

EN BANC

[G.R. No. 134340, November 25, 1999]

LININDING PANGANDAMAN, PETITIONER, VS. COMMISSION ON ELECTIONS, PROVINCIAL BOARD OF CANVASSERS OF LANA DEL SUR, MAHED MUTILAN, ALEEM, AMERRODIN SARANGANI AND NARRA ABDUL JABBAR JIALIL, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

Recently, this Court emphatically stated that "[U]pholding the sovereignty of the people is what democracy is all about. When the sovereignty of the people expressed thru the ballot is at stake, it is not enough for this Court to make a statement but it should do everything to have that sovereignty obeyed by all. Well done is always better than well said."^[1] Corollarily, laws and statutes governing election contests especially the appreciation of ballots must be liberally construed to the end that the will of the electorate in the choice of public officials may not be defeated by technical infirmities.^[2] These standards will be the legal matrix within which this controversy will be adjudged.

Challenged in this petition for certiorari and prohibition with prayer for temporary restraining order and preliminary injunction is the Omnibus Order of the Commission on Elections (COMELEC) *en banc* dated July 14, 1998,^[3] the dispositive portion of which reads as follows:

"**WHEREFORE**, premises considered, **special elections** for the municipalities, namely

Butig	Lumbayabague
Kapatagan	Sultan Dumalondong
Maguing	Sultan Gumander
Masiu	Marawi City

Lumbabayabao

shall be held **on 18 July 1998**.

Special elections shall also be held **on July 25, 1998** for the municipalities of

Ganassi	Lumbatan
Malabang	Pagayawan

Marantao Tubaran

There shall be machine counting and consolidation of votes for all municipalities except Maguing and those precincts where ballots for manual count will be used.

The Education and Information Department, the Acting PES of Lanao del Sur and the Election Officers in these municipalities are hereby directed to cause the immediate publication of this Omnibus Order in their respective municipality (*sic*).

Schedule for **special elections** in the municipalities of Madalum and Tugaya is **temporarily withheld** pending unresolved issues before the Commission.

Let the Executive Director for Operation[s] of the Commission execute this order with dispatch.

SO ORDERED."

The COMELEC's challenged Omnibus Order summarizes the relevant facts of the controversy thus:

"The instant cases were filed by petitioners praying that the Commission declare [a] failure of elections in their respective municipalities and to hold special elections thereafter. The petitions were reinforced by reports received by the Commission from its field officers and deputies. A pre-trial for all cases in Lanao del Sur involving failure of elections was set and parties, their counsels, and the election officers of concerned municipalities appeared.

During the pre-trial of the above cases, it was shown and admitted by the parties that total failure of election[s] took place in the following municipalities:

1. Butig
2. Kapatagan
3. Lumbatan
4. Lumba Bayabao
5. Lumbayanague
6. Madalum
7. Maguing
8. Masiu
9. Sultan Dumalondong

10. Sultan Gumander

11. Tubaran

12. Tugaya

No precinct in the above towns was able to function on election day.

It was also shown and admitted by the parties that in the following municipalities, partial failure of election[s] took place as follows:

1. Ganassi
2. Malabang
3. Marantao
4. Pagayawan
5. Marawi City

TOTAL FAILURE OF ELECTIONS

It was found that the cause of failure of election[s] in the twelve municipalities where there was total failure of election[s] as follows:

1. BUTIG - armed confrontation of opposing political groups and vehement disagreement on the clustering of precincts.

+ Acting election officer reported that all election paraphernalia are available except for 200 ballots for precinct 5A.

2. KAPATAGAN - allegedly, Camad Benito, husband of mayoralty candidate Bailo Benito, terrorized the Acting Municipal Treasurer Okuo Macaumbas thus preventing the distribution of ballots and other election paraphernalia to the members of the Board of Election Inspectors (BEIs for brevity). Similarly, there were only twenty two (22) public school teachers who were available as BEIs and eighteen (18) of them were disqualified to act due to relationship to candidates within the prohibited degree.

In Election Case No. 571, the Municipal Circuit Trial Court of Kapatagan, Lanao del Sur issued an order dated April 30, 1998 ordering the Election Officer of Kapatagan, Lanao del Sur to delete, erase, and cancel all Voters Registration Records with serial numbers 3676001 to 3676500 after finding that said VRRs were received only on December 15, 1998 by EA Camal Calandada from Atty. Muslemin Tahir. And yet, said VRRs appeared to be filled up, used and dated 14 December 1997. A copy of said order was received on 10 May 1998 by the Election Officer. The court having found by implication that said VRRs were irregularly/unlawfully issued, and its order having become final, this Commission in compliance with said court order hereby orders the Election Officer of Kapatagan to delete from the records said VRRs with serial nos. from 36767001 to 3676500.

Pursuant to said order, the Law Department is directed to conduct a joint investigation - administrative and preliminary investigation for election offenses - against Camal Calandada and Muslemin Tahir to determine their criminal and administrative liability and to submit to the Commission its findings and recommendation within sixty (60) days from receipt of this Order.

The PNP, thru the Criminal Investigation Group in Region XII is similarly directed to initiate an investigation on the conduct of Camad Benito in contributing to the failure of election[s] in Kapatagan.

+ All election paraphernalia are available.

3. LUMBATAN - all the members of the different Board of Inspectors are disqualified to act as such by reason of relationship either by consanguinity or affinity, within the prohibited degree.

+ All election paraphernalia for 39 precincts are intact and available.

4. LUMBABAYABAO - candidates could not agree on the venue of the distribution of the election supplies and there was vehement disagreement on the clustering of precincts.

+ All election paraphernalia for fifty nine (59) precincts are available.

5. LUMBAYANAGUE - there was non-completion of the composition of the BEIs in all precincts because almost all appointed members of [the] BEI are disqualified by reason of relationship either by affinity or consanguinity, within the prohibitive degree.

+ All election paraphernalia for the 35 precincts are available.

6. MADALUM - the twenty (20) appointed teachers to act as members of the different BEIs did not arrive on election day.

The issue on the existence of alleged ghost barangays/precincts is not yet resolved by the Commission considering that the alleged ghost precincts are being investigated and an ocular inspection is being made by an investigating team. The issue being factual and the findings determinative of a clean, honest and credible elections, it is the desire of the Commission that the issue on ghost precincts be resolved first before a special election in Madalum shall be scheduled.

+ All election paraphernalia are available.

7. MAGUING - no members of the different Boards of Election Inspectors arrived in all precincts.

+ There is a need to print new ballots for all forty-nine (49) precincts and other election forms due to the inadvertent non inclusion of a candidate's name in the original ballots.

8. MASIU - the Municipal Treasurer did not get the election paraphernalia from the Provincial Treasurer. Neither could the Municipal Treasurer be located on election day. Hence, there was nothing to distribute to the BEIs on election day. Similarly, the Acting Election Officer, EA Cayansalam Benaning, on her admission during the pre-trial hearing on June 25, 1998, arrived only at 7:00 A.M. of election day thus preventing the distribution of election paraphernalia from her office. Some parties claim in fact that she was only seen at noontime of election day while she was in the house of the incumbent mayor of Masiu.

+ All election paraphernalia for eighty (80) precincts are available.

9. SULTAN DUMALONDONG - Municipal Treasurer did not appear on May 10 & 11, 1998 at the office of the Provincial Treasurer to receive the ballots and other election paraphernalia for distribution to the BEIs so there was no election supplies for distribution on election day.

+ All election paraphernalia for 16 precincts are available.

10. SULTAN GUMANDER - no BEIs appeared on election day because most of them are disqualified by law to act as such; the remaining 12 who are not disqualified also did not appear; there was also disagreement on the venue of distribution of election supplies.

+ All election paraphernalia for 51 precincts are available.

11. TUBARAN - non-appearance of all the members of the different BEIs due to intense rivalry among the opposing candidates.

+ All election supplies are intact and available.

12. TUGAYA - widespread terrorism causing intimidation of the electorate to cast their vote. The order of inclusion by the Municipal Court of Tugaya, covering 4,075 voters, will be the subject of a petition to declare its nullity to be filed by the Law Department of the Commission before the Regional Trial Court in Marawi City. It is the desire of the Commission to put to rest the issue on the controversy surrounding the 4,075 voters to allow honest election in this municipality. After the controversy is put to rest, then the special election shall be scheduled.

PARTIAL FAILURE OF ELECTION

In the following municipalities and City of Marawi, there was partial failure of election in the specified precincts due to the following reasons:

1. GANASSI - members of the BEIs for nine precincts as herein below enumerated did not appear thus election supplies were not distributed on election day for the following precincts:

Barangay Name	Precinct No.
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