

EN BANC

[G.R. No. 121139, July 12, 1996]

ISIDRO B. GARCIA, PETITIONER, VS. COMMISSION ON ELECTIONS AND AUGUSTO GARCIA, RESPONDENTS.

DECISION

FRANCISCO, J.:

This is a petition for certiorari under Rule 65 seeking to nullify the Resolution of the COMELEC en banc dated June 30, 1995^[1] in SPA No. 95-034 entitled "Isidro B. Garcia vs. Augusto M. Garcia," for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. The assailed resolution reversed the previous Resolution of the Second Division of the COMELEC promulgated on May 4, 1995,^[2] wherein respondent Augusto M. Garcia was declared a nuisance candidate resulting in the cancellation of his certificate of candidacy for the mayoralty seat of Tagig.

During the May 8, 1995 local elections, petitioner Isidro B. Garcia and respondent Augusto M. Garcia were both candidates for mayor in Tagig, Metro Manila. Claiming that respondent filed his certificate of candidacy for no other legitimate purpose but to cause confusion and disarray among the voters of Tagig considering the similarity in their surname, petitioner filed a petition with the COMELEC for the declaration of respondent as a nuisance candidate pursuant to Section 69 of the Omnibus Election Code.

In its Resolution dated May 4, 1995, the COMELEC (Second Division) granted the petition and declared respondent as a nuisance candidate. The COMELEC based its ruling on the following: 1) dubious veracity of respondent's certificate of nomination by the PDP-LABAN; 2) failure of respondent to actively campaign; and 3) the absence of any campaign materials.

On May 10, 1995, two days after the election, respondent filed a motion for reconsideration^[3] with the COMELEC seeking the reversal of the aforementioned resolution. In the meanwhile, the canvassing of the election returns proceeded which eventually resulted in the proclamation of petitioner on May 23, 1995 as the winning candidate. However, another losing candidate, Ricardo Papa filed a petition for annulment of the proclamation, and an election protest as well, with the COMELEC and the Regional Trial Court of Pasig, respectively, against petitioner.

On June 30, 1995, the COMELEC en banc promulgated the assailed resolution, granting private respondent's motion for reconsideration and reversing the previous resolution declaring him a nuisance candidate, despite admitting that the motion has been rendered moot and academic as a result of petitioner's proclamation on May 23, 1995 as winning candidate.