



Republic of the Philippines  
**Supreme Court**  
Manila

EN BANC

**COCOFED-PHILIPPINE  
COCONUT PRODUCERS  
FEDERATION, INC.,**  
Petitioner,

**G.R. No. 207026**

Present:

SERENO, C.J.,  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
BRION,  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
ABAD,  
VILLARAMA, JR.,  
PEREZ,  
MENDOZA,  
REYES,  
PERLAS-BERNABE, and  
LEONEN, JJ.

- versus -

**COMMISSION ON  
ELECTIONS,**

Respondent.

Promulgated:

AUGUST 06, 2013

X-----X

**DECISION**

**BRION, J.:**

We resolve the petition for *certiorari*,<sup>1</sup> 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 Banc with the Directives of the Supreme Court in Atong Paglaum, et al. v.*

<sup>1</sup> Under Rule 65, in relation to Rule 64, of the Rules of Court; *rollo*, pp. 3-22.

*Commission on Elections –COCOFED-Philippine Coconut Producers Federation, Inc.*<sup>2</sup>

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.<sup>3</sup> 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.<sup>4</sup>

On August 23, 2012, the COMELEC conducted a summary hearing, pursuant to COMELEC Resolution No. 9513,<sup>5</sup> 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.<sup>6</sup> 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<sup>7</sup> 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**.<sup>8</sup>

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

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<sup>2</sup> Docketed as SPP No. 12-202 (PLM); *id.* at 25-37.

<sup>3</sup> *Id.* at 5.

<sup>4</sup> *Id.* at 4.

<sup>5</sup> In the Matter of: (1) the Automatic Review by the Commission En Banc of Pending Petitions for Registration of Party-List Groups; and (2) Setting for Hearing the Accredited Party-List Groups or Organizations which are Existing and which have Filed Manifestations of Intent to Participate in the 2013 National and Local Elections.

<sup>6</sup> (1) [T]hat the party is affiliated with a number of both private and government-owned or controlled coconut agencies and it thus not marginalized; (2) that the party receives assistance from the government in its various programs for the sector it seeks to represent; (3) the party's two nominees does not belong to the sector sought to be represented; *rollo*, p. 32.

<sup>7</sup> An Act Providing for the Election of Party-list Representatives through the Party-list System, and Appropriating Funds therefor.

<sup>8</sup> *Rollo*, p. 38.

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*.<sup>9</sup> 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.<sup>10</sup> 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

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<sup>9</sup> G.R. No. 203766.

<sup>10</sup> In the Matter of the Last Day of Filing of Manifestation of Intent to Participate, and Submission of Names of Nominees under the Party-List System of Representation in Connection with the 2013 National and Local Elections.

- (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.<sup>11</sup> (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.<sup>12</sup>

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*."<sup>13</sup>

*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."<sup>14</sup>

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<sup>11</sup> *Rollo*, p. 36.

<sup>12</sup> *Id.* at 49-50.

<sup>13</sup> *Id.* at 15.

<sup>14</sup> *Ibid.*

*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[.]<sup>15</sup>

### **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.

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<sup>15</sup>

Id. at 21.

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*,<sup>16</sup> 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.<sup>17</sup>

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

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<sup>16</sup> G.R. Nos. 179431-32 and 180443, June 22, 2010, 621 SCRA 385, 409.

<sup>17</sup> *Deutsche Bank AG v. Court of Appeals*, G.R. No. 193065, February 27, 2012, 667 SCRA 82, 91; and *King v. Court of Appeals*, 514 Phil. 465, 470 (2005).

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,<sup>18</sup> 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 part-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

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<sup>18</sup> In the Matter of the Last Day of Filing of Manifestation of Intent to Participate, and Submission of Names of Nominees under the Party-List System of Representation, in Connection with the 2013 National and Local Elections.

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.<sup>19</sup> With the date and manner of submission<sup>20</sup> 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,<sup>21</sup> 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 nominees is primarily a statutory requirement for the *registration* of party-list groups and the submission of this list is part of a registered party's *continuing compliance* with the law to maintain its

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<sup>19</sup> Statutory Construction, Ruben Agpalo, 5<sup>th</sup> ed. (2003), p. 337. *Pimentel, Jr. v. Hon. Aguirre*, 391 Phil. 84, 106 (2000).

<sup>20</sup> 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.

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. 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. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned.

<sup>21</sup> See Section 4, Rule 3 of COMELEC Resolution No. 9366.



registration. A party-list group's previous registration with the COMELEC confers no vested right to the maintenance of its registration. In order to maintain a party in a continuing compliance status, the party must prove not only its continued possession of the requisite qualifications but, equally, must show its compliance with the *basic* requirements of the law.

*Second*, while COCOFED's failure to submit a complete list of nominees may not have been among the grounds cited by the COMELEC in earlier cancelling its registration, this is not sufficient to support a finding of grave abuse of discretion. Apart from the clear letter of Section 8 of RA No. 7941 and the COMELEC resolutions issued more or less a year before the 2013 elections, COCOFED's belated submission of a *Manifestation with Urgent Request to Admit Additional Nominees* several days *after* the elections betrays the emptiness of COCOFED's formalistic plea for prior notice.

Section 6 of RA No. 7941 requires the COMELEC to afford "due notice and hearing" before refusing or cancelling the registration of a party-list group as a matter of procedural due process. The Court would have demanded an exacting compliance with this requirement *if* the registration or continuing compliance proceeding were strictly in the nature of a judicial or quasi-judicial proceeding.<sup>22</sup> In several cases, however, the Court had already ruled that the registration of party-list groups involves the exercise of the COMELEC's administrative power, particularly its power to enforce and administer all laws related to elections.<sup>23</sup>

While COCOFED could have complied *after* the elections (as it in fact did), it should have, at the very least, submitted an explanation justifying its inability to comply prior to the elections. However, COCOFED simply chose to ignore the law; this, to us, is a plain disregard of the administrative requirement warranting the cancellation of its registration.

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<sup>22</sup> In the exercise of its quasi-judicial function, COMELEC holds hearings and exercises discretion of a judicial nature; it receives evidence, ascertains the facts from these submissions, determine the law and the *legal rights of the parties*, and on the basis of all these decides on the merits of the case and renders judgment (*Mendoza v. Commission on Elections*, G.R. No. 188308, October 15, 2009, 603 SCRA 692, 710). This is not wholly true in a registration or compliance proceeding where a party-list group simply attempts to prove its possession or continued possession of the requisite qualifications for the purpose of availing the *privilege* of participating in an electoral exercise; no real adjudication entailing the exercise of quasi-judicial powers actually takes place (see Separate Opinion of J. Brion in *Atong Paglaum, Inc., etc., et al. v. Commission on Elections*, G.R. No. 203766, April 2, 2013).

<sup>23</sup> *Baytan v. COMELEC*, 444 Phil. 812 (2003); and *Magdalo Para sa Pagbabago v. Commission on Elections*, G.R. No. 190793, June 19, 2012, 673 SCRA 651, 668.

*Third*, the fact that a party-list group is entitled to no more than three seats in Congress, regardless of the number of votes it may garner,<sup>24</sup> does not render Section 8 of RA No. 7941 permissive in nature.

On February 21, 2012, the COMELEC, through Resolution No. 9366,<sup>25</sup> again apprised registered party-list groups that its Manifestation of Intent to Participate shall be accompanied by a list of at least five (5) nominees. Under Section 9, Rule 5 of this resolution, the Education and Information Department of the COMELEC shall cause the immediate publication of this list in two national newspapers of general circulation.

The publication of the list of nominees does not only serve as the reckoning period of certain remedies and procedures under the resolution.<sup>26</sup> Most importantly, the required publication satisfies the people's constitutional right to information on matters of public concern.<sup>27</sup> The need for submission of the complete list required by law<sup>28</sup> becomes all the more important in a party-list election to apprise the electorate of the individuals behind the party they are voting for. If only to give meaning to the right of the people to elect their representatives on the basis of an informed judgment, then the party-list group must submit a complete list of five nominees because the identity of these five nominees carries critical bearing

<sup>24</sup> *Barangay Association for National Advancement and Transparency (BANAT) v. Commission on Elections*, G.R. Nos. 179271 and 179295, April 21, 2009, 586 SCRA 210, 243.

<sup>25</sup> Rules and Regulations Governing the: 1) Filing of Petitions for Registration; 2) Filing of Manifestation of Intent to Participate; 3) Submission of Names of Nominees; and 4) Filing of Disqualification Cases against Nominees of Party-List Groups or Organizations Participating Under the Party-List System of Representation in Connection with the May 13, 2013 National and Local Elections, and Subsequent Elections thereafter. See Section 4 of Rule 3.

<sup>26</sup> Section 7, Rule 3 of Resolution No. 9366 reads:  
SEC. 7. Petition to deny due course to a manifestation of intent to participate. A verified petition seeking to deny due course to a manifestation of intent to participate may be filed with the Office of the Clerk of the Commission, Commission on Elections in Manila, by any interested party within five (5) days from the date of publication of the manifestation of intent to participate on any of the grounds mentioned in Section 2 of Rule 2 for previously registered party-list groups.

Section 4, Rule 5 of Resolution No. 9366 reads:

SEC. 4. When to file petitions. Petitions for denial/cancellation/disqualification of party-list nominees shall be filed as follows:

a. Petition to deny due course or cancellation of nomination of party-list nominees shall be filed within five (5) days after the publication of the list of nominees[.]

<sup>27</sup> CONSTITUTION, Article III, Section 7.

<sup>28</sup> Section 5(1), Article VI of the 1987 Constitution reads:

The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.

on the electorate's choice.<sup>29</sup> A post-election completion of the list of nominees defeats this constitutional purpose.

Even if a party-list group can only have a maximum of three seats, the requirement of additional two nominees actually addresses the contingencies that may happen during the term of these party-list representatives. Section 16 of RA No. 7941 reads:

Section 16. Vacancy. In case of vacancy in the seats reserved for party-list representatives, the vacancy shall be automatically filled by the next representative from the list of nominees in the order submitted to the COMELEC by the same party, organization, or coalition, who shall serve for the unexpired term. If the list is exhausted, the party, organization coalition concerned shall submit additional nominees.

While the law allows the submission of additional nominees once the list is exhausted, the exhaustion of the list presupposes prior compliance with the requirement of Section 8 of RA No. 7941. Since the exhaustion of the list is an event that can rarely happen under this interpretation, then the law effectively upholds the people's right to make informed electoral judgments. Again, it is a basic rule of statutory construction that the provisions of the law must not be read in isolation but as a whole, as the law must not be read in truncated parts; its provisions in relation to the whole law and every part thereof must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole.<sup>30</sup>

Moreover, after the submission of a list of nominees to the COMELEC, the *party itself* has no discretion to change the names or to alter the order of nomination in the list it submitted.<sup>31</sup> While there are instances when a change of name or alteration of the order is allowed, these circumstances focus on the nominee himself, whether voluntary (the nominee withdraws in writing his nomination) or involuntary (the nominee dies or becomes incapacitated). To allow COCOFED to complete the list of

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<sup>29</sup> *Lokin, Jr. v. Commission on Elections*, *supra* note 16, at 409, 412.

<sup>30</sup> *Fort Bonifacio Development Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 158885 and 170680, October 2, 2009, 602 SCRA 159, 164; and *Mactan-Cebu International Airport Authority v. Urgello*, 549 Phil. 302, 322.

<sup>31</sup> Section 8 of RA No. 7941. In *Lokin, Jr. v. Commission on Elections* (*supra* note 16, at 408-409; underscores ours), the Court said: "Section 8 [paragraph 2] does not unduly deprive the party-list organization of its right to choose its nominees, but merely divests it of the right to change its nominees or to alter the order in the list of its nominees' names after submission of the list to the COMELEC x x x allowing the party-list organization to change its nominees through withdrawal of their nominations, or to alter the order of the nominations after the submission of the list of nominees circumvents the voters' demand for transparency." In other words, if the change of nominee is by reason of his or her disqualification, then Section 8, paragraph 2, does not prevent a party-list group from complying with Section 8, paragraph 1.

its nominees beyond the deadline set by the law would allow the party itself to do indirectly what it cannot do directly.<sup>32</sup>

*Fourth*, we cannot discern any valid reason why a party-list group cannot comply with the statutory requirement. The party-list system is a constitutional innovation that would expand opportunities for electoral participation to those who cannot hope to win in the legislative district elections, but who may generate votes nationwide equivalent to what a winner in the legislative district election would garner.<sup>33</sup> In short, the party-list system operates on the theoretical assumption that a party-list group has national constituency whose interests, concerns, or ideologies call for representation in the House of Representatives. We quote with approval the COMELEC's observation:

If the party cannot even come up with a complete list of five names out of a purported more than one million members, then it is highly doubtful that COCOFED will meet this expectation [to contribute to the formulation and enactment of legislation that is beneficial for the nation as a whole]; and if it cannot even name at least three more people who belongs to, or with sufficient advocacy for, the sector sought to be represented then as a sectoral party or organization, it has already forsaken what it seeks to represent.<sup>34</sup>

Given this driving idea, a party is not allowed to simply refuse to submit a list containing “not less than five nominees” and consider the deficiency as a waiver on its part. Aside from colliding with the plain text of the law, this interpretation is not in harmony with the statutory policy of enhancing the party-list-groups' chances to compete for and win seats in the legislature, and therefore does not serve as incentive to Filipino citizens belonging to these groups to contribute to the formulation and enactment of appropriate legislation.<sup>35</sup>

*Fifth*, while under the 6<sup>th</sup> parameter in *Atong Paglaum*, the Court said that the disqualification of some of the nominees shall not result in the

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<sup>32</sup> However, to be more consistent with the constitutional intent of reforming the electoral system which already includes the narrower sectoral perspective, a finding of disqualification of a party's nominee should not deprive a party the opportunity to field in qualified nominees. In this manner, the mandatory submission of a list of *at least* five nominees would be harmonized with the provision of Section 8 of RA No. 7941 which prevents a party from changing the names of its nominees. This interpretation too recognizes the fact that the issue of whether a nominee is truly qualified is both a factual *and* legal question which the party-list group itself cannot impeccably guarantee upon submission of the list. The qualification of the nominees may be determined by the COMELEC itself *motu proprio* or in an appropriate proceeding instituted by a proper party under Sections 1 and 2, Rule 5 of COMELEC Resolution No. 9366. See Concurring Opinion of Justice Arturo D. Brion in *Atong Paglaum*.

<sup>33</sup> See Concurring Opinion of Justice Arturo D. Brion in *Atong Paglaum*, p. 28.

<sup>34</sup> COMELEC Omnibus Resolution, pp. 9-10; *rollo*, pp. 33-34.

<sup>35</sup> See Section 2 of RA No. 7941.

disqualification of the party-list group “provided that they have at least one nominee who remains qualified,” the Court largely considered that -


petitioners' nominees who do not belong to the sectors they represent may have been disqualified, although they may have a track record of advocacy for their sectors. Likewise, nominees of non-sectoral parties may have been disqualified because they do not belong to any sector. Moreover, a party may have been disqualified because one or more of its nominees failed to qualify, even if the party has at least one remaining qualified nominee. As discussed above, the disqualification of petitioners, and their nominees, under such circumstances is contrary to the 1987 Constitution and R.A. No. 7941.

In fact, almost all of the petitioners in *Atong Paglaum* were disqualified on the ground that the nominees failed to “qualify,” as this word was interpreted by the COMELEC.<sup>36</sup> In other words, the Court in no way authorized a party-list group’s inexcusable failure, if not outright refusal, to comply with the clear letter of the law on the submission of at least five nominees.

In sum, all these reasons negate a finding that the COMELEC gravely abused its discretion in cancelling COCOFED’s registration.<sup>37</sup>

**WHEREFORE**, we hereby **DISMISS** the petition for lack of merit.

**SO ORDERED.**

  
ARTURO D. BRION  
Associate Justice

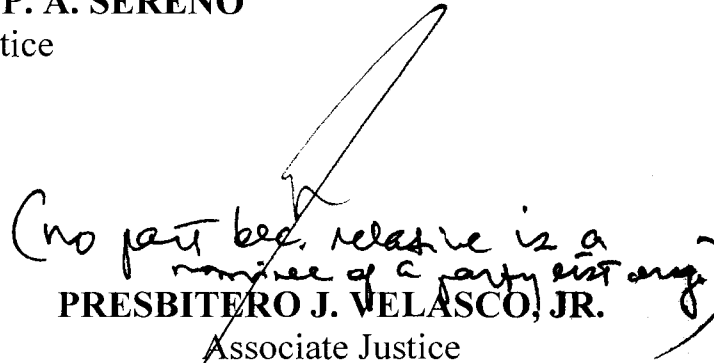
<sup>36</sup> Only three petitioners were disqualified on the basis, among others, of having less than five nominees, namely: Abyan Ilonggo Party (withdrawal of three of its five nominees); Agri-Agra na Reporma Para sa Magsasaka ng Pilipinas Movement (only four nominees were submitted to the COMELEC); Alliance for Nationalism and Democracy (only three nominees were submitted to the COMELEC).


<sup>37</sup> Grave abuse of discretion is such a capricious and whimsical exercise of judgment equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave, as when it is exercised arbitrarily or despotically by reason of passion or personal hostility. The abuse must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law (*Basmala v. Commission on Elections*, G.R. No. 176724, October 6, 2008, 567 SCRA 664; and *Suliguin v. COMELEC*, 520 Phil. 92 (2006)).

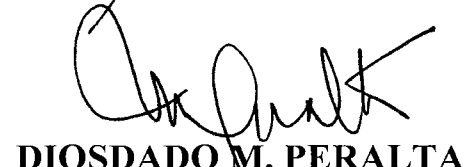
**WE CONCUR:**

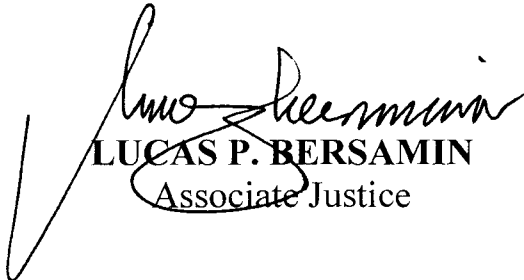
  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

  
**ANTONIO T. CARPIO**  
Associate Justice


  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

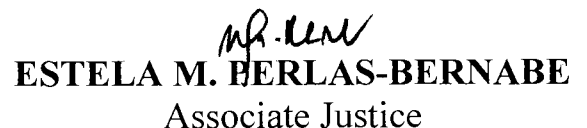
  
**ROBERTO A. ABAD**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

  
**ESTELA M. BERLAS-BERNABE**  
Associate Justice

  
**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



**MARIA LOURDES P. A. SERENO**  
Chief Justice