

EN BANC

[G.R. No. 155717, October 23, 2003]

ALBERTO JARAMILLA, PETITIONER, V. COMMISSION ON ELECTIONS, ANTONIO SUYAT, MUNICIPAL BOARD OF CANVASSERS OF STA. CRUZ, ILOCOS SUR, THE NEW MUNICIPAL BOARD OF CANVASSERS (COMELEC), AND IRENEO CORTEZ, RESPONDENTS.

D E C I S I O N

AZCUNA, J.:

For review before the Court is the instant petition for *certiorari*^[1] with prayer for temporary restraining order and preliminary injunction ascribing grave abuse of discretion to public respondent Commission on Elections (COMELEC) in issuing its *en banc* resolution dated October 24, 2002.

The antecedent facts, as summarized in the COMELEC resolution,^[2] are as follows:

[Respondent] Antonio Suyat and [petitioner] Alberto J. Jaramilla both ran for the position of Member of the Sangguniang Bayan in the Municipality of Sta. Cruz, Ilocos Sur in the May 14, 2001 elections.

On May 16, 2001, the Municipal Board of Canvassers of Sta. Cruz, proclaimed the winning candidates for the offices of Mayor, Vice-Mayor and eight (8) members of the Sangguniang Bayan. The Certificate of Canvass of Votes and Proclamation shows the following results and ranking with respect to the members of the Sangguniang Bayan, to wit:

<u>Name of Candidates</u>	<u>Total Votes Obtained</u>
1.RAGUCOS, Ma. Luisa Laxamana	6,324
2.ABAYA, Juan Jr., Andaquig	6,013
3.GINES, Fidel Cudiamat	5,789
4.QUILOP, Renato Avila	5,227
5.BILIGAN, Osias Depden	5,130
6.RUIZ, Agustin Turgano	4,972
7.JARAMILLA, Alberto Jimeno	4,815
8.CORTEZ, Ireneo Habon	4,807

In the tabulated results issued by the Election Officer and Chairperson of the Municipal Board of Canvassers of Sta. Cruz, it is shown that [respondent Suyat] obtained Four thousand seven hundred seventy nine (4,779) votes and was ranked no. 9.

Upon review by [respondent Suyat], he discovered that [petitioner] was credited with only twenty three (23) votes per Election Return from Precinct No. 34A1. However, when the figures were forwarded to the Statement of Votes by Precinct, [petitioner] was credited with seventy three (73) votes for Precinct No. 34A1 or fifty (50) votes more than what he actually obtained. If the entry were to be corrected, the affected candidates would be ranked as follows:

7.CORTEZ, Ireneo Habon -	4,807
8.SUYAT, Antonio -	4,779
9.JARAMILLA, Alberto -	4,765

On June 13, 2001, respondent Suyat filed before the COMELEC *en banc* an Urgent Motion for Issuance of Order to Reconvene,^[3] which the latter treated as a Petition for Correction of Manifest Error. Petitioner countered in his Answer^[4] that said petition should be dismissed for having been filed out of time and for lack of the required certification of non-forum shopping.

On October 24, 2002, COMELEC *en banc* issued the assailed resolution, the dispositive portion of which reads:^[5]

WHEREFORE, premises considered, the Motion/Petition is hereby GRANTED. The proclamation of Respondent ALBERTO J. JARAMILLA [herein petitioner] is ANNULLED. A New Municipal Board of Canvassers is hereby created composed of the following:

Atty. NELIA AUREUS - Chairman
Atty. MICHAEL D. DIONEDA - Vice Chairman
Atty. ALLEN FRANCIS F. ABAYA - Member

The New Board is hereby directed to immediately convene at the Comelec Session Hall, Intramuros, Manila, after due notice to parties and effect a correction in the entry in the Statement of Votes by Precinct particularly the votes for Respondent Alberto Jaramilla [herein petitioner], who should be credited with twenty three (23) votes only. Thereafter, the New Board shall prepare a corrected Certificate of Canvass and Proclamation on the basis of the New Statement of Votes and proclaim the Petitioner [herein private respondent Suyat] as the eighth (8th) Board Member of Sta. Cruz, Ilocos Sur. Mr. Ireneo Habon Cortez shall be declared the 7th Municipal Board Member. The New Board shall use the Comelec copies of the election returns and Statement of Votes pertaining to the instant case.

SO ORDERED.

Hence the present recourse by petitioner anchored on the following grounds:

I. THAT THE COMMISSION ON ELECTION ERRED IN NOT DISMISSING THE CASE CONSIDERING THAT THE PETITION FILED BEFORE THE COMELEC WAS FILED BEYOND THE PRESCRIPTIVE PERIOD AS SET FORTH IN THE COMELEC RULES OF PROCEDURE.

II. THAT THE COMMISSION ON ELECTION ERRED IN GIVING DUE COURSE TO THE PETITION INSTEAD OF DISMISSING IT CONSIDERING THAT THE PETITION LACKED A CERTIFICATION AGAINST FORUM-SHOPPING.

III. THAT THE COMMISSION ON ELECTION ERRED IN NOT DISMISSING THE CASE FOR FAILURE TO PAY THE DOCKET OR FILING FEE ON TIME.^[6]

Before discussing the merits, although not raised in the petition, the Court deems it appropriate to discuss the jurisdiction of the COMELEC *en banc* in election cases. Article IX-C of the Constitution states in part that:

Sec. 3. The Commission on Elections may sit *en banc* or in two divisions, and shall promulgate its rules of procedure in order to expedite disposition of election cases, including pre-proclamation controversies. All such election cases shall be heard and decided in division, provided that motions for reconsideration of decisions shall be decided by the Commission *en banc*.^[7]

As stated in the provision, and in line with the Court's recent pronouncement in *Milla v. Balmores-Laxa*,^[8] election cases including pre-proclamation controversies should first be heard and decided by a division of the COMELEC, and then by the commission *en banc* if a motion for reconsideration of the division is filed.

It must be noted however that this provision applies only in cases where the COMELEC exercises its adjudicatory or quasi-judicial powers, and not when it merely exercises purely administrative functions. This doctrine was laid out in *Castromayor v. COMELEC*,^[9] and reiterated in subsequent cases.^[10] Accordingly, when the case demands only the exercise by the COMELEC of its administrative functions, such as the correction of a manifest mistake in the addition of votes or an erroneous tabulation in the statement of votes, the COMELEC *en banc* can directly act on it in the exercise of its constitutional function to decide questions affecting elections.^[11]

The Petition for Correction of Manifest Errors in the case at bar alleges an erroneous copying of figures from the election return to the Statement of Votes by Precinct. Such an error in the tabulation of the results, which merely requires a clerical correction without the necessity of opening ballot boxes or examining ballots, demands only the exercise of the administrative power of the COMELEC. Hence, the Commission *en banc* properly assumed original jurisdiction over the aforesaid petition.

Now we proceed to the merits of the case.

Petitioner bewails the fact that the COMELEC took cognizance of respondent Suyat's petition for correction despite its having been filed beyond the 5-day reglementary period fixed in the COMELEC Rules of Procedure and its lack of certification against forum-shopping.^[12]

Petitioner overlooks the fact that the COMELEC has the discretion to suspend its