

## EN BANC

[ G.R. No. 124521, January 29, 1998 ]

**MICHAEL O. MASTURA, PETITIONER, VS. COMMISSION ON ELECTIONS (SECOND DIVISION), THE NEW MUNICIPAL BOARD OF CANVASSERS OF MATANOG, MAGUINDANAO, THE NEW PROVINCIAL BOARD OF CANVASSERS OF MAGUINDANAO AND DIDAGEN P. DILANGALEN, RESPONDENTS.**

### D E C I S I O N

**BELLOSILLO, J.:**

This *Petition for Certiorari, Prohibition and Mandamus* with prayer for preliminary injunction and/or restraining order seeks to reverse, annul or set aside: (a) the 29 February 1996 Order of public respondent Commission on Elections (COMELEC) which annulled and set aside the canvass made by the original Municipal Board of Canvassers of Matanog, Maguindanao, created a new set of municipal and provincial boards of canvassers and directing them to recanvass the votes using the COMELEC copy of the election returns and to proclaim the duly elected Member of the House of Representatives, First District of Maguindanao; (b) the 5 March 1996 Order of the COMELEC Second Division which merely noted the Urgent Motion to Examine and Verify the Canvassed MBC Copies of Election Returns, COMELEC Copy of the Certificate of Canvass and the accompanying Statement of Votes; (c) the 14 March 1996 Order denying the Urgent Motion to Defer Implementation of the 29 February 1996 Order; and, (d) the 20 March 1996 order denying Mastura's Motion for Reconsideration of the 29 February 1996 Order.

Petitioner Michael O. Mastura and private respondent Didagen P. Dilangalen were congressional candidates for the first district of Maguindanao during the 8 May 1995 elections. In the canvassing of votes, Dilangalen objected to the inclusion of the Certificate of Canvass of the Municipality of Matanog on the ground that the same was allegedly tampered. Acting on the objection, the COMELEC Second Division ordered the production and examination of the election returns of the Municipality of Matanog. In the course of the examination four (4) ballot boxes were produced and opened. Ballot Box No. 1 contained the MTC Judge copy of the election returns, Ballot Box No. 2 the Provincial Board of Canvassers copy of the election returns, Ballot Box No. 3 the COMELEC copy of the election returns, and Ballot Box No. 4 the Provincial Board of Canvassers copy of the municipal Certificate of Canvass of Matanog with its supporting Statement of Votes.

Upon examination and comparison of the copies of the election returns of the MTC Judge and the COMELEC, the COMELEC Second Division found that, indeed, the Certificate of Canvass of the Municipality of Matanog had been tampered with. Consequently, the COMELEC Second Division issued the herein assailed Order of 29 February 1996 annulling the Certificate of Canvass of Matanog thus -

After comparing the fifty-seven (57) election returns, Municipal Trial Court copy (Judge copy) with the Comelec copy as to the number of votes obtained by candidates Didagen P. Dilangalen and Michael O. Mastura, both in words and figures and the taras x x x the Second Division, finding that no inconsistencies exist between the two (2) copies of the election returns, and finding further that the Statement of Votes submitted by the Municipal Board of Canvassers of Matanog, Maguindanao is not reflective of the true votes obtained in the election returns per verification, hereby annuls the canvass made by the Municipal Board of Canvassers of Matanog, Maguindanao.

WHEREFORE, the canvass conducted by the Municipal Board of Canvassers for the position of Member, House of Representatives (First District) is hereby **ANNULLED** and **SET ASIDE**.

A new Municipal Board of Canvassers for the Municipality of Matanog, Maguindanao is hereby constituted x x x to conduct a new recanvassing at the Comelec Session Hall at Intramuros, Manila, prepare a new Certificate of Canvass using the Comelec copy of the election returns and, thereafter, to immediately submit the new Certificate of Canvass to the new Provincial Board of Canvassers as herein constituted x x x<sup>[1]</sup>

The following day, Mastura filed an *Urgent Motion to Examine and Verify the Canvassed MBC Copies of the Election Returns and the COMELEC Copy of the Certificate of Canvass and Accompanying Statement of Votes*. The COMELEC Second Division merely noted the motion in view of the 29 February 1996 Order.<sup>[2]</sup>

Thereafter Mastura filed an *Urgent Motion to Defer Implementation of the 29 February 1996 Order*. Mastura argued that the 29 February 1996 Order was issued precipitately and prematurely considering that some other documents, particularly the Certificate of Canvass of Matanog which he considered necessary for the resolution of the issue, was yet to be produced and examined. The COMELEC Second Division denied the motion -

x x x (I)t appearing that when the Commission opened the election returns for Matanog, Maguindanao, particularly the Judge copy and the Comelec copy and made comparison thereof to ascertain the actual votes of candidates Didagen P. Dilangalen and Michael O. Mastura per precinct which consists of fifty-seven (57) precincts, in compliance with the Supreme Court resolution, the results thereof, fully convinced the Commission of the manifest irregularity committed in the Statement of Votes by precincts. Thus, it annuls the canvass made by the Municipal Board of Canvassers of Matanog, Maguindanao.

Clearly, on the basis of the results of the primary documents, there is no need for the examination and opening of other documents mentioned in the motion of private respondent. Besides, the opening of other documents will entail more delay in the proclamation of the rightful winner for the position of Member, House of Representatives, First District of Maguindanao.<sup>[3]</sup>

Meanwhile, the new Municipal Board of Canvassers convened and recanvassed the votes. During the proceedings Mastura objected to the inclusion of fifty (50) out of the fifty-seven (57) election returns on the ground that the COMELEC copy of the election returns was not reflective of the true results unless compared with the copy of the original Municipal Board of Canvassers. But the new Municipal Board of Canvassers believed otherwise; hence, it included in the canvass the fifty (50) election returns objected to by Mastura who thereafter walked out while the new Municipal Board of Canvassers continued with the canvassing.

After the proceedings in the Municipal Board of Canvassers, the Provincial Board of Canvassers convened and prepared the Certificate of Canvass and Statement of Votes of the Municipality of Matanog. As a result, private respondent Dilangalen was proclaimed the duly elected member of the House of Representatives, First District of Maguindanao.

Mastura now comes to us imputing to public respondent COMELEC Second Division grave abuse of discretion amounting to lack of jurisdiction in issuing its Orders of 29 February 1996, 5 March 1996, 14 March 1996, and 20 March 1996.

We find no grave abuse of discretion on the part of respondent COMELEC. It is settled jurisprudence that COMELEC can suspend the canvass of votes pending its inquiry whether there exists a discrepancy between the various copies of election returns from the disputed voting centers. Corollarily, once the election returns were found to be falsified or tampered with, the COMELEC can annul the illegal canvass and order the Board of Canvassers to reconvene and proclaim the winners on the basis of the genuine returns or, if it should refuse, replace the members of the board or proclaim the winners itself.<sup>[4]</sup>

This was exactly what happened in the instant petition. Dilangalen objected to the inclusion of the Certificate of Canvass of the Municipality of Matanog and, acting on the objection, COMELEC ordered the production and examination of the MTC Judge copy and the COMELEC copy of the election returns. Based on the comparison, the COMELEC Second Division found and concluded that indeed the Certificate of Canvass of the Municipality of Matanog was tampered with. Consequently, it ordered its annulment and created a new set of Municipal and Provincial Boards of Canvassers to recanvass the votes. After the recanvassing, Dilangalen emerged as the winner and was thereafter proclaimed the duly elected member of the House of Representatives, First District of Maguindanao.

That the Certificate of Canvass of the Municipality of Matanog was tampered with is a factual finding of the COMELEC. Absent any showing of abuse of discretion amounting to lack of jurisdiction, this Court should refrain from reviewing the same, and must accord it instead the respect it deserves. The rule that factual findings of administrative bodies will not be disturbed by courts of justice except when there is absolutely no evidence or no substantial evidence in support of such findings should be applied with greater force when it concerns the COMELEC, as the framers of the Constitution intended to place the COMELEC - created and explicitly made independent by the Constitution itself - on a level higher than statutory administrative organs. The COMELEC has broad powers to ascertain the true results of the election by means available to it. For the attainment of that end, it is not strictly bound by the rules of evidence.<sup>[5]</sup>