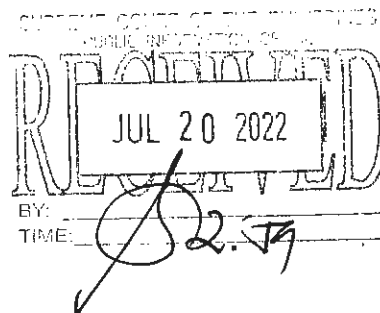




Republic of the Philippines  
Supreme Court  
Manila

EN BANC  
NOTICE



Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **JUNE 14, 2022**, which reads as follows:

“**G.R. No. 243735 (Ramon S. Garcia, petitioner vs. Commission on Elections, represented by the Honorable Sheriff M. Abas, Atty. Jose M. Tolentino, Jr., and Atty. Norina S. Tangaro-Casingal; Lester Mariano, Philip Piccio, Ferdinand Vergara, Myca Elizabeth Vergara, and Atty. Cesar R. Villar, respondents).** - Before the Court is a petition for *certiorari*<sup>1</sup> under Rule 64 of the Rules of Court with application for Temporary Restraining Order and/or Writ of Preliminary Injunction assailing Minute Resolution (MR) No. 18-1224<sup>2</sup> of the Commission on Elections (COMELEC) *En Banc*, promulgated on 12 December 2018, for having been issued with grave abuse of discretion. COMELEC MR No. 18-1224 denied due course to the Certificate of Candidacy (COC) of petitioner Ramon S. Garcia (Garcia) as a substitute candidate for Mayor in Cabanatuan City, Nueva Ecija, in the May 2019 Elections.

Petitioner Garcia filed his COC and Certificate of Nomination and Acceptance (CONA) for Vice-Mayor of Cabanatuan City, Nueva Ecija, under the *Unang Sigaw-Partido ng Pagbabago (Unang Sigaw)* on 17 October 2018.<sup>3</sup>

On 27 November 2018, Gabriel L. Calling, the official nominee of *Unang Sigaw* for Mayor of Cabanatuan City, filed his Statement of Withdrawal. On the same day, petitioner Garcia filed a Statement of Withdrawal as Vice-Mayor and his COC and CONA for Mayor.<sup>4</sup> The COC for Mayor was duly stamped and received by Atty. Leylann Generoso R. Manuel (Atty. Manuel), COMELEC Cabanatuan City’s Election and Receiving Officer, on 27 November 2018 at 2:30 p.m. (the 27 November 2018 COC).<sup>5</sup>

<sup>1</sup> *Rollo*, pp. 3-50.

<sup>2</sup> *Id.* at 96-98. In the Matter of the Incident that Transpired During the Filing of the Certificate of Candidacy of Mr. Ramon S. Garcia as a Substitute Candidate for Mayor in Cabanatuan City, Nueva Ecija.

<sup>3</sup> *Id.* at 18, 96.

<sup>4</sup> *Id.* at 18-19, 96.

<sup>5</sup> *Id.* at 19-20.

On 29 November 2018, at about 5:30 p.m., petitioner Garcia was informed by a distant relative working at the City Hall of Cabanatuan City that he failed to sign the COC he filed on 27 November 2018. His failure to sign was confirmed by Atty. Manuel.<sup>6</sup>

Later, on the same day, petitioner Garcia filed his receiving copy of the 27 November 2018 COC (the Amended COC) bearing his signature which was stamped received by Atty. Manuel dated 29 November 2018, 6:50 p.m., with the annotation 'filed out of time.'<sup>7</sup>

In a letter-report dated 3 December 2018<sup>8</sup> to the Law Department, petitioner Garcia requested the COMELEC to affirm the timely filing of his COC.<sup>9</sup>

In a Memorandum dated 4 December 2018, Atty. Maria Norina S. Tangaro-Casingal, Director IV of the COMELEC Law Department, recommended that the COC of petitioner Garcia be considered as filed on time and be given due course following COMELEC Resolution No. 10420, as amended by COMELEC Resolution No. 10430.<sup>10</sup>

However, on 12 December 2018, the COMELEC *En Banc* promulgated the assailed resolution denying due course to the COC of petitioner Garcia as a substitute candidate for Mayor in Cabanatuan City, for having been filed out of time.<sup>11</sup>

Hence, the instant petition raising the following issues:

1. Whether COMELEC MR No. 18-1224, promulgated on 12 December 2018, is null and void *ab initio* for being unconstitutional as it violates Section 1, Article III, and Sec. 3, Art. IX-C, the Constitution;
2. Whether the findings of fact are not supported by substantial evidence or, in the alternative, whether there is more than substantial evidence to show that the COCs of petitioner Garcia were timely filed and substantially complied with the requirements;
3. Whether COMELEC MR No. 18-1224, promulgated on 12 December 2018, is in accord with the Court's rulings; and
4. Whether the COMELEC committed grave abuse of discretion amounting to lack or excess of its jurisdiction when, in denying due course to his candidacy, it penalized petitioner Garcia in effect for the acts of omission and the gross neglect of duty of its Election and Receiving Officer.

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<sup>6</sup> Id. at 21.

<sup>7</sup> Id. at 23.

<sup>8</sup> Id. at 102-105.

<sup>9</sup> Id. at 23, 96.

<sup>10</sup> Id. at 96-97.

<sup>11</sup> Id. at 95-98.

*Done*

In its Comment,<sup>12</sup> respondent COMELEC argues that: first, the issues were mooted by the conduct of the 13 May 2019 elections; second, COMELEC MR No. 18-1224, promulgated on 12 December 2018, is not tainted with grave abuse of discretion because petitioner Garcia's substitute COC was filed on 29 November 2018 at 6:50 p.m., beyond the prescriptive period for filing; and, the COMELEC did not violate Sec. 3, Art. IX-C, the Constitution, when it issued COMELEC MR No. 18-1224 on 12 December 2018, because it was merely performing its administrative functions, not quasi-judicial functions.

There is no grave abuse of discretion on the part of respondent COMELEC.

Section 33, COMELEC Resolution No. 10420,<sup>13</sup> as amended by COMELEC Resolution No. 10430,<sup>14</sup> provides for the deadline for filing of COCs of substitute candidates, as follows:

**Section 33. Substitution of Candidates in Case of Death, Disqualification or Withdrawal of Another.** – An official candidate of a duly registered PP [political party] or Coalition who dies, withdraws or is disqualified for any cause after the last day for the filing of COCs may be substituted by a candidate belonging to, and nominated by, the same PP or Coalition.

x x x x

The substitute of a candidate who died, withdrew his candidacy, or was disqualified may file a COC for the Office affected on or before **November 29, 2018** so that the name of the substitute will be reflected on the official ballots.

**No substitution due to withdrawal shall be allowed after November 29, 2018.**

x x x x

While the aforementioned resolution is silent as to until what time the substitute candidate may file his/her COC on the last day, it is presumed that the deadline for filing of COC of substitute candidates shall follow the usual government office hours unless explicitly stated. Section 5, Rule XVII (on Government Office Hours), Omnibus Rules Implementing Book V of Executive Order No. 292, provides that the official government office hours

<sup>12</sup> Id. at 142-156.

<sup>13</sup> Rules and Regulations Governing: 1) Political Conventions; 2) Submission of Nominees of Groups or Organizations Participating Under the Party-List System of Representation; and 3) Filing of Certificates of Candidacy and Nomination of and Acceptance by Official Candidate of Registered Political Parties or Coalitions of Political Parties in Connection with the May 13, 2019 National and Local Elections.

<sup>14</sup> In the Matter of Amending Resolution No. 10420 Entitled 'Rules and Regulations Governing: 1) Political Conventions; 2) Submission of Nominees of Groups or Organizations Participating Under the Party-List System of Representation; and 3) Filing of Certificates of Candidacy and Nomination of and Acceptance by Official Candidates of Registered Political Parties or Coalitions of Political Parties in Connection with the May 13, 2019 National and Local Elections.'

*Done*

shall be from 8 a.m. to 12 p.m. and from 1 p.m. to 5 p.m. on all days except Saturdays, Sundays and Holidays.<sup>15</sup> The same is reiterated in Civil Service Commission Memorandum Circular No. 01, s. 2017.<sup>16</sup> Also, a review of the aforementioned COMELEC resolutions would show that the filing of COC shall be from 8:00 a.m. to 5:00 p.m. only, which is the official government office hours.

The Amended COC shows that it was filed beyond government office hours as it was stamped by Atty. Manuel on 29 November 2018 at 6:50 p.m. In his petition, petitioner Garcia alleges that the COMELEC was supposed to render overtime work until 7:00 p.m. on 29 November 2018.<sup>17</sup> However, no COMELEC resolution or memorandum authorizing the overtime work was shown. Thus, he failed to prove that the office hours on 29 November 2018 were extended. Accordingly, based on the foregoing, petitioner Garcia's COC was indeed filed out of time as maintained by the COMELEC.

Petitioner Garcia further insists that the COMELEC violated Sec. 3, Art. IX-C, the Constitution,<sup>18</sup> and his right to due process of law for denying his COC through a minute resolution, and without being heard first by the COMELEC Division.

The argument deserves scant consideration. In *Canicosa v. Commission on Elections*,<sup>19</sup> the Court clarified that Sec. 3, Art. IX-C, the Constitution, applies only 'when the COMELEC acts in the exercise of its adjudicatory or quasi-judicial functions and not when it merely exercises purely administrative functions.' The present case originated from a letter dated 3 December 2018<sup>20</sup> of petitioner Garcia to the Law Department of the COMELEC asking for confirmation of the timely filing of his COC. Such request, which merely requires checking the timestamp on the COC, demands only the exercise by the COMELEC of its administrative functions, not quasi-judicial functions. Section 2(1), Article IX-C, the Constitution,<sup>21</sup> grants extensive administrative powers to the COMELEC with regard to the enforcement and administration of all laws and regulations relative to the conduct of elections.

Petitioner Garcia, likewise, claims that the COMELEC committed grave abuse of discretion when Atty. Manuel received the 27 November

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<sup>15</sup> Omnibus Rules Implementing Book V of Executive Order No. 292 (1995).

<sup>16</sup> Reiteration of the Policy on Government Office Hours; and the Administrative Offenses of Frequent Unauthorized Absences (Habitual Absenteeism); Tardiness in Reporting for Duty; and Loafing from Duty during Regular-Office Hours.

<sup>17</sup> *Rollo*, p. 21.

<sup>18</sup> SECTION 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*.

<sup>19</sup> 347 Phil. 189, 198 (1997).

<sup>20</sup> *Rollo*, pp. 102-105.

<sup>21</sup> SECTION 2. The Commission on Elections shall exercise the following powers and functions:

(1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.

2018 COC despite the lack of signature. He maintains that Atty. Manuel should not have accepted the 27 November 2018 COC pursuant to Sec. 18,<sup>22</sup> COMELEC Resolution No. 10420, mandating the COMELEC not to receive an incomplete COC.

Not quite. Atty. Manuel, as the receiving officer, merely performed his ministerial duty to acknowledge and receive the COC of petitioner Garcia on 27 November 2018. He may have been initially remiss in his duty when he received the 27 November 2018 COC which lacked petitioner Garcia's signature, given that there was a COMELEC Resolution instructing that an incomplete COC should not be accepted. But Atty. Manuel corrected such mistake when he confirmed with petitioner Garcia the insufficiency of his 27 November 2018 COC. In view of the foregoing, petitioner Garcia's allegations of grave abuse of discretion do not meet the threshold of capriciousness or whimsicality that jurisprudence mandates.

In *Yu v. Reyes-Carpio*,<sup>23</sup> the Court explained the concept of grave abuse of discretion, *viz.*:

The term 'grave abuse of discretion' has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a 'capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.' The abuse of discretion must be so patent and gross as to amount to an 'evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.'<sup>24</sup>

In addition, petitioner Garcia could not solely blame the COMELEC. He should have also exercised due diligence in checking the completeness of

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<sup>22</sup> Section 18. *Period for Filing of Certificates of Candidacy.* - The COC shall be filed on October 1-5, 2018, from 8:00 AM to 5:00 PM.

If at 4:45 PM of the last day of filing of the COC, there are still persons intending to file their respective COCs and are already inside the designated queuing area, the Receiving Officer shall:

- a. Prepare a complete list, containing the names of the aspiring candidates inside the designated queuing area;
- b. The names of the aspiring candidates shall be consecutively numbered, indicating therein the time of listing. The aspiring candidates' names shall only be listed if their COCs are complete;
- c. Announce the name of the aspiring candidates, in the order in which they are listed.  
When the name of the aspiring candidate is called, he/ she shall proceed with the filing of his/her COC. Failure to appear when his/ her name is called shall authorize the Receiving Officer to refuse acceptance of the COC.

The same [same] procedure shall be observed if there are still aspirants intending to file their COCs at 5:00 PM of the last day of filing of the COC.

Only the COCs of those whose names were listed by the Receiving Officer shall be accepted.

A COC filed in accordance with this procedure shall be stamped 'Received' at the time it was actually filed and deemed filed on time.

Finally, an incomplete COC shall not be accepted and shall not be stamped received on time even when the aspirant is present and is waiting for his/her name to be called. *Examples of incomplete COC include:* no documentary stamp, no signature of the aspirant, COC not notarized, no signature of the notary public, incomplete address, no signature on CONA, no photograph, no thumbprint.

The Election Officer concerned shall submit to the Law Department, via electronic mail, a list of those aspirants whose COCs were not received, giving the reasons therefor, and date filed.

<sup>23</sup> 667 Phil. 474 (2011).

<sup>24</sup> *Id.* at 481-482.

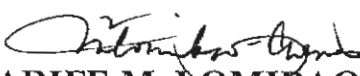
*Chick*

his COC. Section 73, the Omnibus Election Code, clearly provides that an aspirant shall file a sworn certificate of candidacy. The Court explained that ‘in a jurat, the affiant must sign the document in the presence of and take his oath before a notary public or any other person authorized to administer oaths.’<sup>25</sup> Considering that he should have signed the COC before the notary public, he and the notary public should have noticed the lack of signature in the COC during notarization.

In any case, the present petition is already moot because the 2019 May Elections was held on 13 May 2019 and petitioner Garcia was not among the official candidates for the 2019 May Elections and was not voted for.

**WHEREFORE**, finding no grave abuse of discretion on the part of respondent Commission on Elections when it issued the assailed Minute Resolution No. 18-1224 dated 12 December 2018, the instant Petition for *Certiorari* is **DISMISSED.**” Lazaro-Javier, J., on official leave. Inting and Kho, Jr., JJ., no part. (107)

By authority of the Court:

  
**MARIFE M. LOMIBAO-CUEVAS**  
Clerk of Court

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<sup>25</sup> *Dela Rama v. Papa*, 597 Phil. 227, 241 (2009).

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