



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 28, 2022**, which reads as follows:*

“G.R. No. 258369 (Abante Sambayanan¹ [SAMBAYANAN] vs. Commission on Elections). – Before the Court is a Petition for *Certiorari*² under Rule 65 in relation to Rule 64 of the Rules of Court assailing Resolution No. 10735³ dated December 1, 2021 of the Commission on Elections (COMELEC) *en banc* which denied Abante Sambayanan’s (SAMBAYANAN) motion for reconsideration⁴ of the Order⁵ dated October 5, 2021 promulgated by the COMELEC’s First Division in SPP No. 21-216 (PP-PL).

The Antecedents

On March 27, 2021, SAMBAYANAN filed before the COMELEC a verified petition for registration as a national political party participating under the Party List System of Elections, in accordance with Republic Act (R.A.) No. 7941 or the ‘Party-List System Act’ docketed as SPP No. 21-216 (PP-PL).⁶

In an Order⁷ dated October 5, 2021, the COMELEC’s First Division dismissed SAMBAYANAN’s petition for failure to comply with Section 6,⁸

¹ Sambayan in some parts of the *rollo*.

² Id. at 3-24.

³ Id. at 31-48.

⁴ Id. at 81-85.

⁵ Id. at 232-234; signed by Presiding Commissioner Ma. Rowena Amelia V. Guanzon and Commissioners Marlon S. Casquejo and Aimee P. Ferolino.

⁶ Id. at 232.

⁷ Id. at 232-234.

⁸ SEC. 6. *Petition for Registration, Contents.* The petition for registration shall be verified and shall state the following: a) name and acronym of the petitioner, with the acronym not exceeding twenty (20) characters; b) nature of the organization: whether it is a sectoral party, sectoral organization, political party or coalition; c) the sector or sectors which it seeks to represent; d) the name and address of its President/Chairman or, in his absence, the Secretary-General, who will represent the party in the petition; e) petitioner’s principal headquarters and postal office address; f) names, positions, and addresses of its elected officers; g) petitioner’s intention or desire to participate in the party-list election; h) names and addresses of its chapter offices; i) that all of its officers and members are made aware of the petition and have given their consent thereto; j) the list of documents

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Rule 1 of COMELEC Resolution No. 9366,⁹ *i.e.*, to state in its verified petition that it is not a foreign party or organization.¹⁰

The COMELEC ratiocinated that the first sentence of Section 6 of COMELEC Resolution No. 9366 uses the word 'shall,' a word of command and one which has always or which must be given a compulsory meaning. It is generally imperative or mandatory. Hence, SAMBAYANAN's failure to comply with the mandatory requirements warrants the dismissal of its petition for registration.¹¹

Consequently, SAMBAYANAN moved for reconsideration and submitted an Affidavit of Attestation¹² executed by its Secretary General, Jeffrey L. Celiz (Celiz). Celiz declared that their 'party-list political party ABANTE SAMBAYANAN is not a foreign political party' and that they are undergoing formal registration with the Securities and Exchange Commission (SEC) as a non-stock and non-profit Filipino organization under SEC Registration Reference No. SEC211007-PG71WZZT5NUTPKN.¹³

Celiz further stated that the Constitution and By-laws of SAMBAYANAN clearly stipulates that the organization is composed of Filipino members. SAMBAYANAN, in its petition for registration and accreditation, also categorically stated that it is not receiving, directly or indirectly, any foreign funds, foreign financial support, nor is involved with any foreign organization or foreign political party.¹⁴

On December 1, 2021, the COMELEC issued the challenged Resolution,¹⁵ excluding SAMBAYANAN from the party-list groups allowed to participate in the raffle (for the determination of their order of listing in the

attached to the petition; k) names, addresses and representatives of sectoral parties or organizations affiliated with the petitioner, which affiliates need not be registered with the Commission, but have given their consent thereto; l) that it is not a religious sect or denomination, organization or association organized for religious purposes; m) that it shall not advocate violence or unlawful means to achieve its goals; n) that it is not an adjunct or a project organized or an entity funded or assisted by the government; o) **that it is not a foreign party or organization**; p) that it does not receive support for partisan political purposes from any foreign government, foreign political party, foundation, organization, whether directly or indirectly, or through its officers or members, or indirectly through third parties; q) the period of existence of petitioner, which shall be at least one (1) year at the time the petition is filed; and r) that it commits to comply with the laws, rules and regulations relating to elections.

The President/Chairman or, in his absence, the Secretary-General representing the party shall affix his signature on the verification portion of the petition stating under oath that he is one of the officers of the petitioner duly authorized to verify the petition; that he has caused the preparation and filing of the petition; and that he read and understood the contents of the petition and acknowledge the same to be true and correct based on his personal knowledge. (Emphasis supplied)

⁹ 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, promulgated on February 21, 2012.

¹⁰ *Rollo*, pp. 232-233.

¹¹ *Id.* at 233.

¹² *Id.* at 86.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 31-48.

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official ballot) on account of the denial of SAMBAYANAN's motion for reconsideration.¹⁶

The Present Petition

On December 23, 2021, SAMBAYANAN filed the present Petition for *Certiorari*, with Extremely Urgent Prayer for the Issuance of a Temporary Restraining Order (TRO) and/or Status *Quo Ante* Order and/or Writ of Preliminary Injunction, anchored on the following grounds:

I. THE [COMELEC] ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED [SAMBAYANAN'S] PETITION FOR REGISTRATION AS A NATIONAL POLITICAL PARTY WITHOUT DUE NOTICE AND HEARING, IN VIOLATION OF [SAMBAYANAN'S] CONSTITUTIONAL RIGHT TO DUE PROCESS.

II. SECTION 6, RULE 1 OF COMELEC RESOLUTION NO. 9366 IS PROCEDURAL IN CHARACTER AND SHOULD BE LIBERALLY APPLIED IN THE INTEREST OF JUSTICE.

III. DISMISSAL FOR NON-COMPLIANCE WITH SECTION 6, RULE 1, COMELEC RESOLUTION NO. 9366 IS NOT SANCTIONED BY R.A. NO. 7941 AND ITS IMPLEMENTING RULES.

IV. FAILURE TO STATE AN ITEM UNDER SECTION 6, RULE 1, RESOLUTION NO. 9366 WAS DUE TO SHEER INADVERTENCE.¹⁷

On December 29, 2021, the Court issued a TRO and directed COMELEC to file a comment to the petition.¹⁸

In gist, SAMBAYANAN avers that its constitutional right to due process was violated because the COMELEC denied the petition for registration without due process and hearing. For one, it took COMELEC more than six (6) months to resolve SAMBAYANAN's petition.¹⁹ Moreover, SAMBAYANAN received a copy of the assailed Resolution No. 10735 dated December 1, 2021 on December 3, 2021, just seven (7) days prior to the date of the scheduled raffle for the party-list groups.²⁰ SAMBAYANAN argues that the dismissal of a petition for registration on mere failure to state an item in Section 6, Rule 1 of COMELEC Resolution No. 9366 is not warranted under either R.A. No. 7941 or said COMELEC Resolution No. 9366.²¹ SAMBAYANAN further claims that its failure to comply with Section 6, Rule 1 of COMELEC Resolution No. 9366 was due to sheer inadvertence and its subsequent attachment of the Affidavit of Attestation was a manifestation

¹⁶ Id. at 40-41.

¹⁷ Id. at 10-11.

¹⁸ Id. at 253-255.

¹⁹ Id. at 11-12.

²⁰ Id. at 13.

²¹ Id. at 16.

of SAMBAYANAN's good faith to comply with COMELEC Resolution No. 9366.²² Asserting liberality in the construction of procedural rules, SAMBAYANAN posits that the COMELEC should have afforded the organization an opportunity to explain or rectify the defect in the petition instead of dismissing the same outright.²³

COMELEC, through the Office of the Solicitor General, counters that it did not gravely abuse its discretion in denying SAMBAYANAN's registration.²⁴ COMELEC is empowered to refuse or cancel registration of a party list on grounds stated under Section 6, R.A. No. 7491, which are replicated in COMELEC Resolution No. 9366.²⁵ SAMBAYANAN, as a party seeking registration, had the duty to comply with all the legal requirements. It nonetheless failed to do so. Non-compliance with laws, rules, or regulations relating to elections is a ground for the dismissal of application for registration.²⁶ Further, compliance with Section 6, Rule 1 of COMELEC Resolution No. 9366 is mandatory as it employs the word 'shall.'²⁷ SAMBAYANAN's claim of denial of due process is also unfounded, for the essence of due process, as applied to administrative proceedings, is simply the opportunity to be heard. Here, SAMBAYANAN was able to file a motion for reconsideration of the Order dated October 5, 2021.²⁸ In any event, factual findings of the COMELEC are binding on the Supreme Court and cannot be properly assailed through the instant petition. The sole function of a writ of *certiorari* is to address issues of want of jurisdiction or grave abuse of discretion.²⁹ COMELEC, in the performance of its duties, must be given considerable latitude in adopting means and methods that will ensure the accomplishment of the great objective for which it was created – to promote free, orderly, and honest elections. The choice of means taken by the COMELEC, unless they are illegal or constitute grave abuse of discretion, should not be interfered with.³⁰

In its Reply,³¹ SAMBAYANAN insists that the denial of its petition for registration and subsequent motion for reconsideration without notice and hearing is a violation of the right to due process.³² Anent the imperative signification of the word 'shall,' SAMBAYANAN argues that where it is necessary to give effect to legislative intent, the word 'shall' will be construed as 'may.'³³ SAMBAYANAN reasserts that while it failed to comply with the formal requirement of stating that it is not a foreign organization, nonetheless, the documentary requirements attached to its petition for registration

²² Id. at 17.

²³ Id. at 14-16.

²⁴ Id. at 273.

²⁵ Id. at 274-275.

²⁶ Id. at 279-280.

²⁷ Id. at 280.

²⁸ Id.

²⁹ Id.

³⁰ Id. at 281-282.

³¹ Id. at 303-322.

³² Id. at 307-310.

³³ Id. at 313.

substantially established that it is not a foreign political party or organization.³⁴

The Court's Ruling

The petition fails.

At the outset, subsequent events had rendered the petition 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. As a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness.³⁵ While said rule admits of exceptions,³⁶ none exists in the instant case.

First, the COMELEC, on May 26, 2022, had already proclaimed the winning party-list groups in the recently concluded May 9, 2022 elections.³⁷

Second, SAMBAYANAN was not among those proclaimed because it failed to obtain the required threshold or number of votes.³⁸

Third, a perusal of the prayer³⁹ in the petition reveals that the ultimate relief sought for by SAMBAYANAN is for its inclusion in the May 9, 2022 elections official ballot. This was already attained in the present case as SAMBAYANAN was in fact allowed to participate as a party-list candidate and the number of votes casted in its favor tallied and counted. Thus, even if the Court rules on the merits of the petition, such ruling would no longer serve any purpose insofar as SAMBAYANAN's registration for and participation in the recently concluded May 9, 2022 elections.

At any rate, Section 6(5) of R.A. No. 7941 is clear that a violation of or failure, primarily imputable to the party,⁴⁰ to comply with laws, rules or regulations relating to elections is a ground for the refusal or cancellation of registration.⁴¹ Corollarily, Section 6 of COMELEC Resolution No. 9366 **mandates** a party desiring to register as a party-list group to state in its petition that it is not a foreign party or organization. The COMELEC

³⁴ Id. at 315.

³⁵ *ARARO Party-List v. COMELEC*, 723 Phil. 160, 183 (2013), citing *Mendoza v. Mayor Villas*, 659 Phil. 409, 417 (2011).

³⁶ Id.; (1) there was a grave violation of the Constitution; (2) the case involved a situation of exceptional character and was of paramount public interest; (3) the issues raised required the formulation of controlling principles to guide the Bench, the Bar and the public; and (4) the case was capable of repetition yet evading review.

³⁷ COMELEC Proclaims Winning Party-list Groups, May 26, 2022 <<https://newsinfo.inquirer.net/1602962/comelec-proclaims-winning-party-list-groups>> (visited June 8, 2022).

³⁸ Id.; see also <<https://www.gmanetwork.com/news/eleksyon2022/results/partylist/>> (visited June 8, 2022).

³⁹ *Rollo*, pp. 20-21.

⁴⁰ *COCOFED-Philippine Coconut Producers, Federation, Inc. v. COMELEC*, 716 Phil. 19, 30 (2013).

⁴¹ Id.

therefore did not commit grave abuse of discretion in dismissing or denying SAMBAYANAN's petition for registration for failure to comply with Section 6 of COMELEC Resolution No. 9366.

Also, the Court cannot sustain SAMBAYANAN's argument that the denial of its petition for registration without due notice and hearing is violative of the constitutionally-enshrined right to due process. True, Section 6 of R.A. 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.⁴² Nonetheless, the Court has 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.⁴³ As a matter of policy, this Court will not interfere with the resolutions of the COMELEC unless it is shown that it had committed grave abuse of discretion. In the absence of grave abuse of discretion, a Rule 64 petition will not prosper.⁴⁴ Stated differently, the Court's jurisdiction to review decisions and orders of electoral tribunals is exercised only upon showing of grave abuse of discretion committed by the tribunal; otherwise, the Court shall not interfere with the electoral tribunal's exercise of its discretion or jurisdiction.⁴⁵

Grave abuse of discretion has been defined as the capricious and whimsical exercise of judgment, the exercise of power in an arbitrary manner, where the abuse is so patent and gross as to amount to an evasion of positive duty.⁴⁶ Such is not extant in this case.

The Court is mindful of Section 4⁴⁷ of R.A. No. 7941, which provides that 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. Nonetheless, it must be stressed that a finding herein of grave abuse of discretion on the part of the COMELEC would not automatically result in the approval of SAMBAYANAN's registration as a national party-list group that would, in turn, entitle it to participate in subsequent elections without need of undergoing registration proceedings again.

Notably, the denial of SAMBAYANAN's petition for registration was grounded solely on its failure to state an item required under Section 6 of

⁴² Id. at 32.

⁴³ Id.

⁴⁴ *Albania v. COMELEC*, 810 Phil. 470, 477 (2017).

⁴⁵ *Agapay ng Indigenous Peoples Rights Alliance v. COMELEC*, 709 Phil. 539, 545 (2013).

⁴⁶ Id.

⁴⁷ Section 4. *Manifestation to Participate in the Party-List System*. Any party, organization, or coalition already registered with the Commission need not register anew. However, such party, organization, or coalition shall file with the Commission, not later than ninety (90) days before the election, a manifestation of its desire to participate in the party-list system.

COMELEC Resolution No. 9366.⁴⁸ The question of whether SAMBAYANAN is indeed not a foreign political party or organization essentially involves factual matters that are beyond the jurisdiction of the Court. Even so, the Court could not validly rule on said issue as it was not properly raised and ventilated before the COMELEC, and no categorical ruling or finding thereon had been rendered by the latter. To the mind of Court, it would be more prudent for SAMBAYANAN to just re-file a petition for registration and show full and faithful compliance with pertinent election laws should it decide to participate again in subsequent party-list elections. This is more in keeping with the Court's deference to the COMELEC's broad power and function to enforce and administer all laws and regulations relative to the conduct of an election,⁴⁹ which necessarily include the determination of qualified candidates for the party-list system. Suffice it to state that even a party-list group previously registered with the COMELEC acquires no vested right to the maintenance of its registration as 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.⁵⁰

WHEREFORE, premises considered the petition is **DISMISSED.**"
Caguioa, J., on official leave. Inting, J., no part and on leave on official time.
Kho, Jr., J., no part. (63)

By authority of the Court:


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

⁴⁸ *Rollo*, pp. 232-233.

⁴⁹ *Agapay ng Indigenous Peoples Rights Alliance v. COMELEC*, *supra* note 45 at 547, citing *Laban ng Demokratikong Pilipino v. COMELEC*, G.R. No. 468 Phil. 70, 80 (2004).

⁵⁰ See *COCOFED-Philippine Coconut Producers, Federation, Inc. v. COMELEC*, *supra* note 40 at 32.

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