

EN BANC

[G.R. No. 137004, July 26, 2000]

ARNOLD V. GUERRERO, PETITIONER, VS. THE COMMISSION ON ELECTIONS, HON. MANUEL B. VILLAR, JR., AS THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, 11TH CONGRESS, HON. ROBERTO P. NAZARENO, AS THE SECRETARY GENERAL OF THE HOUSE OF REPRESENTATIVES, 11TH CONGRESS, RODOLFO C. FARIÑAS AND GUILLERMO R. RUIZ, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

Before the Court is a petition for certiorari, prohibition, and mandamus, with prayer for a temporary restraining order and/or preliminary injunction, under Rule 65 of the Rules of Court. It assails the Order of the Commission on Elections, Second Division, dated May 10, 1998, in COMELEC Case No. SPA 98-227, which dismissed the petition filed by herein respondent Guillermo C. Ruiz to disqualify respondent Rodolfo C. Fariñas as a candidate for the elective office of Congressman in the first district of Ilocos Norte during the May 11, 1998 elections. It also assails the Resolution dated May 16, 1998, of the COMELEC *En Banc*, denying the motion for reconsideration filed by respondent Ruiz and dismissing the petition-in-intervention filed by herein petitioner Arnold V. Guerrero.

In the Second Division of the COMELEC, Ruiz sought to perpetually disqualify respondent Fariñas as a candidate for the position of Congressman.^[1] Ruiz alleged that Fariñas had been campaigning as a candidate for Congressman in the May 11, 1998 polls, despite his failure to file a Certificate of Candidacy for said office. Ruiz averred that Fariñas' failure to file said Certificate violated Section 73 of the Omnibus Election Code^[2] in relation to COMELEC Resolution No. 2577, dated January 15, 1998. Ruiz asked the COMELEC to declare Fariñas as a "nuisance candidate" pursuant to Section 69 of the Omnibus Election Code^[3] and to disqualify him from running in the May 11, 1998 elections, as well as in all future polls.

On May 8, 1998, Fariñas filed his Certificate of Candidacy with the COMELEC, substituting candidate Chevylle V. Fariñas who withdrew on April 3, 1998.

On May 9, 1998, Ruiz filed an "Urgent Ex-Parte Motion To Resolve Petition" with the COMELEC, attaching thereto a copy of the Certificate of Candidacy of Fariñas.

On May 10, 1998, the Second Division of the COMELEC decided Case No. SPA 98-227, disposing as follows:

"WHEREFORE, premises considered, the Commission (Second Division) RESOLVES to DISMISS the instant petition for utter lack of merit.

"SO ORDERED."^[4]

In dismissing Ruiz's petition, the Second Division of the COMELEC stated, "[T]here is none (sic) in the records to consider respondent an official candidate to speak of without the filing of said certificate. Hence, there is no certificate of candidacy to be cancelled, consequently, no candidate to be disqualified."^[5]

On May 11, 1998, the elections pushed through as scheduled. The post-election tally of votes in Ilocos Norte showed that Fariñas got a total of 56,369 votes representing the highest number of votes received in the first district. Fariñas was duly proclaimed winner.

On May 16, 1998, Ruiz filed a motion for reconsideration, contending that Fariñas could not validly substitute for Chevylle V. Fariñas, since the latter was not the official candidate of the *Lakas ng Makabayan Masang Pilipino* (LAMMP), but was an independent candidate. Another person cannot substitute for an independent candidate. Thus, Fariñas' certificate of candidacy claiming to be the official candidate of LAMMP in lieu of Chevylle V. Fariñas was fatally defective, according to Ruiz.

On June 3, 1998, Fariñas took his oath of office as a member of the House of Representatives.

On June 10, 1998, petitioner herein filed his "Petition-In-Intervention" in COMELEC Case No. SPA 98-227. Petitioner averred that he was the official candidate of the Liberal Party (LP) in said elections for Congressman, and stood to be adversely affected by Case No. SPA 98-227. Guerrero contended that Fariñas, having failed to file his Certificate of Candidacy on or before the last day therefor, being midnight of March 27, 1998, Fariñas illegally resorted to the remedy of substitution provided for under Section 77 of the Omnibus Election Code^[6] and thus, Fariñas' disqualification was in order. Guerrero then asked that the position of Representative of the first district of Ilocos Norte be declared vacant and special elections called for, but disallowing the candidacy of Fariñas.

On January 6, 1999, the COMELEC *En Banc* dismissed Ruiz's motion for reconsideration and Guerrero's petition-in-intervention in Case No. SPA 98-227. The decretal portion of its Resolution reads:

"PRESCINDING FROM THE FOREGOING PREMISES, this Commission (En Banc) RESOLVED, as it hereby RESOLVES, to AFFIRM the Order of the Commission (Second Division) and thereafter, DISMISS this instant motion for reconsideration *for lack of jurisdiction* (italics in the original) without prejudice to the filing of a *quo warranto* case, if he so desires.

"SO ORDERED."^[7]

Hence, the instant petition, anchored on the following grounds:

- A. THE RESPONDENT COMELEC GRAVELY ABUSED ITS DISCRETION AND ACTED IN EXCESS AND/OR WITHOUT JURISDICTION IN REFUSING TO RULE ON THE VALIDITY OR INVALIDITY OF THE CANDIDACY OR PURPORTED CERTIFICATE OF CANDIDACY OF PRIVATE RESPONDENT FARIÑAS.
- B. THE RESPONDENT COMELEC GRAVELY ABUSED ITS DISCRETION AND ACTED IN EXCESS AND/OR WITHOUT JURISDICTION IN TOSSING THE DUTY TO RULE ON THE VALIDITY OR INVALIDITY OF

THE CANDIDACY OR PURPORTED CERTIFICATE OF CANDIDACY OF PRIVATE RESPONDENT FARIÑAS TO THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (HRET) CONSIDERING THAT THE LATTER (HRET) OBVIOUSLY LACKS JURISDICTION TO RULE ON THE ISSUE THEREBY UNDULY CREATING A VACUUM AND RENDERING PETITIONER WITHOUT A REMEDY.

C. THE RESPONDENT COMELEC GRAVELY ABUSED ITS DISCRETION AND ACTED IN EXCESS AND/OR WITHOUT JURISDICTION IN NOT RENDERING A RULING, BASED ON THE FACTS AS STATED IN ITS ASSAILED RESOLUTION DATED JANUARY 6, 1999 (Annex "B" hereof) DISQUALIFYING PRIVATE RESPONDENT FARIÑAS AS A CANDIDATE FOR CONGRESSMAN OF THE FIRST LEGISLATIVE DISTRICT OF ILOCOS NORTE DURING THE MAY 11, 1998 ELECTIONS, PREMISED ON ITS FINDINGS THAT "THERE IS NONE IN THE RECORDS TO CONSIDER RESPONDENT (FARIÑAS) AN OFFICIAL CANDIDATE TO SPEAK OF WITHOUT THE FILING OF SAID CERTIFICATE, HENCE, THERE IS NO CERTIFICATE OF CANDIDACY TO BE CANCELLED, CONSEQUENTLY, NO CANDIDATE TO BE DISQUALIFIED."

D. THE RESPONDENT COMELEC GRAVELY ABUSED ITS DISCRETION AND ACTED IN EXCESS AND/OR WITHOUT JURISDICTION IN NOT CALLING A SPECIAL ELECTION TO FILL-UP THE VACANT POSITION OF CONGRESSMAN OF THE FIRST LEGISLATIVE DISTRICT OF ILOCOS NORTE DUE TO THE DISQUALIFICATION OF RESPONDENT FARIÑAS AS A CANDIDATE THERETO AND WHO APPEARS TO HAVE OBTAINED THE HIGHEST NUMBER OF VOTES CAST IN THE MAY 11, 1998 ELECTIONS.

We find pertinent for our resolution this issue:

Did the COMELEC commit grave abuse of discretion in holding that the determination of the validity of the certificate of candidacy of respondent Fariñas is already within the exclusive jurisdiction of the Electoral Tribunal of the House of Representatives?

In its assailed resolution, the COMELEC had noted that respondent Fariñas had taken his oath and assumed office as a Member of the 11th Congress and by express mandate of the Constitution,^[8] it had lost jurisdiction over the case.

Petitioner Guerrero argues that the refusal of the COMELEC to rule on the validity or invalidity of the certificate of candidacy of Fariñas amounted to grave abuse of discretion on its part. He claims that COMELEC failed in its Constitutional duty to uphold and enforce all laws relative to elections.^[9] He relies on *Gallardo v. Judge Tabamo, Jr.*, 218 SCRA 253 (1993), which reiterated the doctrine laid down in *Zaldivar v. Estenzo*, 23 SCRA 533 (1968), that the COMELEC has exclusive charge of the enforcement and administration of all laws relative to the conduct of an electoral exercise.

A special civil action for certiorari may be availed of when the tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction and there is no appeal or any plain, speedy, and adequate remedy in the