

EN BANC

[G.R. No. 207026, August 06, 2013]

**COCOFED-PHILIPPINE COCONUT PRODUCERS FEDERATION,
INC., PETITIONER, VS. COMMISSION ON ELECTIONS,
RESPONDENT.**

DECISION

BRION, J.:

We resolve the petition for *certiorari*,^[1] with prayer for temporary restraining order and/or status quo ante order, challenging the May 10, 2013 omnibus resolution issued by the Commission on Elections (COMELEC) in *In the Matter of the Compliance of the Commission on Elections En Bane with the Directives of the Supreme Court in Atong Paglaum, et al. v. Commission on Elections –COCOFED-Philippine Coconut Producers Federation, Inc.*^[2]

Petitioner COCOFED-Philippine Coconut Producers Federation, Inc. (COCOFED) is an organization and sectoral party whose membership comes from the peasant sector, particularly the coconut farmers and producers.^[3] On May 29, 2012, COCOFED manifested with the COMELEC its intent to participate in the party-list elections of May 13, 2013 and submitted the names of only two nominees – **Atty. Emerito S. Calderon (first nominee)** and Atty. Domingo P. Espina.^[4]

On August 23, 2012, the COMELEC conducted a summary hearing, pursuant to COMELEC Resolution No. 9513,^[5] to determine whether COCOFED, among several party-list groups that filed manifestations of intent to participate in the May 13, 2013 party-list elections, had continuously complied with the legal requirements.

In its November 7, 2012 resolution, the COMELEC cancelled COCOFED's registration and accreditation as a party-list organization on several grounds.^[6] Notably, the Concurring Opinion of Commissioner Christian Lim cited, as additional ground, that since COCOFED submitted only two nominees, then it failed to comply with Section 8 of Republic Act (RA) No. 7941^[7] that requires the party to submit to COMELEC a list of not less than five nominees.

On December 4, 2012, COCOFED submitted the names of **Charles R. Avila**, in substitution of Atty. Espina, **as its second nominee** and **Efren V. Villaseñor as its third nominee**.^[8]

COCOFED, among several others, questioned the COMELEC's cancellation of its registration and accreditation before this Court, with a prayer for the issuance of preliminary injunction and/or temporary restraining order. By reason of the *status quo ante* order issued by the Court, COCOFED's name was included in the printing of the official ballots for the May 13, 2013 elections.

On April 2, 2013, the Court rendered its Decision in *Atong Paglaum, Inc., etc., et al. v. Commission on Elections*.^[9] The Court remanded all the petitions to the COMELEC to determine their compliance with the new parameters and guidelines set by the Court in that case. In *Atong Paglaum*, the Court ruled:

Thus, we remand all the present petitions to the COMELEC. In determining who may participate in the coming 13 May 2013 and subsequent party-list elections, the COMELEC shall adhere to the following parameters:

x x x x

6. National, regional, and sectoral parties or organizations shall not be disqualified if some of their nominees are disqualified, provided that they have at least one nominee who remains qualified.

On May 10, 2013, the COMELEC issued its assailed resolution, maintaining its earlier ruling cancelling COCOFED's registration and accreditation for its failure to comply with the requirement of Section 8 of RA No. 7941, *i.e.*, to submit a list of not less than five nominees.

The COMELEC noted that all existing party-list groups or organizations were on notice as early as February 8, 2012 (when Resolution No. 9359 was promulgated) that upon submission of their respective manifestations of intent to participate, they also needed to submit a list of five nominees.^[10] During the hearing on August 23, 2012, the COMELEC pointed out to COCOFED that it had only two nominees.

WHEREFORE, the Commission En banc RESOLVES:

A. To **DENY the Manifestations of Intent to Participate**, and **CANCEL the registration and accreditation**, of the following parties, groups, or organizations:

x x x x

(3) x x x – COCOFED – Philippine Coconut Producers Federation, Inc.

Accordingly, the foregoing shall be REMOVED from the registry of party-list groups and organizations of the Commission, and shall NOT BE ALLOWED to PARTICIPATE as a candidate for the Party-List System of Representation for the 13 May 2013 Elections and subsequent elections thereafter.^[11] (emphases ours)

COCOFED moved for reconsideration only to withdraw its motion later. Instead, on May 20, 2013, COCOFED filed a *Manifestation with Urgent Request to Admit Additional Nominees* with the COMELEC, namely: (i) Felino M. Gutierrez and (ii) Rodolfo T. de Asis.^[12]

On May 24, 2013, the COMELEC issued a resolution declaring the cancellation of COCOFED's accreditation final and executory.

THE PETITION

COCOFED argues that the COMELEC gravely abused its discretion in issuing the assailed resolution on the following grounds:

First, the COMELEC's issuance of the assailed resolution violated its right to due process because the COMELEC did not even conduct a summary hearing, as ordered by the Court in *Atong Paglaum*, to give it an opportunity to explain and comply with the requirement. COCOFED submits that the requirement of submitting the names of at least five nominees should not be strictly applied "in light of the nature of party-list representation" which "look[s] to the party, and not [to] the nominees *per se*."^[13]

Second, its failure to submit the required number of nominees was based on the good faith belief that its submission was sufficient for purposes of the elections and that it could still be remedied since COCOFED could simply submit the names of its additional two nominees. COCOFED adds that the number of nominees becomes significant only "when a party-list organization is able to attain a sufficient number of votes which would qualify it for a seat in the House of Representatives."^[14]

Third, the COMELEC violated its right to equal protection of the laws since at least two other party-list groups (ACT-CIS and MTM Phils.) which failed to submit five nominees were included in the official list of party-list groups.

COCOFED prays for the following:

2. After giving due course to the instant Petition and after a consideration of the issues, judgment be rendered:
 - a. ANNULING and SETTING ASIDE [the COMELEC's assailed resolution];
 - b. DECLARING petitioner COCOFED x x x to be eligible to participate in the Party-List System of Representation in the 2013 Elections; and
 - c. ORDERING [the COMELEC] x x x to COUNT and TALLY the votes garnered by petitioner COCOFED[.]^[15]

RESPONDENT'S COMMENT

The petition is already moot and academic. Despite the issuance of the assailed resolution three days before the elections, COCOFED remained in the ballot and its votes were counted and tallied. As of 8:26:02 a.m. of May 29, 2013, the official results showed that it only received 80,397 votes or 0.36% of the total number of votes cast for the party-list elections. With the reliefs prayed for already performed, nothing more remained for COCOFED to ask.

At any rate, the COMELEC claims that it did not abuse, much less gravely abuse its discretion, when it maintained its earlier ruling cancelling COCOFED's registration and accreditation; it merely applied the clear requirement of Section 8, in relation to Section 6, of RA No. 7941. The importance of a complete list of five nominees

cannot be overemphasized. Based on this list, the COMELEC checks a party's compliance with the other legal requirements, namely: (i) that a person is nominated in only one list; and (ii) that the list shall not include any candidate for any elective office or a person who has lost his bid for an elective office in the immediately preceding election.

Additionally, the submission of a complete list is mandatory under the terms of Section 8 of RA No. 7941. As we held in *Lokin, Jr. v. Commission on Elections*,^[16] the submission of a complete list goes into the right of the voters to know and make intelligent and informed choice.

Lastly, it is not mandatory for the COMELEC to conduct summary evidentiary hearings under the ruling in *Atong Paglaum*.

COURT'S RULING

We DISMISS the petition.

The petition is not moot

A moot and academic case is one that ceases to present a justiciable controversy because of supervening events so that a declaration thereon would be of no practical use or value.^[17]

In the present case, while the COMELEC counted and tallied the votes in favor of COCOFED showing that it failed to obtain the required number of votes, participation in the 2013 elections was merely one of the reliefs COCOFED prayed for. The validity of the COMELEC's resolution, cancelling COCOFED's registration, remains a very live issue that is not dependent on the outcome of the elections.

Under Section 4 of RA No. 7941, a party-list group already registered "need not register anew" for purposes of every subsequent election, but only needs to file a *manifestation of intent to participate* with the COMELEC. These two acts are different from each other.

Under Section 5 of RA No. 7941, an applicant for registration has to file with the COMELEC, not later than ninety (90) days before the election, a verified petition stating its desire to participate in the party-list system as a national, regional or sectoral party or organization or a coalition of such parties or organizations.

The applicant is required to submit its constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require. Aside from these, the law requires the publication of the applicant's petition in at least two (2) national newspapers of general circulation. The COMELEC then resolves the petition, determining whether the applicant has complied with all the necessary requirements.

Under this legal reality, the fact that COCOFED did not obtain sufficient number of votes in the elections does not affect the issue of the validity of the COMELEC's registration. A finding that the COMELEC gravely abused its discretion in cancelling COCOFED's registration would entitle it, if it is so minded, to participate in

subsequent elections without need of undergoing registration proceedings anew.

This brings us to the issue of whether the COMELEC indeed gravely abused its discretion in issuing the assailed resolution. We hold that it did not.

Failure to submit the list of five nominees before the election warrants the cancellation of its registration

The law expressly requires the submission of a list containing at least five qualified nominees. Section 8 of RA No. 7941 reads:

Section 8. *Nomination of Party-List Representatives.* Each registered party, organization or coalition **shall submit** to the COMELEC not later than forty-five (45) days before the election a list of names, **not less than five** (5), from which party-list representatives shall be chosen in case it obtains the required number of votes. [emphases and underscores ours; italics supplied]

As early as February 8, 2012, the COMELEC had informed, through Resolution No. 9359,^[18] all registered parties who wished to participate in the May 2013 party-list elections that they “shall file with the [COMELEC] a Manifestation of Intent to participate in the party-list election together with its list of at least five (5) nominees, no later than May 31, 2012[.]”

Under Section 6(5) of RA No. 7941, violation of or failure to comply with laws, rules or regulations relating to elections is a ground for the cancellation of registration. However, not every kind of violation automatically warrants the cancellation of a party-list group’s registration. Since a reading of the entire Section 6 shows that all the grounds for cancellation actually pertain to the party itself, then the laws, rules and regulations violated to warrant cancellation under Section 6(5) must be one that is *primarily* imputable to the party itself and not one that is chiefly confined to an individual member or its nominee.

COCOFED’s failure to submit a list of five *nominees*, despite ample opportunity to do so before the elections, is a violation imputable to the party under Section 6(5) of RA No. 7941.

First, the language of Section 8 of RA No. 7941 does not only use the word “shall” in connection with the requirement of submitting a list of nominees; it uses this mandatory term in conjunction with the number of names to be submitted that is couched negatively, *i.e.*, “not less than five.” The use of these terms together is a plain indication of legislative intent to make the statutory requirement mandatory for the party to undertake.^[19] With the date and manner of submission^[20] of the list having been determined by law – a condition precedent for the registration of new party-list groups or for participation in the party-list elections in case of previously registered party-list groups,^[21] and was in fact reiterated by the COMELEC through its resolutions – COCOFED cannot now claim good faith, much less dictate its own terms of compliance.

Pursuant to the terms of Section 8 of RA No. 7941, the Court cannot leave to the party the discretion to determine the number of nominees it would submit. A contrary view overlooks the fact that the requirement of submission of a list of five