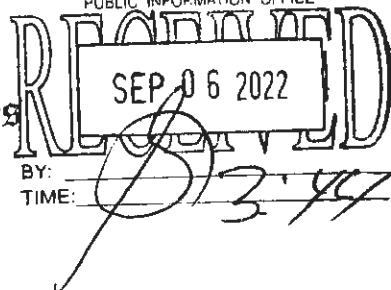




Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated JUNE 21, 2022, which reads as follows:

“G.R. No. 258372 (*AKO BREEDER*, represented by its Chairperson, Jaime G. Mariquit vs. Commission on Elections [COMELEC]). — This Petition for *Certiorari* with Prayer for *Status Quo Ante* Order and Writ of Preliminary Injunction¹ dated December 23, 2021, filed by petitioner AKO BREEDER, represented by its Chairperson, Jaime G. Mariquit (AKO BREEDER), under Rule 64 in relation to Rule 65 of the Rules of Court, assails the following issuances of the Commission on Elections (COMELEC):

(1) COMELEC *First Division* Order² dated October 12, 2021 in SPP No. 21-239 (PL), which dismissed AKO BREEDER’s Petition for Registration³ as a party-list organization; and

(2) COMELEC *En Banc* Resolution⁴ dated December 13, 2021 which denied AKO BREEDER’s Motion for Reconsideration⁵ of the Order dated October 12, 2021.

Antecedents

AKO BREEDER is a regional organization of animal breeders, veterinarians, animal feeds manufacturers/dealers and advocates of animal breeding that exists and operates primarily in Region VI or the Western Visayas Region.⁶

¹ *Rollo*, pp. 3-33.

² *Id.* at 65-67. Signed by COMELEC First Division Presiding Commissioner Ma. Rowena Amelia V. Guanzon, and Commissioners Marlon S. Casquejo and Aimee P. Ferolino.

³ *Id.* at 34-64.

⁴ *Id.* at 101-108. Signed by COMELEC Chairperson Sheriff M. Abas, Commissioners Ma. Rowena Amelia V. Guanzon, Socorro B. Inting, Marlon S. Casquejo, Antonio T. Kho, Jr. (now a Member of the Court), and Aimee P. Ferolino.

⁵ *Id.* at 68-87.

⁶ *Id.* at 3.

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AKO BREEDER filed its Petition for Registration⁷ via email on March 31, 2021, the last day for its filing, praying that it be registered and accredited as a regional organization and be allowed to participate in the Party-List System Elections in the 2022 National and Local Elections. It alleged that it paid the filing fees in the amount of ₱10,100.00 by way of Postal Money Order (PMO) which was sent along with the physical copy of the petition for registration '*through the fastest means available.*'⁸

The COMELEC's Ruling

In the assailed Order dated October 12, 2021, the COMELEC *First Division* summarily dismissed AKO BREEDER's petition for registration. It ruled that the filing fees must be paid within the period for the filing of petitions for registration. In this case, the COMELEC observed that AKO BREEDER paid the filing fees only on April 13, 2021 — way beyond the deadline set by the COMELEC.⁹ In addition, it found that AKO BREEDER failed to acquire the consent of all of its members in filing the petition for registration,¹⁰ pursuant to COMELEC Resolution No. 9366.¹¹ Aggrieved, AKO BREEDER timely filed its motion for reconsideration¹² on October 18, 2021.

In the assailed Resolution dated December 13, 2021, the COMELEC *En Banc* denied AKO BREEDER's motion for reconsideration. It ruled that while the COMELEC sanctions the payment of docket fees by PMO, it was clearly stated in the email sent by the Clerk of the COMELEC containing the Order of Payment that '*[p]ayment must be made ON OR BEFORE MARCH 31, 2021. The date of RECEIPT by the courier service or post office is the date of payment.*'¹³ Moreover, the COMELEC *En Banc* noted that despite the difficulties brought about by the pandemic, the petition for registration was an initiatory pleading, hence, AKO BREEDER had full control as to when it should file the same. Furthermore, the deadline for filing of the petitions for registration was promulgated on January 27, 2021. Unfortunately, AKO BREEDER chose to file it on the last day and, thus, it must bear the consequences of its action.¹⁴

Anent the issue of AKO BREEDER's failure to allege that all of its officers and members were made aware of the petition and gave their consent thereto, COMELEC Resolution No. 9366 clearly requires that a

⁷ Id. at 34-62.

⁸ Id. at 7.

⁹ Id. at 66.

¹⁰ Id.

¹¹ 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.

¹² Id. at 68-87.

¹³ Id. at 105.

¹⁴ Id. at 105-106.

petition for registration should state that all of its officers and members are made aware of the petition and have given their consent thereto.

In its petition for *certiorari* before the Court, AKO BREEDER argues that the COMELEC committed grave abuse of discretion (1) in ruling that it failed to timely pay its filing fees and making it a basis for the dismissal of its petition for registration; and (2) in dismissing the petition for failure of AKO BREEDER to state that all of its officers and members were made aware of the petition and have given their consent thereto.¹⁵

In a Resolution¹⁶ dated January 4, 2022, the Court issued a temporary restraining order (TRO) enjoining the COMELEC from enforcing the assailed order and resolution, and requiring the COMELEC to file a comment on the petition.

In its Comment,¹⁷ the COMELEC, through the Office of the Solicitor General, argues that it did not act with grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the Order dated October 12, 2021 and the Resolution dated December 13, 2021. It further argues that AKO BREEDER is also not entitled to the issuance of a writ of preliminary injunction.

Issues

The issues for consideration are:

- (1) Whether the COMELEC acted with grave abuse of discretion in ruling that AKO BREEDER failed to timely pay the filing fee and in dismissing AKO BREEDER's petition for registration on that ground; and
- (2) Whether the COMELEC acted with grave abuse of discretion when it dismissed AKO BREEDER's petition for registration for failing to state that all of its officers and members were made aware of the petition and have given their consent thereto.

The Court's Ruling

Anent the first issue, We find that AKO BREEDER was able to timely pay the filing fees.

¹⁵ Id. at 11.

¹⁶ Id. at 109-111.

¹⁷ Id. at 137-159.

On June 25, 2020, in view of the pandemic and the recurring work suspensions, the COMELEC promulgated Resolution No. 10673,¹⁸ setting the guidelines for electronic filing and conduct of hearings/investigations/inquiries *via* video conference, and service. Section 1, Rule 2 thereof reads:

Section 1. *Filing Through Electronic Mail.* – The filing of verified pleadings, memoranda, comments, briefs, and other submissions, in PDF format, before the Commission shall be done by the parties through electronic mail (E-mail). The date of E-mail shall be considered as date of filing.

Immediately after filing through E-mail, the party shall send, **through the fastest means available**, including registered mail or any courier service, all pleadings, answers, motions, comments, notices, and other court submissions, with complete annexes in four (4) hard copies, to the OCOC, ECAD, or CFO. **Proof of payment of the required fees, deposits, and fines, if any, shall be attached thereto.** (Emphases added)

Based on the above provision, proof of payment of the required fees shall be attached with the physical submissions of all pleadings and documents immediately after the filing through email, which shall be sent through the fastest means available.

In its motion for reconsideration before the COMELEC *En Banc*, AKO BREEDER attached the PMOs,¹⁹ proving that it procured and paid the same on March 31, 2021. We likewise agree with AKO BREEDER that paying the filing fees within the period of filing the petition for registration was impossible given that the COMELEC declared a work suspension for its main and National Capital Region (NCR) offices from March 29 to 31, 2021 due to the reimposition of the enhanced community quarantine in the NCR plus.²⁰ The only way to pay the same was through remote payment, such as by PMO, which must be attached to the hard copies of the pleadings and which can still be submitted through email after the filing, hence, not necessarily on or before March 31, 2021. Thus, AKO BREEDER was able to timely pay the filing fees.

On the other hand, with regard to the second issue of whether AKO BREEDER was able to comply with Section 6(i), Rule 1 of COMELEC Resolution No. 9366, which requires that all of its officers and members are made aware of the petition and have given their consent thereto, We find that it failed to comply with the same. Hence, the COMELEC did not act with

¹⁸ In Re: Guidelines on Electronic Filing, Conduct of Hearings/Investigations/Inquiries via Video Conference, and Service.

¹⁹ *Rollo*, pp. 89-90.

²⁰ COMELEC suspends work in NCR Plus offices from March 29 to 31. <<https://www.gmanetwork.com/news/topstories/nation/781565/comelec-to-accept-e-filings-during-ecq/story/>> (visited February 26, 2022).

grave abuse of discretion when it dismissed the petition for registration on this ground.

Section 5, Article VI of the 1987 Constitution provides for the establishment of a party-list system of representation.²¹ Pursuant thereto, Republic Act (RA) No. 7941, otherwise known as the Party-List System Act, was enacted by the Congress on March 3, 1995. Section 2 thereof states:

Section 2. Declaration of Policy. – The State shall promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives. Towards this end, the State shall develop and guarantee a full, free and open party system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives by enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible.

‘Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system by filing with the COMELEC not later than ninety (90) days before the election a petition verified by its president or secretary 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, attaching thereto its constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require.’²²

The COMELEC may refuse or cancel the registration of a party on the grounds provided under Section 6 of RA No. 7941, to wit:

Section 6. Refusal and/or Cancellation of Registration. – The COMELEC may, *motu proprio* or upon verified complaint of any

²¹ Section 5.

1. 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.
2. The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector.

²² Republic Act No. 7941, Sec. 5.

interested party, refuse or cancel, after due notice and hearing, the registration of any national, regional or sectoral party, organization or coalition on any of the following grounds:

- (1) It is a religious sect or denomination, organization or association, organized for religious purposes;
- (2) It advocates violence or unlawful means to seek its goal;
- (3) It is a foreign party or organization;
- (4) It is receiving support from any foreign government, foreign political party, foundation, organization, whether directly or through any of its officers or members or indirectly through third parties for partisan election purposes;
- (5) It violates or fails to comply with laws, rules or regulations relating to elections;
- (6) It declares untruthful statements in its petition;
- (7) It has ceased to exist for at least one (1) year; or
- (8) It fails to participate in the last two (2) preceding elections or fails to obtain at least two per centum (2%) of the votes cast under the party-list system in the two (2) preceding elections for the constituency in which it has registered.

The above provision was replicated in Section 6 of COMELEC Resolution No. 9366, which provides that:

Section 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 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. x x x (Emphasis supplied)

Section 6(i) categorically requires a petition for registration to state that **all** of petitioner's officers and members are made aware of the petition

and have given their consent thereto. The provision is clear and should not be open to interpretation.

In its petition for registration, as well as its petition for *certiorari* before the Court, AKO BREEDER stated that it was able to obtain the consent of 2,401 out of the 3,757 members or a total percentage of 63.91%.²³ AKO BREEDER claims that due to the existence of the pandemic, as well as the physical and logistical challenges which arose pursuant thereto, requiring the unanimous consent of all of its members would lead to an absurd and unreasonable situation where failure to secure the consent of even just one member would lead to the dismissal of its petition for registration.²⁴ We also note the existence of AKO BREEDER Party-List Board of Directors Resolution No. 10²⁵ dated March 13, 2021 which stated that upon consultation, *majority* of the members of AKO BREEDER have signified their approval and consent authorizing the organization to file a petition for registration as a party-list with the COMELEC. These statements clearly show that AKO BREEDER failed to comply with the mandatory requirement under Section 6(i) of COMELEC Resolution No. 9366.

While the Court acknowledges the challenges and limitations brought about by the pandemic, AKO BREEDER should have exerted all efforts to comply with the requirements set forth by the COMELEC. It had ample time to prepare all the requirements required under COMELEC Resolution No. 9366.

We quote with favor the Resolution of the COMELEC *En Banc*, to wit:

Section 6(i) of COMELEC Resolution No. 9366, which requires that a petition for registration should state *that all of its officers and members are made aware of the petition and have given their consent thereto* is too clear to be mistaken. If Petitioner indeed obtained the consent of all its officers and members, it could have simply stated this fact.

The Commission (*En Banc*) commends Petitioner's effort in obtaining the written consent of more than majority of its members despite not being required. This is quite persuasive in showing that it is a legitimate organization. However, this is not enough to disregard a mandatory provision of COMELEC Resolution No. 9366.

The mandatory contents required under Section 6, Rule 1 of said Rule, like the requirements or rules in other provisions therein, were designed to streamline, among others, the registration process of party-list organizations or groups. It helps the Commission in initially evaluating each petition before going through all the evidence attached

²³ *Rollo*, pp. 19 and 57.

²⁴ *Id.* at 18.

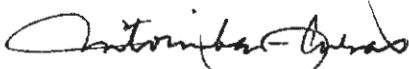
²⁵ *Id.* at 63-64.

or submitted. It should therefore not be taken lightly and must not be disregarded.²⁶

Considering the foregoing, AKO BREEDER's application for the issuance of a writ of preliminary injunction is hereby denied. For the issuance of a writ of preliminary injunction to be proper, it must be shown that the invasion of the right sought to be protected is material and substantial, that the right of complainant is clear and unmistakable and that there is an urgent and paramount necessity for the writ to prevent serious damage.²⁷ In this case, AKO BREEDER failed to show a clear and unmistakable right which needs protection of an injunctive writ as it failed to comply with the mandatory requirements under COMELEC Resolution No. 9366. Accordingly, the TRO issued by this Court on January 4, 2022 is lifted.

WHEREFORE, the petition for *certiorari* is **DISMISSED**. The application for the issuance of a writ of preliminary injunction is **DENIED** for lack of merit. The TRO issued by the Court on January 4, 2022 is **LIFTED.**" Inting and Kho, Jr., JJ., no part. (72)

By authority of the Court:


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

²⁶ Id. at 106.

²⁷ *Special Audit Team, Commission on Audit v. Court of Appeals*, 709 Phil. 167, 184 (2013).

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