political subdivision where he is a candidate, or, in the case of candidates to be voted for by the entire electorate of the country, with the Commission.

Petitioner capitalizes on the fact that the Comelec ruled to disqualify Jose "Pempe" Miranda in the May 5, 1998 resolution and he heavily relies upon the above-quoted provision allowing substitution of a candidate who has been disqualified for any cause.

While there is no dispute as to whether or not a nominee of a registered or accredited political party may substitute for a candidate of the same party who had been disqualified for any cause, this does not include those cases where the certificate of candidacy of the person to be substituted had been denied due course and cancelled under Section 78 of the Code.

Expressio unius est exclusio alterius. While the law enumerated the occasions where a candidate may be validly substituted, there is no mention of the case where a candidate is excluded not only by disqualification but also by denial and cancellation of his certificate of candidacy. Under the foregoing rule, there can be no valid substitution for the latter case, much in the same way that a nuisance candidate whose certificate of candidacy is denied due course and/or cancelled may not be substituted. If the intent of the lawmakers were otherwise, they could have so easily and conveniently included those persons whose certificates of candidacy have been denied due course and/or cancelled under the provisions of Section 78 of the Code.

More importantly, under the express provisions of Section 77 of the Code, not just any person, but only "an **official candidate** of a registered or accredited political party" may be substituted. In *Bautista vs. Comelec* (G.R. No. 133840, November 13, 1998) this Court explicitly ruled that **"a cancelled certificate does not give rise to a valid candidacy"** (p.13).

A person without a valid certificate of candidacy cannot be considered a candidate in much the same way as any person who has not filed any certificate of candidacy at all can not, by any stretch of the imagination, be a candidate at all.

The law clearly provides:

> SEC. 73. *Certificate of candidacy* -- No person shall be eligible for any elective public office unless he files a sworn certificate of candidacy within the period fixed herein.

By its express language, the foregoing provision of law is absolutely mandatory. It is but logical to say that any person who attempts to run for an elective office but does not file a certificate of candidacy, is not a candidate at all. No amount of votes would catapult him into office. In *Gador vs. Comelec* (95 SCRA 431 [1980]), the Court held that a certificate of candidacy filed beyond the period fixed by law is void, and the person who filed it is not, in law, a candidate. Much in the same manner as a person who filed no certificate of candidacy at all and a person who filed it out of time, a person whose certificate of candidacy is cancelled or denied due course is no candidate at all. No amount of votes should entitle him to the elective office aspired for.

The evident purposes of the law in requiring the filing of certificates of candidacy and in fixing the time limit therefor are: *(a)* to enable the voters to know, at least sixty days before the regular election, the candidates among whom they are to make the choice, and *(b)* to avoid confusion and inconvenience in the tabulation of

the votes cast. For if the law did not confine the choice or election by the voters to the duly registered candidates, there might be as many persons voted for as there are voters, and votes might be cast even for unknown or fictitious persons as a mark to identify the votes in favor of a candidate for another office in the same election. (*Monsale vs. Nico*, 83 Phil. 758 [1949])

It is at once evident that the importance of a valid certificate of candidacy rests at the very core of the electoral process. It cannot be taken lightly, lest there be anarchy and chaos. Verily, this explains why the law provides for grounds for the cancellation and denial of due course to certificates of candidacy.

After having considered the importance of a certificate of candidacy, it can be readily understood why in *Bautista* we ruled that a person with a cancelled certificate is no candidate at all. Applying this principle to the case at bar and considering that Section 77 of the Code is clear and unequivocal that only an official candidate of a registered or accredited party may be substituted, there demonstrably cannot be any possible substitution of a person whose certificate of candidacy has been cancelled and denied due course.

Also, under *ejusdem generis* rule, where a general word or phrase (such as "disqualification for any cause" in this case) follows an enumeration of particular and specific words of the same class (such as the words "dies" and "withdraws" in the instant case) or where the latter follow the former, the general word or phrase is to be construed to include, or to be restricted to persons, things or cases akin to, resembling, or of the same kind or class as those specifically mentioned (see: *Vera vs. Cuevas*, 90 SCRA 379 [1979]). A deceased candidate is required to have duly filed a valid certificate of candidacy, otherwise his political party would not be allowed to field a substitute candidate in his stead under Section 77 of the Code. In the case of withdrawal of candidacy, the withdrawing candidate is required to have duly filed a valid certificate of candidacy in order to allow his political party to field a substitute candidate in his stead. Most reasonable it is then, under the foregoing rule, to hold that a ***valid*** certificate of candidacy is likewise an indispensable requisite in the case of a substitution of a disqualified candidate under the provisions of Section 77 of the Code, just as it is in the two previous instances.

Furthermore, *interpretatio talis in ambiguis semper freinda est, ut eviatur inconveniens et absurdum*, meaning, where there is ambiguity, such interpretation as will avoid inconvenience and absurdity shall in all cases be adopted. To include those disqualified candidates whose certificate of candidacy had likewise been denied due course and/or cancelled among those who may be substituted under Section 77 of the Omnibus Election Code, leads to the absurdity where a substitute is allowed to take the place of somebody who had not been a candidate in the first place--a person who did not have a valid certificate of candidacy prior to substitution. *Nemo dat quod non habet*. What right can a non-candidate pass on to his substitute? Clearly, there is none because no one can give what he does not have.

Even on the most basic and fundamental principles, it is readily understood that the concept of a substitute presupposes the existence of the person to be substituted, for how can a person take the place of somebody who does not exist or who never was. The Court has no other choice but to rule that in all the instances enumerated in Section 77 of the Omnibus Election code, the existence of a ***valid*** certificate of