

EN BANC

G.R. No. 193643 (*Antonio D. Dayao, Rolando P. Ramirez, and Adelio R. Capco v. COMELEC and LPG Marketers Association, Inc.*)

G.R. No. 193704 (*Federation of Philippine Industries, Inc. v. COMELEC and LPG Marketers Association, Inc.*)

Promulgated:

January 29, 2013

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SEPARATE OPINION

VELASCO, JR., J.:

I concur in the well-written *ponencia* of Mr. Justice Reyes dismissing the instant petitions, albeit, with regret, I cannot share certain conclusions arrived thereat.

The issue presented in this recourse is whether respondent Commission on Elections (COMELEC) committed grave abuse of discretion in dismissing, for reasons stated in its assailed Resolutions of August 5, 2010 and September 6, 2010, the complaint for the cancellation of respondent LPG Marketers Association's (LPGMA's) accreditation as a party-list organization (PLO). The *ponencia* resolves the poser in the affirmative and would have the instant petitions remanded to COMELEC for it to undertake summary evidentiary proceedings on the qualifications of LPGMA as a party-list group. The remand action is predicated on the postulate that the COMELEC Resolution of January 5, 2010 granting LPGMA's petition for registration as a sectoral organization for the purpose of the 2010 elections is not final and can never attain finality vis-à-vis its possession of the qualifications or the lack of them. Owing, however, to COMELEC Resolution No. 9513, subjecting to summary evidentiary hearings all existing registered party-list groups, and another recent resolution, finding LPGMA as possessing all of the qualifications and none of the disqualifications under the law, the *ponencia* finds it unnecessary and a needless roundabout to still remand the petitions to COMELEC for the purpose stated above.

With the view I take of the case, COMELEC could rightfully dismiss outright the petition for cancellation commenced with it against LPGMA, regardless of whether it has undertaken, pursuant to its Resolution No. 9513, a review of the qualifications of PLOs, including that of LPGMA.

As it were, the petitioners have hardly shown any basis for their ascription of grave abuse of discretion on the part of COMELEC. Instead, their petitions indirectly seek to have this Court review the determination of

respondent LPGMA's qualifications, something that the poll body has already done before.

This, thus, brings up the question of whether or not the decision of the COMELEC, embodied in its Resolution of January 5, 2010, granting LPGMA original petition for registration as a party-list group may be revisited and revoked, as the *ponencia* urges. With all due respect, I submit that once COMELEC, after due proceedings, issues a certificate of registration under prevailing COMELEC Rules of Procedure, the corresponding issuance attains finality insofar as the right of the PLO to participate in the elections is concerned. The decision on the registration of the organization, inclusive of its qualifications, becomes a settled matter, sans any appeal. The old familiar rule is that, at the risk of occasional errors, judgments, decisions or orders of courts and administrative bodies must become final at sometime; that closed proceedings should remain closed.

The previous grant of a certificate of registration in favor of a PLO should operate to vest it with the right to participate in the elections, unless it voluntarily chooses not to file its manifestation of intention to run in an upcoming election, or its certificate of registration is subsequently canceled by COMELEC in a petition for cancellation under Section 6 of Republic Act No. (RA) 7941 or the *Party-List System Act*.

It should be made clear enough that a grant of said certificate of registration does not translate to the PLO being impervious to an action for cancellation of registration, or to be more precise, to cancellation of accreditation. As the *ponencia* aptly puts it, the accreditation of a PLO, following the issuance of a certificate of registration, can never attain perpetual and irrefutable conclusiveness against the granting authority or accord finality to the factual findings of the COMELEC on the qualifications of the group. I agree with the *ponencia*'s formulation, but with this **qualification**: the cancellation of registration or the challenge to accreditation should, I submit, be limited to acts committed or causes and events occurring **after** the grant of the certificate of registration. The COMELEC cannot, whether *motu proprio* or through a verified complaint, consider the cancellation of a party list's certificate of registration based on grounds that are alleged to be existing even prior to the registration.

To reiterate, when COMELEC issues a certificate of registration in favor of a PLO, it, in effect, determines that the organization has all the qualifications and none of the disqualifications to participate in the elections.

In the present case, the petitioners went to great lengths to discuss their allegations that LPGMA does not represent a marginalized or underrepresented sector of society. A closer scrutiny of petitioners' reference to paragraphs 5 and 6 of Sec. 6, RA 7941 reveals that instead of the cancellation of the registration of LPGMA, their contentions still relate to their basic position that LPGMA, composed as it is of big businesses, is not qualified to be registered as a legitimate PLO, and, hence, not eligible to

participate in party-list elections. Therefore, more than alleging any ground for disqualification or cancellation of registration, petitioners are, in fact, questioning the qualifications of LPGMA, which had already been passed upon and considered as basis for the grant of its registration. For this reason, the petitions must fail.

The petitions were belatedly filed; petitioners should have filed an opposition to LPGMA's Petition for Registration

COMELEC correctly ruled that the complaint for cancellation based on the above-mentioned ground was belatedly filed, since LPGMA's registration had already been approved as early as January 5, 2010, but it took petitioners several months before filing the complaint for cancellation of registration. They failed to oppose the registration or intervene in the proceedings, despite having been constructively notified thereof by its publication. Hence, the COMELEC Resolution on the registration of LPGMA as a PLO became final.

The rule enunciated in Sec. 6, RA 7941 is that the COMELEC may, *motu proprio* or upon verified complaint of an interested party, deny the registration of the PLO on any of the grounds listed in said section. Cancellation of registration or accreditation, on the other hand, while concededly also based on the same grounds enumerated in Sec. 6, is different from refusal to accredit the PLO in that the latter presupposes a prior registration. Again following Sec. 6, this may be done *motu proprio* or through a verified complaint filed by an interested party.

While it may be that denial or refusal of registration, on one hand, and cancellation of registration or accreditation, on the other, share the same grounds and are initiated in the same way, i.e., *motu proprio* or through a verified complaint, it cannot plausibly be the intention of the law that a PLO's registration is **perpetually** open to challenges for cancellation.

The "cancellation" referred to in Sec. 6 is different from "refusal," in that refusal is proper if, at the outset, the COMELEC finds that a PLO seeking registration is not qualified or is disqualified from participating in the elections, that is to say, from the start, there already exists a ground not to allow it from participating in the elections. Cancellation of registration, meanwhile, refers to instances when there is already a certificate of registration, but after the grant of such certificate, a ground for disqualification on the part of the PLO concerned ensues, or that it subsequently fails to maintain all the qualifications of a PLO under pertinent laws.

Petitions are barred by the January 5, 2010 Resolution of COMELEC approving the registration of respondent LPGMA

Petitioners anchor their challenge against the accreditation of LPGMA on the first guideline set forth in *Ang Bagong Bayani-OFW Labor Party v.*

COMELEC,¹ i.e., that the organization represents the marginalized and underrepresented sector of society. They allege, in the main, that: (1) LPGMA, is composed of refillers, marketers, and dealers of liquefied petroleum gas;² and (2) its nominees themselves are part of big businesses.³

COMELEC has already passed upon the question of whether or not LPGMA represents a marginalized/underrepresented sector during the proceedings relative to its petition for registration.⁴ Notably, the issue of representation is the very same ground petitioners, in their petition for cancellation, had raised before the COMELEC and now before the Court.

In its January 5, 2010 Resolution granting LPGMA's petition for registration, the COMELEC peremptorily found and so declared LPGMA as representing a marginalized and underrepresented sector. The COMELEC *En Banc* wrote:

After a thorough evaluation of the Petition, the Commission (First Division) has concluded that LPGMA truly represents a marginalized and underrepresented sector. With respect to the said conclusion, absent any circumstance subsequent to the promulgation of the mentioned Resolution which could call for the cancellation of registration of LPGMA, the same can no longer be disturbed by this Commission. To warrant a cancellation of LPGMA's registration, there should be a showing that there has been a change in the relevant factual matters surrounding the Petition for Registration of LPGMA, which, if considered, could change the outcome of the said case. Otherwise, the determination of whether a party-list organization represents the marginalized and underrepresented sectors would be a never-ending controversy.⁵

The above ruling should sufficiently address the arguments raised in the petitions before Us. Indeed, the COMELEC's determination of a PLO's qualifications during the registration proceedings ought to dispose of the issue of its qualification to participate in future elections. The ruling that the organization is so qualified at the time of its registration should be considered final and conclusive at some point in time.

The COMELEC cannot be expected to periodically review a PLO's qualifications on the basis of concerns that could have been brought up in prior proceedings. It cannot, at every turn, be asked to evaluate anew a PLO's eligibility to participate in the elections heretofore passed upon in an appropriate registration proceeding. It behooves the Court to prevent this repetitive and unnecessary endeavor. Hence, the dismissal of the instant petitions is legal as it is practical.

¹ G.R. No. 147589, June 26, 2001, 359 SCRA 698.

² *Rollo*, p. 11

³ *Id.* at 13.

⁴ *Id.* at 61.

⁵ *Id.*


Once proclaimed, HRET has jurisdiction to pass upon a party-list organization's qualifications

Should a question regarding a participating PLO's qualifications is raised before the COMELEC, but the PLO is subsequently declared and proclaimed to have won a seat or seats in Congress, the COMELEC loses its jurisdiction over the case. Following such proclamation, jurisdiction over qualification issues then devolves upon the House of Representatives Electoral Tribunal (HRET), and it is incumbent upon the COMELEC to refer the case to the HRET. If the same case is pending with the Court when proclamation supervenes, the remand action, if proper, should be to the HRET.

This is as it should be. While the winning PLO nominee sits in the Lower House, it is not the nominee who is actually elected into office, but the PLO itself. The PLO is, in fine, the candidate, the one voted upon, and the "member" of the Lower House. While there is still no clear-cut ruling on the issue of whether proceedings questioning the qualifications of PLOs after proclamation are within the jurisdiction of HRET or COMELEC, it is my considered view that the said cases fall properly under the jurisdiction of HRET as the "**sole judge**" of all contests relating to the election, returns, and qualifications of the "members" of the House of Representatives, following its constitutional mandate under Sec. 17, Article VI of the Constitution. It may be stated in this regard that a nominee sits as a representative of a PLO. Once the PLO loses its accreditation for causes recognized by law, then it loses its eligibility for a party-list seat. Accordingly, its nominee, if there be any sitting in the House of Representatives, loses his or her standing to represent the organization.

On the matter of which between the COMELEC and HRET possesses jurisdiction over questions respecting a member of the Lower House, *Guerrero v. COMELEC*⁶ teaches that once a winning candidate has been proclaimed, taken his oath, and assumed office as a member of the House of Representatives, COMELEC's jurisdiction over election contests relating to the election, returns, and qualifications of members of the House ends, and the HRET's jurisdiction begins.

In the case here, however, as already discussed above, there is no need to refer the case to HRET, as the instant petitions have to be rejected for lack of merit.



PRESBITERO J. VELASCO, JR.
Associate Justice

⁶ G.R. No. 137004, July 26, 2000, 336 SCRA 458.