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EN BANC

[G.R. No. 268546. August 6, 2024]

AN WARAY PARTY-LIST, represented by FLORENCIO GABRIEL "BEM" NOEL, AND VICTORIA ISABEL NOEL, in her own personal capacity, *Petitioners, v.* **COMMISSION ON ELECTIONS, DANILO T. PORNIAS, JR.,[•] AND JUDE A. ACIDRE,** *Respondents.*

D E C I S I O N

CAGUIOA, *J.*:

Before the Court is a *Petition for Certiorari with Urgent Prayer for Preliminary Injunction, Temporary Restraining Order and/or Status Quo Ante Order with Motion for Conduct of Special Raffle*[1] (Petition) filed under Rule 64, in relation to Rule 65 of the Rules of Court, which assails the following Resolutions issued by public respondent Commission on Elections (COMELEC) in SPP No. 19-008:

1. Resolution[2] dated June 2, 2023 of the COMELEC Second Division, granting the petition of private respondents Danilo T. Pornias, Jr. (Pornias) and Jude A. Acidre (Acidre) for cancellation of the registration of petitioner An Waray Party-List (An Waray) as a party-list organization; and
2. Resolution[3] dated August 14, 2023 of the COMELEC *En Banc*, denying petitioners An Waray and Victoria Isabel

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[•] Also referred to as Danilo T. Pornias in some parts of the *rollo*.

[1] *Rollo*, pp. 3–88.

[2] *Id.* at 89–103. The June 2, 2023 Resolution in SPP No. 19-008 was signed by Presiding Commissioner Marlon S. Casquejo and Commissioners Rey E. Bulay and Nelson J. Celis of the COMELEC Second Division.

[3] *Id.* at 104–113. The August 14, 2023 Resolution in SPP No. 19-008 was signed by Chairman George Erwin M. Garcia and Commissioners Socorro B. Inting, Marlon S. Casquejo, Aimee P. Ferolino, Rey E. Bulay, Ernesto

Noel's (Victoria) (collectively, petitioners) motion for reconsideration.

The Facts and Antecedent Proceedings

An Waray is a duly registered multi-sectoral party-list organization which participated in the 2013 National and Local Elections (NLE).[4] For the 2013 NLE, An Waray's nominees were: (1) Neil Benedict A. Montejo (Montejo); (2) Acidre; and (3) Victoria. An Waray obtained a total of 541,205 votes or 1.96% of the total votes cast for party-lists, thereby emerging as one of the winners of seats in the House of Representatives (HoR).[5]

Thus, in Resolution No. 0006-13[6] dated May 24, 2013 of COMELEC sitting as the National Board of Canvassers (NBOC), An Waray was one of the 14 party-list groups proclaimed as initial winners, guaranteed with one seat each.

On May 28, 2013, the NBOC issued Resolution No. 0008-13[7] which cancelled the registration of some party-list groups, resulting in the adjustment of the seat allocations. Due to this realignment, An Waray's number of seats was increased to two "without prejudice to the proclamation of other parties, organizations or coalitions which may later on be established to be entitled to one guaranteed seat and/or additional seat."[8]

On May 29, 2013, An Waray's second nominee, Acidre, submitted his resignation from the party, citing "pressing personal reasons."[9] Consequently, Victoria succeeded as An Waray's second nominee.

Ferdinand P. Maceda, Jr. (with Separate Opinion, *id.* at 114–128), and Nelson J. Celis of the COMELEC *En Banc*.

4 *Id.* at 89, 105.

5 *Id.* at 90.

6 *Id.* at 546–547.

7 *Id.* at 175–177.

8 *Id.* at 176.

9 *Id.* at 9 and 90. A copy of the Minute Resolution No. 13-0885 was reproduced in the Separate Opinion of Commissioner Ernesto Ferdinand P. Maceda,

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On June 5, 2013, the NBOC issued a Certificate of Proclamation (CoP) to An Waray as one of the winning party-lists in the 2013 NLE, entitling its first nominee, Montejo, to sit in the HoR.[10]

On June 26, 2013, Montejo took his oath of office before then House Speaker Feliciano Belmonte, Jr. (Speaker Belmonte).[11] Premised on the tally indicated in NBOC Resolution No. 0008-13, An Waray's second nominee, Victoria, took her oath of office separately on July 13, 2013 before Senator Francis Joseph "Chiz" Escudero.[12]

The counsel for An Waray sent a letter to the NBOC requesting for a CoP in favor of its second nominee, Victoria. In its Resolution No. 0018-13[13] dated July 17, 2013, the NBOC merely noted the letter-request.[14]

On July 16, 2013, the COMELEC *En Banc* accepted Acidre's resignation from An Waray through Minute Resolution No. 13-0085.

In a Decision dated October 22, 2013, the Court in *Abang Lingkod Party-List v. COMELEC*[15] (*Abang Lingkod*) reversed

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Jr. which indicates that the resignation of Acidre was only received by the COMELEC Law Department on May 29, 2013.

[10] *Id*. at 91. The Certification relevantly reads:

> We, the Chairman and Commissioners of the Commission on Elections, sitting *en banc* as the National Board of Canvassers for Party-List Representatives, do hereby proclaim
>
> **AN WARAY**
>
> as winner in the party-list elections of May 13, 2013 to entitle its nominee, namely:
>
> **NEIL BENEDICT A. MONTEJO**
>
> to sit as representative to the House of Representatives of the Congress of the Philippines, and to serve for a term of three (3) years, ending June 30, 2016, in accordance with Section 7, Article VI of the Constitution.

[11] *Id.* at 10, 96, and 202.

[12] *Id.*

[13] *Id.* at 549–550.

[14] *Id.* at 91.

[15] 720 Phil. 120 (2013) [Per J. Reyes, *En Banc*].

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COMELEC's cancellation of Abang Lingkod's party-list registration. The Court thus ordered COMELEC to proclaim Abang Lingkod as one of the winning party-list groups during the 2013 NLE.[16]

On August 20, 2014, COMELEC issued NBOC Resolution No. 13-030 (PL)/0004-14 where it declared the *final* distribution of seats for party-list groups in accordance with the Court's computation in the landmark case of *Barangay Association for National Advancement and Transparency (BANAT) v. COMELEC*[17] (*BANAT*). In the said Resolution, An Waray was listed as entitled to only one guaranteed seat.[18]

In the years following the 2013 NLE, An Waray continued to participate in the party-list elections and was able to secure one seat in the HoR in 2016, another seat in 2019, and another seat in 2022.

On May 10, 2019, Pornias, invoking his alleged standing as a registered voter and taxpayer, and Acidre, then a sitting second nominee of Tingog Sinirangan Party-List in the HoR, filed

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[16] *Id.* at 145–146.

[17] 604 Phil. 131 (2009) [Per J. Carpio, *En Banc*].

[18] *Rollo*, pp. 91–92. The Resolution relevantly provides:

> Applying the *Banat* formula using Party-List Canvass Report No. 11, after deducting the votes for the disqualified party-list groups, but maintaining the votes for SENIOR CITIZENS in view of the pendency of its case before the Supreme Court, and the votes for ABANG LINGKOD considering the reversal of the cancellation of its registration by the Supreme Court, the computation shows that PBA is not entitled to a party-list seat. To illustrate:

Rank	Party-List	Votes Garnered as of 28 May 2013	% of Votes Garnered (A)	Guaranteed Seats (1st Round)(B)	Additional Seat (2nd Round) = (58-14)(A)	Total Seats
. . . .						
15	AN WARAY	541,205	1.96	N.A.	0.86	1

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with COMELEC a petition[19] for the cancellation of An Waray's registration pursuant to Section 6 of Republic Act No. 7941[20] or the "Party-List System Act". They asserted that Victoria, with the knowledge and consent of An Waray, deliberately took her oath of office as a Member of the 16th Congress not only without having been validly proclaimed by the NBOC, but also when An Waray was finally adjudged to have been legally entitled to one seat only.[21] On this score, Pornias and Acidre submitted a Memorandum dated November 29, 2018 issued by COMELEC Regional Election Director for Region VIII, certifying that, "[b]ased on the records at hand, this office did not issue any Certificate of Proclamation to Atty. Victoria Isabel G. Noel, 2nd nominee of An Waray Party-List."[22] They posited that the aforementioned acts constitute a violation of election laws by An Waray and Victoria, thus justifying the cancellation of An Waray's registration under Section 6(5)[23] of Republic Act No. 7941.[24]

In their Joint Verified Answer,[25] An Waray, represented by their then sitting Representative in the HoR, Florencio Gabriel "Bem" Noel (Bem), and Victoria, countered that from the time An Waray assumed its second seat through Victoria in 2013, no one ever questioned the same. As such, Victoria was able to discharge her official duties as representative of An Waray,

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[19] *Id.* at 178–198.

[20] An Act Providing for the Election of Party-List Representatives Through the Party-List System, and Appropriating Funds Therefor (1995).

[21] *Rollo*, pp. 185–188.

[22] *Id.* at 197.

[23] SEC. 6. *Refusal and/or Cancellation of Registration*. – The COMELEC may, *motu proprio* or upon verified complaint of any interested party, refuse or cancel, after due notice and hearing, the registration or any national, regional or sectoral party, organization or coalition on any of the following grounds:

. . . .

(5) It violates or fails to comply with laws, rules or regulations relating to elections[.] (Emphasis supplied)

[24] *Rollo*, pp. 188–189.

[25] *Id.* at 200–209.

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without any interruption in accordance with NBOC Resolution No. 0008-13, which has not been revoked, amended, or vacated by COMELEC.[26] They also averred that the petition failed to present any legal basis in its conclusion that An Waray or Victoria committed any violation of election laws.[27]

Ruling of the COMELEC Second Division

In its assailed Resolution dated June 2, 2023, the COMELEC Second Division granted the petition to cancel An Waray's registration, thus:

> **WHEREFORE**, premises considered, the Petition is **GRANTED**. The registration of AN WARAY Party-list is cancelled.
>
> Let the records of the case be forwarded to the Law Department of this Commission for the conduct of preliminary investigation relative for (*sic*) possible elections offense/s committed.
>
> **SO ORDERED**.[28] (Emphasis in the original)

The COMELEC Second Division emphasized that NBOC Resolution No. 0008-13 expressly stated that the declaration of seats allocated to the party-list groups mentioned was "without prejudice to the proclamation of other parties, organizations or coalitions which may later on be established to be entitled to one guaranteed seat and/or additional seat."[29] Further, NBOC Resolution No. 0008-13 was effectively superseded by NBOC Resolution No. 13-030 (PL)/0004-14 on August 20, 2014, following the promulgation of the *Abang Lingkod* Decision. As for the total number of seats of An Waray, NBOC Resolution No. 13-030 (PL)/0004-14 clearly provided that, with the votes garnered by An Waray, they secured a total of ONLY one seat in the HoR. Having known this, An Waray allegedly arrogated unto itself the authority to have its second nominee, Victoria, take her

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[26] *Id.* at 203.

[27] *See id.* at 204–205.

[28] *Id.* at 103.

[29] *Id.* at 100.

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oath and assume office in the HoR, constituting a ground to cancel its party-list registration under Republic Act No. 7941.[30]

Ruling of the COMELEC *En Banc*

In the second assailed Resolution dated August 14, 2023, the COMELEC *En Banc*, denied petitioners' motion for reconsideration, to wit:

> **WHEREFORE**, premises considered, the Commission (*En Banc*) **RESOLVED**, as it hereby **RESOLVES**, to **DENY** the Motion for Reconsideration for utter lack of merit. The Resolution of the Second Division is hereby affirmed.
>
> **SO ORDERED**.[31] (Emphasis in the original)

It ruled that Pornias and Acidre were able to establish by substantial evidence that An Waray committed a serious infraction of the law by allowing Victoria to assume office in the HoR when Section 13[32] of Republic Act No. 7941 requires prior proclamation by COMELEC therefor.[33]

The Present Petition

Petitioners An Waray and Victoria now seek relief through the present Petition against the assailed Resolutions of COMELEC, alleging that: 1) since the resolution of the Petition against them is dependent on the validity of Victoria's proclamation as a Member of the HoR, thus falling under "returns" in the House of Representatives Electoral Tribunal's (HRET) exclusive jurisdiction over contests involving the election, returns, and qualifications of such HoR members;[34] 2) assuming that COMELEC does have jurisdiction

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[30] *Id.* at 101–103.

[31] *Id.* at 112.

[32] SEC. 13. *How Party-List Representatives are Chosen*. – Party-list representatives shall be proclaimed by the COMELEC based on the list of names submitted by the respective parties, organizations, or coalitions to the COMELEC according to their ranking in said list.

[33] *See rollo*, pp. 111–112.

[34] *Id.* at 43.

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and that Victoria's assumption as Member of the HoR in 2013 violated election laws, the cancellation of An Waray's registration is too harsh a penalty, considering the lack of evidence that An Waray itself participated in the so-called scheme;[35] 3) COMELEC should have dismissed the petition for cancellation of Certificate of Candidacy (CoC) after it failed to decide the case within 60 days as mandated in Article IX-A, Section 7[36] of the Constitution, because the same constituted a violation of petitioners' right to speedy disposition of cases guaranteed under Article III, Section 16[37] of the Constitution;[38] 4) in failing to dismiss the petition despite the violation of petitioners' right to speedy disposition of cases although it dismissed *motu proprio* several election offense cases from the 2010, 2013, and 2016 NLEs on the same ground, COMELEC violated petitioners' right to the equal protection of laws;[39] 5) An Waray is being stripped of its membership in the HoR for an alleged offense that was committed over 10 years ago in 2013;[40] and 6) the alleged violation of the election law has already prescribed because under Section 267[41] of the Omnibus Election Code[42] (OEC), election

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[35] *Id.* at 55.

[36] SECTION 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty days from receipt of a copy thereof.

[37] SECTION 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

[38] *Rollo*, pp. 61–65.

[39] *Id.* at 64–65.

[40] *See id.* at 60.

[41] SECTION 267. *Prescription*. — Election offenses shall prescribe after five years from the date of their commission. If the discovery of the offense be made in an election contest proceedings, the period of prescription shall commence on the date on which the judgment in such proceedings becomes final and executory.

[42] Batas Pambansa Blg. 881 (1985).

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offenses shall prescribe after five years reckoned from the date of commission.[43]

Petitioners additionally pray for the issuance of a Writ of Preliminary Injunction, Temporary Restraining Order and/or Status *Quo Ante* Order (WPI/TRO/SQAO) against the execution of the assailed Resolutions which will cause irreparable injury on An Waray as a duly elected and registered party-list for many years.[44]

In the Resolution[45] dated August 29, 2023, the Court *En Banc* required both COMELEC and private respondents to file their respective comments on the Petition and application for injunctive relief.

In its Comment,[46] filed through the Office of the Solicitor General, COMELEC contends that: 1) the issue in this case is not Victoria's continued membership in Congress since she has already ceased to discharge her official duties, but An Waray's entitlement to participate in the party-list elections and COMELEC was vested with the jurisdiction to determine the same;[47] 2) while NBOC Resolution No. 0008-13 named An Waray as an initial winner garnering two seats in the HoR, this did not equate to COMELEC's proclamation of Victoria as required under Section 13 of Republic Act No. 7941 for party-list representatives;[48] 3) petitioners should be deemed to have waived their right to a speedy disposition of the case due to their failure to timely invoke the same, until an unfavorable resolution was already issued against them by COMELEC;[49] and 4) their

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[43] *Rollo*, pp. 65–66.

[44] *Id.* at 67–70.

[45] *Id.* at 471-A–471-B.

[46] *Id.* at 517–545.

[47] *Id.* at 530.

[48] *Id.* at 531–533.

[49] *Id.* at 537–538.

claim of prescription is not tenable because the present case is not an election offense case.[50]

COMELEC also opposes the prayer for the issuance of a WPI/TRO/SQAO, arguing that petitioners have no clear legal right to participate in the party-list elections as this is a mere privilege granted to those compliant with the provisions of Republic Act No. 7941, and that there is no urgency warranting the grant of these provisional remedies since the subsequent party-list elections is slated to happen much later in 2025.[51]

Private respondents, on the other hand, allege: 1) that their petition sought to cancel the registration of An Waray as a party-list organization, a matter falling within the exclusive jurisdiction of COMELEC; it was neither a case to disqualify Victoria nor a petition for *quo warranto* against her;[52] 2) moreover, as Victoria was not a validly proclaimed Member of the HoR, COMELEC retained jurisdiction over contests relating to her election, returns, and qualifications;[53] 3) there was no prescription because An Waray's acts were unconstitutional, thus, cannot prescribe;[54] and 4) because An Waray failed to raise violation of their right to speedy disposition of cases before COMELEC, they effectively waived the same.[55]

Private respondents also oppose the issuance of a WPI/TRO/SQAO, raising the same arguments as COMELEC above.[56]

Finally, private respondents emphasize that in accordance with the COMELEC Rules of Procedure (COMELEC Rules), the assailed Resolutions have become final and executory as, in fact, an entry of judgment has been made on September 19, 2023.[57]

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[50] *Id.* at 538.

[51] *Id.* at 538–540.

[52] *Id.* at 592–596.

[53] *Id.* at 618–619.

[54] *Id.* at 627–630.

[55] *Id.* at 631–632.

[56] *Id.* at 632–634.

[57] *Id.* at 585 and 701–703.

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Later, petitioners filed a Manifestation,[58] informing the Court that Bem has received an official communication from the Secretary General of the HoR that he has been dropped from the HoR's Roll of Members in view of the finality of the assailed COMELEC *En Banc* Resolution. Petitioners reiterated the urgent need for the issuance of a SQAO in view of the actual and irreparable damage being suffered by Bem and the electorate he represents.

In their Supplemental Comment/Opposition,[59] private respondents additionally aver that since Acidre was originally the second nominee and he resigned only on May 29, 2013, which COMELEC only accepted on July 16, 2013, Victoria was not yet the second nominee entitled to the additional seat when she took her oath of office on July 13, 2013.[60] They also filed a separate Comment/Opposition to Petitioner's Manifestation,[61] reiterating petitioners' alleged failure to establish their entitlement to injunctive relief.

Issues

1) Whether COMELEC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it cancelled An Waray's registration as a party-list organization.

2) Whether the HRET, not COMELEC, has jurisdiction to cancel An Waray's registration as a party-list whose nominees became a Member of the HoR.

3) Whether An Waray's constitutional right to speedy disposition of cases was violated by COMELEC.

4) Whether the petition to cancel the registration of An Waray as a party-list has already prescribed.

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[58] *Id.* at 706–715.

[59] *Id.* at 724–759.

[60] *Id.* at 743–744.

[61] *Id.* at 807–821.

The Court's Ruling

The Petition is dismissed for lack of merit.

At the outset, the Court resolves the issue of jurisdiction. Specifically, An Waray alleges that the HRET has exclusive jurisdiction over the case because Bem and Victoria had already become members of the HoR. Respondents counter that it is COMELEC which has jurisdiction, as clearly and categorically provided in the Constitution and Republic Act No. 7941. The significance of this issue in the present case is that if it is the HRET that has sole jurisdiction, then the same likewise excludes the Court and only *after* the HRET has decided and such decision has been brought to the Court on petition for review can the Court properly take cognizance of the case.

It is well to mention that the COMELEC-HRET jurisdiction issue is a staple issue raised in virtually every case involving the qualifications or eligibilities of candidates for Congress and the Senate which are filed with these two bodies or with the Court, if the same are resolved after such candidates have already won in the elections. In most of these cases, the underlying issue of whether the candidate has already *legally* become a Member of the HoR oftentimes becomes the determinant question, the answer to which identifies the body having jurisdiction. Thus, in most of these cases, the controversy and the arguments revolved around the requisites of becoming a Member of the HoR, that is: 1) a valid proclamation, 2) a valid oath of office, and 3) assumption to the office sought.

This is *not*, however, the determinant issue in this case. That Bem and Victoria became HoR Members and the relevant dates therefor are facts which are not contested. The issue here is whether the cancellation of An Waray's registration falls under the HRET's jurisdiction on account of its effect upon the status of Bem's membership in the HoR and the validity of Victoria's past membership therein. Stated otherwise, the jurisdiction issue here relates more to the nature of the action filed, assuming as a given that petitioner party-list won in the last elections and has a nominee sitting as a Member of the HoR.

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COMELEC has the exclusive jurisdiction to rule on the cancellation of An Waray's party-list registration, as it is categorically provided such power to cancel party-list registrations under the law.

Foremost, as jurisdiction is a matter of substantive law, reference to the Constitution or statute is necessary. The main case from which the present *certiorari* petition stemmed, is a petition for the cancellation of An Waray's party-list registration. Hence, to determine which body possesses jurisdiction over the case, one need only to refer to the law conferring the same.

Jurisdiction over cancellation of party-list registrations is categorically conferred by Section 6 of Republic Act No. 7941 on COMELEC, thus:

SEC. 6. *Refusal and/or Cancellation of Registration*. – The COMELEC may, *motu proprio* or upon verified complaint of any 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 *percentum* (2%) of the votes cast under the

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party-list system in the two (2) preceding elections for the constituency in which it has registered. (Emphasis supplied)

This power of COMELEC is recognized in the Constitution, as it likewise grants to COMELEC the concomitant power to register party-list organizations. Article IX-C, Section 2 provides:

SECTION 2. The Commission on Elections shall exercise the following powers and functions:

. . . .

(5) *Register*, after sufficient publication, *political parties, organizations, or coalitions* which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, *shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law*. (Emphasis supplied)

The power of COMELEC to register party-lists is echoed in Republic Act No. 7941, which confers upon COMELEC the sole and exclusive jurisdiction to act on petitions for registration of party-lists, after the same is published and after the parties are given due notice and hearing. Needless to say, the discretion of COMELEC when it acts on petitions for registration includes denying such petitions. Republic Act No. 7941 provides:

SEC. 3. *Definition of Terms*. – (a) The *party-list system* is a mechanism of proportional representation in the election of representatives to the House of Representatives from national, regional and sectoral parties or organizations or coalitions thereof registered with the Commission on Elections (COMELEC). Component parties or organizations of a coalition may participate independently provided the coalition of which they form part does not participate in the party-list system.

. . . .

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SEC. 5. *Registration*. – 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: *Provided*, That the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.

The COMELEC shall publish the petition in at least two (2) national newspapers of general circulation.

The COMELEC shall, after due notice and hearing, resolve the petition within fifteen (15) days from the date it was submitted for decision but in no case not later than sixty (60) days before election.

Clearly, both the Constitution and the statute—Republic Act No. 7941—categorically vest in COMELEC the power and authority to decide on matters relating to an organization's participation in the party-list system—from the grant or denial of its petition for registration as a party, organization or coalition to participate in the party-list elections, to the cancellation of a previously granted registration.

The HRET does not have jurisdiction over petitions to cancel the registration of party-lists, including those whose nominees are incumbent Members of the HoR.

Despite the unequivocal mandate of the law and the Constitution on COMELEC's jurisdiction over party-list registrations, the question of which between COMELEC and the HRET has jurisdiction over the petition to cancel An Waray's party-list registration is still a fair one to ask under the circumstances. In fact, as mentioned, this is a recurring issue raised in virtually every similar election case filed in either COMELEC or the HRET, and one that, as in the instant Petition, is oftentimes even brought up on review with this Court.

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This is because, unlike the general concept of jurisdiction in that once it is acquired by a court over a subject matter, its authority over the case attaches until final judgment is rendered,[62] the jurisdiction of COMELEC over cases involving the qualifications and eligibilities of candidates for representatives in the HoR transfers to the HRET when such candidates win and thereby assume office before the case filed before COMELEC is finally decided by it.

This peculiar phenomenon is a function of the fact that the respective jurisdictions of COMELEC and the HRET are exclusive and that they arise successively with a very short window of time in between. This exclusivity remains even in a case involving the same candidate and the same subject matter.

To illustrate, a petition to disqualify can only be filed after the deadline for the filing of a CoC and until the date of proclamation of the winners.[63] A petition to cancel or deny due course to a CoC must be filed within five days from the deadline to file CoCs[64] until 25 days from when such assailed CoC was actually filed.[65] This

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[62] *People v. Montilla*, G.R. Nos. 241911 & 242375, February 8, 2023 [Per J. Singh, Third Division] at 8. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[63] COMELEC RULES OF PROCEDURE, Rule 25, sec. 3 provides:

SECTION 3. *Period to File Petition*. — The petition shall be filed any day after the last day for filing of certificates of candidacy but not later than the date of proclamation.

[64] Before the start of the Campaign Period which is 90 to 15 days, depending on the position sought.

[65] Section 78 of the OEC provides:

SECTION 78. *Petition to deny due course to or cancel a certificate of candidacy*. — A verified petition seeking to deny due course or to cancel a certificate of candidacy may be filed by the person exclusively on the ground that any material representation contained therein as required under Section 74 hereof is false. The petition may be filed at any time not later than twenty-five days from the time of the filing of the certificate of candidacy and shall be decided, after due notice and hearing, not later than fifteen days before the election.

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deadline to file CoCs normally falls about three months before the election date.[66]

On the other hand, the jurisdiction of the HRET, following jurisprudence, arises after a candidate has been elected, proclaimed, has taken the proper oath of office and then assumed the position of Member of the HoR. Under normal circumstances, such assumption coincides with the start of the term of the office which is on June 30 following the elections.[67]

As such, petitions for disqualification and petitions to cancel/deny due course to a CoC of a winning candidate for Member of the HoR only has a lifetime of about four months, before the jurisdiction of the HRET arises, at which point such petitions must be dismissed—by COMELEC or by this Court if on review—because the HRET's own jurisdiction has arisen ousting all other bodies of authority to take cognizance of the case. This situation occurs regardless of whether an actual case is filed before the HRET. In other words, COMELEC—or the Court on review—is without discretion but to dismiss the case pending before it if the HRET's jurisdiction has already attached because the respondent candidate has already become a Member of the HoR.

Thus, in cases pending with COMELEC—or the Court on review—involving incumbent members of the HoR and the resolution of which case can lead to the removal of such members, the relevant question to ask is this: does the case fall under the HRET's exclusive jurisdiction so that COMELEC—or the Court—will have to dismiss the same for having lost its own jurisdiction over the case?

In the case of the petition to cancel An Waray's registration, the answer to this question is "no."

To recall, petitioners' insistence on the HRET's jurisdiction over the case is grounded on the fact that Victoria had already assumed

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[66] Under the Omnibus Election Code, it cannot be beyond the start of the Campaign Period, which, in turn, is set on a per candidate basis but the longest is 90 days. (OEC, Sec. 3)

[67] *See* CONST., art. VI, sec. 4.

her position as a Member of the HoR when *Abang Lingkod* was promulgated (which allocated, with finality, only one seat to An Waray, leaving none for Victoria to sit in as the second nominee). Further, they argue that the resolution of the instant Petition is dependent on a finding of Victoria's valid proclamation. Thus, this issue is covered by the word "returns" in Article VI, Section 17 of the Constitution on the HRET's jurisdiction.

During the deliberations, Associate Justice Amy C. Lazaro-Javier (Justice Javier) manifested support for this proposition, saying that COMELEC cannot be given a *carte blanche* jurisdiction when it comes to the registration and cancellation of party-list organizations. According to Justice Javier, although the original cause is the cancellation of the party-list's registration, the *result* is the removal of a sitting Member of the HoR. Hence, Justice Javier opines that it is the HRET which should have exclusive jurisdiction over the instant Petition.

Again, jurisdiction being conferred by law, reference here should be made to the law providing for the HRET's jurisdiction. That law is no less than the Constitution, which states in Article VI:

> SECTION 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the *sole judge of all contests relating to the election, returns, and qualifications of their respective Members*. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman. (Emphasis supplied)

This is echoed in the HRET's Rules of Procedure[68] (HRET Rules):

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[68] THE 2015 REVISED RULES OF THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL (2015).

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RULE 15. *Jurisdiction*. – The Tribunal is the *sole judge of all contests relating to the election, returns, and qualifications of the Members* of the House of Representatives.

To be considered a Member of the House of Representatives, there must be a concurrence of the following requisites: (1) a valid proclamation; (2) a proper oath; and (3) assumption of office.

What is clear from these provisions is the intent of its framers to limit the jurisdiction of the HRET to only *contests relating to the election, returns and qualifications of Members* of the HoR.

Article VI, Section 17 may, thus, be broken down into two tiers: 1) as to the nature of the action—that is, that it must be a contest relating to the election, returns, and qualifications of the respondent; and 2) as to the status of the respondent—that is, he or she must be a Member of the HoR, which, in turn, requires the concurrence of the requisites mentioned in the second paragraph of Rule 15, i.e., (a) a valid proclamation; (b) a proper oath of office; and (c) an assumption to the office of a Representative.

In *Javier v. COMELEC*[69] (*Javier*), the Court had the occasion to dissect the nature of a case that falls under the HRET's jurisdiction. Specifically, *Javier* defined the phrase "elections, returns, and qualifications," to wit:

The phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title. But if it is necessary to specify, we can say that *"election" referred to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of the votes; "returns" to the canvass of the returns and the proclamation of the winners, including questions concerning the composition of the board of canvassers and the authenticity of the election returns; and "qualifications" to matters that could be raised in a quo warranto proceeding against the proclaimed winner, such as his disloyalty or ineligibility or the inadequacy of his certificate of candidacy*.[70] (Emphasis supplied)

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[69] 228 Phil. 193 (1986) [Per J. Cruz, *En Banc*].

[70] *Id.* at 205–206.

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Thus, in the present case, the component issues of the main jurisdiction question are: a) whether the respondent An Waray in the petition for cancellation of registration as party-list is an incumbent Member of the HoR; and b) whether the nature of the case is one of a contest relating to the election, returns, and qualifications of An Waray.

In *ABC (Alliance for Barangay Concerns) Party List v. COMELEC*[71] (*ABC*), the Court held that although it is the party-list that voters vote for during the elections, it is its nominee who sits as a Member of the HoR and who must observe all the qualifications therefor under Article VI of the Constitution.[72] This distinction is important in determining which between the HRET and COMELEC has jurisdiction over a case affecting a party-list who has a nominee sitting as an incumbent representative in the HoR. As it is the nominee—and not the party-list— who is the Member of the HoR, then the HRET's jurisdiction is limited only to cases involving the election, returns, and qualifications of the sitting nominee, and not those of the party-list.

This is the Court's ruling in *ABC*, when it affirmed COMELEC's jurisdiction over petitions to cancel party-list registrations, while likewise taking care to distinguish this from the power of the HRET over determinations of qualifications of individual members of the HoR, including nominees of such party-list organizations. The Court held:

> [T]he Constitution grants the COMELEC the authority to register political parties, organizations or coalitions, and the authority to cancel the registration of the same on legal grounds. The said authority of the COMELEC is reflected in Section 6 of R.A. No. 7941, which provides:
>
> > Section 6. *Refusal and/or Cancellation of Registration*. — The Comelec may *motu proprio* or upon verified complaint of any 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:

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[71] 661 Phil. 452 (2011) [Per J. Peralta, *En Banc*].

[72] *Id.* at 462.

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> (1) It is a religious sect or denomination, organization or association organized for religious purposes;
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> . . . .
>
> *It is, therefore, clear that the COMELEC has jurisdiction over the instant petition for cancellation of the registration of the ABC Party-List*.
>
> *In the case of the party-list nominees/representatives, it is the HRET that has jurisdiction over contests relating to their qualifications. Although it is the party-list organization that is voted for in the elections, it is not the organization that sits as and becomes a member of the House of Representatives, but it is the party-list nominee/representative who sits as a member of the House of Representatives*.[73] (Emphasis supplied)

Thus, in the present case involving a petition to cancel the party-list registration of An Waray, as An Waray is not a Member of the HoR, the case cannot fall under the HRET's jurisdiction. COMELEC, thus, retains its jurisdiction over such cases pursuant to Republic Act No. 7941 and the Constitution, as discussed above.

Neither can Victoria's membership in the HoR trigger the jurisdiction of the HoR. Apart from her not being the respondent in the main petition for cancellation, she is likewise not an incumbent HoR Member, as her term has long ended. Inasmuch as the respondent in an election case must have already been proclaimed as winner in the elections, had taken the proper oath of office, and had assumed as Member of the HoR, he or she must still possess such status, i.e., his or her term has not ended, in order for the HRET to retain jurisdiction over questions on the respondent's election, returns, and qualifications. Here, Victoria had long ceased to be a Member of the HoR; thus, any ruling on this specific issue will no longer affect her as such Member, such issue being ripe only insofar as it determines whether An Waray committed a ground to cancel its registration.

Moreover, while it is true that the removal of An Waray from the registered list of party-lists will necessarily cause the removal of its representative in the HoR for the 2022 to 2025 term—Bem Noel—the same cannot, of and by that fact alone, trigger

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[73] *Id.* at 461–462.

the jurisdiction of the HRET. Apart from Bem, like Victoria, not being the respondent in the main petition to cancel registration, the nature of the case itself is not one of a contest relating to the election, returns, and qualifications of a Member of the HoR.

The Court cannot subscribe to the submission of An Waray that as the case concerns the validity of the proclamation of Victoria, the same falls under the definition of a contest involving the returns of an HoR Member. Again, Victoria is no longer an incumbent Member. Moreover, the case is not a contest involving the returns of Victoria inasmuch as it is merely a petition for the deregistration as a party-list of An Waray.

That the nominee, not the party-list, is the Member of the HoR is all the more evident when one examines the requisites to becoming such a Member, as already settled in jurisprudence—that the candidate has been previously proclaimed winner, that he or she had taken the proper oath of office, and that he or she had assumed office as a Member of the HoR.[74] Evidently, a party-list, having merely a juridical personality, is incapable of satisfying all three requirements. In fact, as repeatedly emphasized in the present case by respondents—as to the first requisite of proclamation, the law requires that a CoP be issued specifically in favor of the nominee who shall be taking a seat in the HoR for the party-list, which must be different from any such certificate that may have been issued to the party-list. It is the CoP in favor of the nominee which works to satisfy the requisite of proclamation under the law.

Further, it is, in fact, the happening of these three requisites which triggers the jurisdiction of the HRET, and consequently divests COMELEC of its own jurisdiction. The case of *Vinzons-Chato v. COMELEC*[75] (*Vinzons-Chato*), which was also quoted in the instant Petition,[76] is instructive. According to *Vinzons-Chato*, "once a winning candidate has been proclaimed, taken [their] oath,

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[74] *See Vinzons-Chato v. COMELEC*, 548 Phil. 712 (2007) [Per J. Callejo, Sr., *En Banc*].

[75] *Id.*

[76] *Rollo*, pp. 32–35.

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and assumed office as a Member of the House of Representatives, the COMELEC's jurisdiction over election contests relating to [their] election, returns, and qualifications ends, and the HRET's own jurisdiction begins."[77]

However, emphasis should likewise be made on the fact that the jurisdiction that is transferred to the HRET is not absolute, as shown in *Vinzons-Chato*. What is transferred is not all actions cognizable by COMELEC, and not even all pertaining to the candidate-cum-HoR Member. Only those contests relating to the election, returns, and qualifications of such Member are transferred. Any other case is retained under COMELEC's jurisdiction, including those pertaining to the Member himself or herself. Clearly, by no stretch of the imagination would the action of cancelling a party-list's registration possibly fall under this classification in *Vinzons-Chato*.

Further, the grounds for cancellation under Republic Act No. 7941 pertain to the party-list and not the sitting Member or its nominee/representative. Not only is this distinction clear under the law,[78] but it has also been interpreted by the Court this way. An example is the Court's pronouncement in *Abang Lingkod* when it was ruled that "a declaration of an untruthful statement in a petition for registration under Section 6 (6) of R.A. No. 7941, in order to be a ground for the refusal and/or cancellation of registration under the party-list system, *must pertain to the qualification of the party, organization or coalition under the party-list system*."[79] Nowhere in the Constitution, Republic Act No. 7941, or the HRET Rules is the HRET given jurisdiction over party-list organizations. This interpretation is also found in *COCOFED-Philippine Coconut Producers Federation, Inc. v. COMELEC*,[80] when it ruled in this wise:

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[77] *Vinzons-Chato v. COMELEC*, *supra* note 74, at 725–726. (Citation omitted)

[78] Republic Act No. 7941 (1995), sec. 6.

[79] *Abang Lingkod Party List v. COMELEC*, *supra* note 15, at 143. (Emphasis supplied)

[80] 716 Phil. 19 (2013) [Per J. Brion, *En Banc*].

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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 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*.[81] (Emphasis supplied)

The distinction between COMELEC's and the HRET's jurisdictions over party-lists and their nominees is, again, emphasized in *Abayon v. HRET*,[82] wherein the Court held that, in the case of party-list nominees/representatives, it is the HRET that has jurisdiction over contests relating to their qualifications. Although it is the party-list organization that is voted for in the elections, it is not the organization that sits as and becomes a member of the House of Representatives.[83]

During the deliberations, Justice Javier suggested that as the petition to cancel the registration of An Waray as party-list will necessarily lead to the removal of its then sitting nominee in the HoR—Bem Noel—then the HRET must have jurisdiction; that regardless of the nature of the case, the fact is that its effects will lead to the disqualification of a Member of the HoR.

This is erroneous.

Jurisdiction is conferred by law on the basis of a case's subject matter. A simple reading of the HRET's jurisdiction under the Constitution shows that it is not concerned with the effects of a case, but rather with its subject matter or nature—that is, again, the case must be a contest relating to the election, returns, and qualifications of a Member of the HoR.

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[81] *Id.* at 30.

[82] 626 Phil. 346 (2010) [Per J. Abad, *En Banc*].

[83] *Id.* at 352 *as cited in ABC (Alliance for Barangay Concerns) Party List v. COMELEC*, *supra* note 71, at 462.

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The Court cannot give paramount consideration to the effects of a case, over its nature or subject matter, in determining jurisdiction. To see the effects of the cancellation as determinative of which body has the power to make the cancellation is to make the tail wag the dog. That a party-list nominee will cease to be a Member of the HoR because of the cancellation of the party-list's registration does not mean that it is the HRET that has the jurisdiction. Such a view will be contrary to the above-quoted constitutional and statutory provisions empowering COMELEC to be the body to make such a determination.

Such a view will likewise unnecessarily convolute the jurisdiction of the HRET far beyond the limits which the Constitution provides—that is, only over contests relating to election, returns and qualifications of Members of the HoR. Such a view will then place under the HRET's jurisdiction other cases which may remove a sitting Member, even when the resolutions of such cases do not involve the election, returns, and qualifications of the Member. Prime examples of this are criminal or administrative cases which carry the accessory penalties of disqualification from holding public office. To be sure, such accessory penalties are imposed, not by electoral tribunals, but by the courts of justice or other bodies which have jurisdiction over the main administrative or criminal case.

In the landmark *Jalosjos v. COMELEC*,[84] the Court held that COMELEC had the positive duty, with or without a petition filed therefor, to cancel the CoC of Romeo G. Jalosjos who was previously convicted by final judgment of *statutory rape and carried the accessory penalty of perpetual absolute disqualification under Article 41 of the Revised Penal Code*.

Similarly, in *Ty-Delgado v. House of Representatives Electoral Tribunal*[85] (*Ty-Delgado*), the Court held that *libel is a crime involving moral turpitude which results in the disqualification of a convict to hold public office for five years after his or her service*

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[84] 711 Phil. 414 (2013) [Per J. Perlas-Bernabe, *En Banc*].

[85] 779 Phil. 268 (2016) [Per J. Carpio, *En Banc*].

of sentence following Section 12 of the OEC. In *Ty-Delgado*, there was already a final conviction for four counts of libel by the Court which the HRET failed to consider in disqualifying Philip A. Pichay (Pichay). This was eventually reversed by the Court which declared that Pichay was ineligible to sit as Member of the HoR.[86] It should be emphasized that it was the regular courts that convicted Pichay of libel.

If the Court were to allow the jurisdiction of the HRET to be determined, not by the nature of a case, but by its effects (i.e., whether it can cause the disqualification or removal of a sitting Member of the HoR), then—extreme as it may be—cases such as criminal complaints for statutory rape or libel against sitting Members must be dismissed by a regular court of law in deference to the purported "exclusive" jurisdiction of the HRET over its members. Such notion clearly goes against the tenets of subject matter jurisdiction and even of common sense. Obviously, the ultimate effect of a case in removing a sitting Member cannot be the sole basis for determining jurisdiction. Not only is this conclusion in line with the 1987 Constitution and existing laws, but it also ensures that the proper checks and balances are in place.

An Waray's right to speedy disposition of cases was not violated by COMELEC

An Waray argues for the dismissal of the petition to cancel its registration on the basis that COMELEC violated its right to speedy disposition of cases after having incurred an inordinate delay of four years in resolving the case.

Under the COMELEC Rules, a division of COMELEC has 10 days to resolve a case from the time it is deemed submitted for such resolution, whereas the COMELEC *En Banc* has 30 days to resolve a motion for reconsideration of such a division's decision, reckoned also from the time that the case is deemed submitted for decision. Here, the petition to cancel An Waray's party-list registration was filed in May of 2019. The COMELEC Division granted the same in June of 2023, and the COMELEC

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[86] *Id.* at 286–287.

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En Banc, later in August 2023, affirmed its Division on motion for reconsideration.

Thus, there is no denying that COMELEC did, in fact, incur in delay of almost four years in resolving the petition.

Despite this delay, during the deliberations for this case, Associate Justice Samuel H. Gaerlan (Justice Gaerlan), citing the landmark case of *Cagang v. Sandiganbayan, Fifth Division, Quezon City*[87] (*Cagang*), opined that there was no violation of An Waray's right to a speedy disposition of cases. Justice Gaerlan cited the following factors in arriving at such conclusion: 1) An Waray had waived its right to speedy disposition of cases as it failed to raise the same in the four years that the case was pending with COMELEC; and 2) the delay caused no actual prejudice to petitioners as even after the petition was filed and remained pending in 2019 and 2022, An Waray was still able to participate, and, in fact, was still able to win seats in the HoR in both election years.

The Court agrees that there was no violation of An Waray's right to speedy disposition of cases despite the four-year delay of COMELEC in resolving the petition to cancel An Waray's party-list registration. This conclusion is stronger in the context of the nature of the case filed against An Waray being one of an administrative nature *vis-a-vis* the criminal case involved in *Cagang*.

The Court in *Cagang* clarified the distinction between the two rights involved under Sections 14(2) and 16 of the Constitution, namely: (1) Right to Speedy Trial; and (2) Right to Speedy Disposition of Cases. According to the Court:

> [T]he right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. The right to speedy disposition of cases, however, may be invoked before any tribunal, whether judicial or quasi-judicial. What is important

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[87] 837 Phil. 815 (2018) [Per J. Leonen, *En Banc*].

is that the accused may already be prejudiced by the proceeding for the right to speedy disposition of cases to be invoked.[88]

Cagang likewise recognized that, apart from criminal cases, the right to speedy disposition of cases also applies to administrative cases before any tribunal, but qualifies such administrative cases as those *which are adversarial **and** may result in criminal prosecution*, to wit:

> While the right to speedy trial is invoked against courts of law, *the right to speedy disposition of cases may be invoked before quasi-judicial or administrative tribunals in proceedings that are adversarial and may result in possible criminal liability*. The right to speedy disposition of cases is most commonly invoked in fact-finding investigations and preliminary investigations by the Office of the Ombudsman since neither of these proceedings form part of the actual criminal prosecution.[89] (Emphasis supplied)

As recognized in the preceding paragraph, these cases or matters include preliminary investigations by the Office of the Ombudsman[90] or by the various prosecutor's offices. In fact, a perusal of the guidelines set forth in *Cagang* suggests that its application might even be limited to criminal proceedings, either at the preliminary investigation stage or criminal cases already filed in court, to wit:

> *First*, the right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. The right to speedy disposition of cases, however, may be invoked before any tribunal, whether judicial or quasi-judicial. *What is important is that the accused may already be prejudiced by the proceeding for the right to speedy disposition of cases to be invoked*.
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> *Second, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation*. This Court acknowledges, however, that the Ombudsman should set reasonable

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[88] *Id.* at 880.

[89] *Id.* at 849.

[90] *Id.*

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periods for preliminary investigation, with due regard to the complexities and nuances of each case. Delays beyond this period will be taken against the prosecution. *The period taken for fact-finding investigations prior to the filing of the formal complaint shall not be included in the determination of whether there has been inordinate delay*.

Third, courts must first determine which party carries the burden of proof. If the right is invoked within the given time periods contained in current Supreme Court resolutions and circulars, and the time periods that will be promulgated by the Office of the Ombudsman, the defense has the burden of proving that the right was justifiably invoked. If the delay occurs beyond the given time period and the right is invoked, *the prosecution has the burden of justifying the delay*.

If the defense has the burden of proof, it must prove *first*, whether the case is motivated by malice or clearly only politically motivated and is attended by utter lack of evidence, and *second*, that the defense did not contribute to the delay.

Once the burden of proof shifts to the prosecution, *the prosecution must prove first, that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case*; *second*, that the complexity of the issues and the volume of evidence made the delay inevitable; and *third*, that no prejudice was suffered by the accused as a result of the delay.

Fourth, determination of the length of delay is never mechanical. Courts must consider the entire context of the case, from the amount of evidence to be weighed to the simplicity or complexity of the issues raised.

An exception to this rule is if there is an allegation that the prosecution of the case was solely motivated by malice, such as when the case is politically motivated or when there is continued prosecution despite utter lack of evidence. Malicious intent may be gauged from the behavior of the prosecution throughout the proceedings. If malicious prosecution is properly alleged and substantially proven, the case would automatically be dismissed without need of further analysis of the delay.

Another exception would be the waiver of the accused to the right to speedy disposition of cases or the right to speedy trial. If it can be proven that the accused acquiesced to the delay, the constitutional right can no longer be invoked.

In all cases of dismissals due to inordinate delay, the causes of the delays must be properly laid out and discussed by the relevant court.

Fifth, the right to speedy disposition of cases or the right to speedy trial must be timely raised. *The respondent or the accused must file the appropriate motion upon the lapse of the statutory or procedural periods*. Otherwise, they are deemed to have waived their right to speedy disposition of cases.[91] (Emphasis supplied, citation omitted)

Thus, even as *Cagang* categorically acknowledged the application of the right to speedy disposition of cases in administrative cases, it nonetheless focused only on such administrative cases that can result in criminal indictments.

A purely administrative case that tackled this right is *Abella v. Commission on Audit Proper*[92] (*Abella*), a case which involved the disallowances of extraordinary and miscellaneous expenses, where the Court emphasized therein the need to allege and prove that the party invoking the right must have suffered an actual, specific, and real injury for the claim of violation of such right to prosper, thus:

Moreover, *petitioners failed to seasonably question the violation of their right to speedy disposition, if at all. Throughout the proceedings before the COA Regional Office and the COA Proper, petitioners never asserted their right. They could have filed a manifestation or a motion for early resolution of their case before the COA Regional Office, or invoked their right before the COA Proper on appeal, but did not do so*. Instead, in a last-ditch attempt to seek a favorable resolution, petitioners raise this alleged constitutional violation for the first time in this petition. Certainly, this lapse deprived the COA of the opportunity to address the issue and beclouded petitioners' invocation of inordinate delay. We emphasize that the right to speedy disposition of cases is not a last line of remedy when parties find themselves on the losing end of the proceedings.

. . . *[T]he sheer length of time, without allegation and proof of prejudice to the party invoking the right, does not equate to an inordinate delay to justify the nullification of the COA Proper issuances*. The right to speedy disposition of cases is not a magical invocation that can

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[91] *Id.* at 880–882.

[92] G.R. No. 238940, April 19, 2022 [Per J. M. Lopez, *En Banc*].

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automatically compel courts or any justice-administering agency to rule in one's favor. *To sustain a violation of this right, there must be an actual, specific, and real injury to the claimant's rights as a result of the delay, not mere conjectural supplications of prejudice or generalized invocation of the constitutional right. A claim of prejudice, if at all, must have a conclusive and factual basis*.[93] (Emphasis supplied, citations omitted)

A comparison of *Cagang* and *Abella* shows a contrast on the degree of strictness that the Court observed in deciding whether a claim for violation of one's right to speedy disposition of cases can prosper. Specifically, *Abella* went as far as requiring an actual, specific, and real injury to the claimant's right which, further, must have conclusive and factual basis. Such requirement does not obtain in *Cagang*. Thus, *Abella* appears to have set a higher standard in proving such violation than *Cagang*.

This differential treatment between criminal cases and others, including administrative cases, *vis-a-vis* proving a violation of one's right to speedy disposition of cases becomes logical when one investigates the rationale behind this right as applied to criminal cases—that is, it seeks to prevent the oppressive nature of criminal cases from looming indefinitely over the respondent. In *Corpuz v. Sandiganbayan*,[94] the Court pronounced:

> The right of the accused to a speedy trial and to a speedy disposition of the case against him was *designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases*. Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious and oppressive delays. The inquiry as to whether or not an accused has been denied such right is not susceptible by precise qualification. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept.[95] (Emphasis supplied, citations omitted)

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[93] *Id.* at 6–7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[94] 484 Phil. 899 (2004) [Per J. Callejo, Sr., Second Division].

[95] *Id.* at 917.

Indeed, criminal proceedings are a class of its own in light of the highly burdensome effects it imposes upon the person being investigated or indicted. One faces the terrifying possibility of arrest and detention, even pending resolution of the case. In addition, pending criminal cases normally appear in an individual's records that can greatly hamper his or her employability or besmirch his career or profession.

The Court has likewise recognized that criminal prosecution can validly impair one's right to travel;[96] in fact, a precautionary hold departure order can already be issued even before a formal indictment.[97] On a social level, a criminal complaint lodged against one, of and by itself, and even in the absence of a conviction, already creates a stigma which subjects the person to humiliation and ridicule. All told, criminal prosecution, prior to a case filed in court, damages a person's reputation to a level that can substantially prejudice him or her psychologically, socially, and economically.

Considering these factors, it is but reasonable that the Constitution more vigorously guard the people against the State's delay in criminal proceedings as compared to other types of cases. The grave effects of a long-standing preliminary investigation, for example, does not apply to purely administrative cases, such as the one at hand. To stress, the petition to cancel An Waray's registration as a party-list organization is not tantamount to a criminal prosecution. There are no rights of an accused on the line, and the toll upon the respondent of a pending administrative case is nowhere near as inimical as a long-standing criminal prosecution.

It appears, thus, that the need to distinguish as to the nature of a case *vis-à-vis* granting a claim of violation of the right to speedy disposition of cases boils down to the evils which the right seeks to prevent. In criminal cases, an accused or respondent need not show actual injury because the restrictions and limitations on

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[96] *Pichay, Jr. v. Sandiganbayan (Fourth Division)*, 903 Phil. 271 (2021) [Per J. Delos Santos, Third Division].

[97] A.M. No. 18-07-05-SC, Rule on Precautionary Hold Departure Order (2018), secs. 1 and 2.

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fundamental rights come with the indictment and investigation as shown above. The same, however, cannot be said for administrative cases—thus, for a claimant to successfully hurdle a claim of violation of this right, it is imperative to prove actual injury caused by the purported delay as elucidated in *Abella*.

On this point, the Court agrees with Justice Gaerlan—An Waray utterly failed to show any prejudice or injury that resulted from the pendency of the petition with COMELEC. In fact, during this period, An Waray participated in and won the elections, thus securing a seat in the present Congress.

Further, considering that in administrative cases such as the one at hand, the burden is placed on the party invoking the right to prove its violation, and considering the evils of an administrative case compared to criminal cases, the Court likewise holds, as pointed out by Justice Gaerlan, that An Waray's own delay in invoking its right is tantamount to waiver or acquiescence to COMELEC's delay on the part of An Waray.

The petition to cancel An Waray's party-list registration has not prescribed under Section 267 of the OEC because this law applies only to election offenses.

Petitioners allege that the action to cancel An Waray's party-list registration had already prescribed in accordance with Section 267 of the OEC, which reads:

> SECTION 267. *Prescription. — Election offenses shall prescribe after five years from the date of their commission*. If the discovery of the offense be made in an election contest proceedings, the period of prescription shall commence on the date on which the judgment in such proceedings becomes final and executory. (*Sec. 185, Id*.) (Emphasis supplied)

Notably, Sections 261 and 262 of the OEC specify the acts which constitute an election offense. A perusal of the said provisions in the OEC shows that a petition to cancel a party-list's registration is ***not*** among the acts considered as an election offense. In statutory construction, the express mention of one person, thing, or consequence implies the exclusion of all others.

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The rule is expressed in the maxim *expressio unius est exclusio alterius*. Indubitably, the petition to cancel An Waray's registration has not prescribed under Section 267 of the OEC as it is not an election offense.

Moreover, Republic Act No. 7941—the main law governing the party-list system in the Philippines—is silent as to the period of filing of a petition to cancel party-list registration. So is the COMELEC Rules.

Neither can petitioners find refuge in the New Civil Code, specifically Article 1149 thereof, which provides:

> ART. 1149. All other actions whose periods are not fixed in this Code or in other laws must be brought within five years from the time the right of action accrues. (n)

Article 1149 of the New Civil Code is inapplicable in this case. As held in *Spouses Edralin v. Philippine Veterans Bank*,[98] this provision refers to prescription of actions. An action is "defined as an ordinary suit in a court of justice, by which one party prosecutes another for the enforcement or protection of a right, or the prevention or redress of a wrong."[99] The petition to cancel An Waray's party-list registration is clearly not an ordinary action filed in court for Article 1149 to apply.

In *Dayao v. COMELEC*[100] (*Dayao*), the Court likened an accreditation or registration of an organization under the party-list law to a franchise granted by the Congress, in that it is not a right but merely a privilege that is conferred by the granting authority—COMELEC in the case of registration of party-lists. Such organizations become juridical entities only when they are granted registration or accreditation. Relevant to the question of prescription, the Court in *Dayao* likewise declared that, like a congressional franchise, an accreditation or registration can never

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[98] 660 Phil. 368 (2011) [Per J. Del Castillo, First Division].

[99] *Id.* at 386. (Citation omitted)

[100] 702 Phil. 348 (2013) [Per J. Reyes, *En Banc*].

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become final or irrevocable, and the granting authority can always review the accreditation it extended and revoke the same at will, thus:

Each accreditation handed by the COMELEC to party-list organizations can be likened to the franchise granted by Congress, thru the Securities and Exchange Commission (SEC), to corporations or associations created under the Corporation Code.

Franchise is a right or privilege conferred by law. It emanates from a sovereign power and the grant is inherently a legislative power. It may, however, be derived indirectly from the state through an agency to which the power has been clearly and validly delegated. In such cases, Congress prescribes the conditions on which the grant of a franchise may be made.

The power to pass upon, refuse or deny the application for registration of any corporation or partnership is vested with the SEC by virtue of Presidential Decree (P.D.) No. 902-A. R.A. No. 7941, on the other hand, is the legislative act that delegates to the COMELEC the power to grant franchises in the form of accreditation to people's organization desirous of participating in the party-list system of representation.

Corporations formed under the Corporation Code become juridical entities only when they are granted registration by the SEC in the same way that people's organizations obtain legal existence as a party-list group only upon their accreditation with the COMELEC. *A party-list organization, like a corporation, owes its legal existence to the concession of its franchise from the State, thru the COMELEC*.

Being a mere concession, it may be revoked by the granting authority upon the existence of certain conditions. The power to revoke and grounds for revocation are aptly provided in Section 6(1) of P.D. No. 902-A, for corporations and Section 6 of R.A. No. 7941 for party-list organizations.

The fact that a franchise/accreditation may be revoked means that it can never be final and conclusive. A fortiori, the factual findings leading to the grant of the franchise/accreditation can never attain finality as well. Both the accreditation and the facts substantiating it can never attain perpetual and irrefutable conclusiveness as against the power that grants it. The circumstances of the grantee are subject to constant review and the franchise/accreditation from which it derives its existence may be

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suspended or revoked at the will of the granting authority.[101] (Emphasis supplied, citations omitted)

Indeed, Republic Act No. 7941 expressly recognizes COMELEC's power to review and cancel registrations it already extended to party-list groups. That it does not limit the exercise of this power to a specific period means that, consistent with the rationale in *Dayao*, it can exercise the same at any time. In short, it does not prescribe.

COMELEC did not commit grave abuse of discretion when it cancelled An Waray's registration as a party-list.

Having settled that COMELEC properly exercised jurisdiction over the petition to cancel An Waray's party-list registration, and that such action did not, as it does not, prescribe, the only issue left to settle at this point is whether COMELEC, in exercising its jurisdiction over the case, committed grave abuse of discretion amounting to lack or excess of such jurisdiction.

It did not.

To recall, An Waray's party-list registration was cancelled by COMELEC on the basis of Section 6(5) of Republic Act No. 7941, which provides as a ground for such cancellation any violation of, or failure to comply with, laws, rules or regulations relating to elections committed by a registered party-list. COMELEC found that An Waray's act of aiding or, at the very least, allowing Victoria to assume a second seat in the 16th Congress back in 2013, despite knowledge that it was only entitled to one seat and that Victoria was, in fact, not proclaimed by COMELEC, constituted a violation of Section 13 of Republic Act No. 7941, which reads:

SEC. 13. *How Party-List Representatives are Chosen*. – Party-list representatives shall be proclaimed by the COMELEC based on the list of names submitted by the respective parties, organizations, or coalitions to the COMELEC according to their ranking in said list.

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[101] *Id.* at 370–371.

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As to this point, the Court finds COMELEC to have erred. A simple reading of the provision shows that it is a directive to COMELEC itself to proclaim the winning party-list representatives according to their rankings in the list of names submitted by such party-lists. Being that the provision speaks of COMELEC's duty and responsibility to make such proclamation, it defies logic to find An Waray to have violated or failed to comply with the same. Again, it was not its responsibility to obtain such proclamation under Section 13. Its failure to do so cannot be regarded as a violation of this section.

Nevertheless, An Waray did commit a violation of, or a failure to comply with, a law, thus warranting the cancellation of its party-list registration. The law is NBOC Resolution No. 13-030 (PL)/0004-14 which, applying *BANAT*, clearly and unequivocally declared the number of seats that An Waray was entitled to—ONE:

> Applying the *Banat* formula using Party-List Canvass Report No. 11, after deducting the votes for the disqualified party-list groups, but maintaining the votes for SENIOR CITIZENS in view of the pendency of its case before the Supreme Court, and the votes for ABANG LINGKOD considering the reversal of the cancellation of its registration by the Supreme Court, the computation shows that PBA is not entitled to a party-list seat. To illustrate:

Rank	Party-List	Votes Garnered as of 28 May 2013	% of Votes Garnered (A)	Guaranteed Seats (1st Round)(B)	Additional Seat (2nd Round) = (58-14)(A)	Total Seats
. . . .						
15	AN WARAY	541,205	1.96	N.A.	0.86	1[102]

Despite notice of such resolution indicating that it secured only one seat in the HoR after the 2013 NLE, An Waray ***continued*** to occupy a second seat through Victoria until the end of her term. This was a clear defiance of NBOC Resolution No. 13-030 (PL)/0004-14 in relation to Section 6(5) of Republic Act No. 7941.

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[102] *Rollo*, pp. 91–92.

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Other factors also show An Waray's lack of penitence leading to its violation of NBOC Resolution No. 13-030 (PL)/0004-14.

First, NBOC Resolution No. 0008-13 expressly stated that the declaration of seats allocated to the party-list groups mentioned (which included An Waray which was then allocated two seats) was "*without prejudice to the proclamation of other parties, organizations or coalitions which may later on be established to be entitled to one guaranteed seat and/or additional seat*[.]"[103] True enough, NBOC Resolution No. 13-030 (PL)/0004-14 was thereafter issued and the same recomputed and finally allocated to An Waray only ONE seat.

Second, An Waray knew that it lacked Victoria's CoP and that the same was necessary for her to become a Member of the HoR. An Waray, in fact, wrote COMELEC a letter-request for a CoP, proclaiming Victoria as being entitled to a seat in the HoR:

> "*I am writing in behalf of the AN WARAY Party-List and this is in connection with the Certification of Proclamation being issued by your good office to the nominees of the Proclaimed Party-List Groups. We have been informed that insofar as concerns the AN WARAY Party-List you will issue said Certification in favor of Mr. Neil Benedict A. Montejo only, our first nominee.*
>
> *In this regard, may we point out that on May 28, 2013, the Commission (sitting as National Board of Canvassers) promulgated NBOC Resolution No. 0008-13 and proclaimed the AN WARAY Party-List as one of the winners in the Party-list elections entitled to Two (2) seats.*
>
> *Thus, we are respectfully requesting that the Second nominee of AN WARAY, Atty. Victoria G. Noel, be likewise issued a Certification of Proclamation. This request is being made also in order that she can get a room assignment, organize her staff and more importantly, be able to obtain Committee memberships in furtherance of the legislative agenda of the AN WARAY Party-List.*["]*[104]* (Emphasis in the original)

An Waray's letter belies its argument that NBOC Resolution No. 0008-13 was sufficient for Victoria to take her oath and assume

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[103] *Id.* at 601. (Emphasis supplied)

[104] *Id.* at 549.

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office. In fact, the letter reveals that An Waray was aware that a CoP was necessary for Victoria to assume office and perform the duties of a congresswoman, such as organizing her staff and obtaining committee memberships. Yet, despite the absence of the CoP, Victoria took her oath and assumed office. An Waray's audacity in deliberately ignoring NBOC Resolution No. 13-030 (PL)/0004-14 was solidified when it chose to let Victoria finish her term despite the unequivocal wording of the said NBOC Resolution.

Conclusion

In sum, the petition for cancellation of An Waray's registration is within COMELEC's sole and exclusive jurisdiction under the Constitution and Republic Act No. 7941. It is not a case that falls under the HRET's jurisdiction; thus, even as An Waray had an incumbent nominee in the HoR when the petition against it was filed, and which nominee was at risk of being removed as a consequence of said petition, COMELEC nonetheless retained jurisdiction.

Moreover, when COMELEC exercised its jurisdiction and cancelled the registration of An Waray for violating or failing to comply with election laws, it did so without grave abuse of its discretion. An Waray knowingly and deliberately allowed, and consciously aided, the assumption of Victoria as its second nominee in the HoR, despite its knowledge that Victoria lacked a CoP from COMELEC. Thus, COMELEC was correct in cancelling An Waray's registration.

Anent the issue of the violation of An Waray's right to speedy disposition of cases, this does not arise since the present case is merely administrative in nature, and not criminal. Based on jurisprudence and the language of the Constitution, the rules for determining a violation of this right by the State in criminal proceedings, which are meant to protect the rights of the accused, cannot apply in a purely administrative case such as the one at hand. Applying stricter parameters in the determination of the right's violation in the present case, the Court finds that there is no such violation committed by COMELEC.

Finally, there can be no prescription of the action to cancel the registration of An Waray, as the same is akin to a legislative franchise which never gains finality or conclusiveness because the granting authority can always review and revoke the same.

ACCORDINGLY, the Petition for *Certiorari* is **DISMISSED**. The Urgent Prayer for Preliminary Injunction, Temporary Restraining Order and/or Status *Quo Ante* Order with Motion for Conduct of Special Raffle under Rule 64, in relation to Rule 65 of the Rules of Court is likewise **DENIED**. The assailed Resolution dated June 2, 2023 of the Commission on Elections Second Division and Resolution dated August 14, 2023 of the Commission on Elections *En Banc* in SPP No. 19-008 are hereby **AFFIRMED**.

SO ORDERED.

Gesmundo, C.J., Hernando, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and *Singh, JJ*., concur.

Leonen, S.A.J., concurs, see separate concurring opinion.

Lazaro-Javier, J., see dissent, on official business but left a vote.

APPEARANCES OF COUNSEL

Gialogo & Associates for petitioner.

The Solicitor General for public respondent.

Eastern Visayas Law Center for private respondents Danilo T. Pornias and Jude A. Acidre.

Gana Atienza Avisado Law Offices, collaborating counsel for private respondents.

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CONCURRING OPINION

LEONEN, *J.*:

I concur. The Commission on Elections (COMELEC), and not the House of Representatives Electoral Tribunal (HRET), has the jurisdiction to cancel An Waray's registration as a party-list group. Thus, this Court should proceed to determine in a *certiorari* action whether COMELEC has not gravely abused its discretion.

As a democratic and republican State, sovereignty resides in our people and all government authority emanates from them.[1] With an aim to democratize political power, Articles VI and IX of the 1987 Constitution provide for the creation of party-list system and give the voter the right to elect two representatives in the House of Representatives: one for his or her legislative district and another for his or her party-list group,[2] thus:

> Article VI
>
> . . . .
>
> 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,

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[1] CONSTI., art. II, sec. 1.

[2] *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 528 (2013) [Per J. Carpio, *En Banc*].

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urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector.

. . . .

Article IX

. . . .

C. The Commission on Elections

SECTION 6. A free and open party system shall be allowed to evolve according to the free choice of the people, subject to the provisions of this Article.

SECTION 7. No votes cast in favor of a political party, organization, or coalition shall be valid, except for those registered under the party-list system as provided in this Constitution.

SECTION 8. Political parties, or organizations or coalitions registered under the party-list system, shall not be represented in the voters' registration boards, boards of election inspectors, boards of canvassers, or other similar bodies. However, they shall be entitled to appoint poll watchers in accordance with law.

As I mentioned in a Separate Opinion in *Atong Paglaum, Inc. v. Commission on Elections*,[3] the party-list system aims to assist genuine political parties to evolve to enable true representation that will help achieve a "democratic and republican state," hence:

> The core principle that defines the relationship between our government and those that it governs is captured in the constitutional phrase that ours is a "democratic and republican state". A democratic and republican state is founded on effective representation. It is also founded on the idea that *it is the electorate's choices that must be given full consideration*. We must always be sensitive in our crafting of doctrines lest the guardians of our electoral system be empowered to silence those who wish to offer their representation. We cannot replace the needed experience of our people to mature as citizen in our electorate.[4] (Emphasis supplied, citation omitted)

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[3] *See* J. Leonen, Separate Opinion in *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454 (2013) [Per J. Carpio, *En Banc*].

[4] *Id.* at 738.

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Thus, there are clear differences between those elected from legislative districts and those elected through the party-list system:

> There are two types of representatives in the House of Representatives. Those in the first group are "elected from legislative districts." Those in the second group are "elected through a party list system of registered national, regional and sectoral parties and organizations."
>
> The differences in terms of representation are clear.
>
> Those who are elected from legislative districts will have their name in the ballot. They present their persons as the potential agent of their electorate. It is their individual qualifications that will be assessed by COMELEC on the basis of the Constitution and relevant statutes. Should there be disqualification it would be their personal circumstances, which will be reviewed, in the proper case, by the House of Representatives Electoral Tribunal (HRET). The individual representative can lose subsequent elections for various reasons, including dissatisfaction from those that initially elected him/her into office.
>
> Incidentally, those who present themselves for election by legislative districts may or may not be supported by a registered political party. This may give them added political advantages in the electoral exercise, which includes the goodwill, reputation and resources of the major political party they affiliate with. However, it is not the nature of the political party that endorses them that is critical in assessing the qualifications or disqualifications of the candidate.
>
> *The elected district representative in the House of Representative is directly accountable to his/her electorate*. The political party s/he affiliates with only shares that political accountability; but, only to a certain extent. Good performance is usually rewarded with subsequent election to another term. *It is the elected representative, not the political party that will get re-elected*. We can even take judicial notice that party affiliation may change in subsequent elections for various reasons, without any effect on the qualification of the elected representative.
>
> The political party that affiliates those who participate in elections in legislative districts organize primarily to have their candidates win. These political parties have avowed principles and platforms of government. But, they will be known more through the personalities and popularity of their candidates. Often, compromises occur in the political party's philosophies in order to accommodate a viable candidate.

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This has been the usual role of political parties even before the 1987 Constitution.

The party list system is an attempt to introduce a new system of politics in our country, one where voters choose platforms and principles primarily and candidate-nominees secondarily. As provided in the Constitution, the party list system's intentions are broader than simply to "ensure that those who are marginalized and represented become lawmakers themselves."

Historically, our electoral exercises privileged the popular and, perhaps, pedigreed individual candidate over platforms and political programs. Political parties were convenient amalgamation of electoral candidates from the national to the local level that gravitated towards a few of its leaders who could marshall the resources to supplement the electoral campaigns of their members. Most elections were choices between competing personalities often with very little discernible differences in their interpretation and solutions for contemporary issues. The electorate chose on the bases of personality and popularity; only after the candidates were elected to public offices will they later find out the concrete political programs that the candidate will execute. Our history is replete with instances where the programs that were executed lacked cohesion on the basis of principle. In a sense, our electoral politics alienated and marginalized large parts of our population.

The party list system was introduced to challenge the status quo. It could not have been intended to enhance and further entrench the same system. *It is the party or the organization that is elected. It is the party list group that authorizes, hopefully through a democratic process, a priority list of its nominees. It is also the party list group that can delist or remove their nominees, and hence replace him or her, should he or she act inconsistently with the avowed principles and platforms of governance of their organization. In short, the party list system assists genuine political parties to evolve. Genuine political parties enable true representation, and hence, provide the potential for us to realize a "democratic and republican state."*[5] (Emphasis supplied, citations omitted)

The party-list system broadens electoral opportunities for groups whose interests and advocacies may not be represented within legislative districts to be represented in Congress:

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[5] *Id.* at 739–741.

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Environmental causes do not have as their constituency only those who are marginalized or underrepresented. Neither do they only have for their constituency those "who wallow in poverty, destitution and infirmity." In truth, all of us, regardless of economic class, are constituents of ecological advocacies.

Also, political parties organized along ideological lines — the socialist or even right wing political parties — are groups motivated by a their own narratives of our history, a vision of what society can be and how it can get there. There is no limit to the economic class that can be gripped by the cogency of their philosophies and the resulting political platforms. Allowing them space in the House of Representatives if they have the constituency that can win them a seat will enrich the deliberations in that legislative chamber. Having them voice out opinions — whether true or false — should make the choices of our representatives richer. It will make the choices of our representatives more democratic.

Ideologically oriented parties work for the benefit of those who are marginalized and underrepresented, but they do not necessarily come mainly from that economic class. Just a glance at the history of strong political parties in different jurisdictions will show that it will be the public intellectuals within these parties who will provide their rationale and continually guide their membership in the interpretation of events and, thus, inform their movement forward.

Political ideologies have people with kindred ideas as their constituents. They may care for the marginalized and underrepresented, but they are not themselves — nor for their effectivity in the House of Representatives should we require that they can only come from that class.

Highlighting these groups in this opinion should not be mistaken as an endorsement of their platforms. Rather, it should be seen as clear examples, where interests and advocacies, which may not be within the main focus of those who represent legislative districts, cry out for representation. Surely, it should be the electorate, not the COMELEC, which should decide whether their groups should participate in our legislative deliberations. That these groups could be excluded even before the vote is not what the party list system is all about.[6] (Citations omitted)

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[6] *Id.* at 743–744.

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The collective representation by a party is intended by the sovereign to ensure not only that deliberative democracy is assured, but also that the debates within the House of Representatives contain the ideals, principles, and standpoints of those who are marginalized or follow specific ideologies. Reading constitutional text as applied to individual representatives of districts as if they presumptively apply to party-list representatives defeats this intent. We then might contribute to a decline in the intended inclusivity of our legislative chambers.

I understand that there are cases which have been decided in the past where the Court loosely defined "member of the House of Representatives" to mean the individual representative registered under the party-list system, and not merely the party itself. In my view, we should be clear to uphold the concept of the collective representation of a party, as opposed to the individual representation of a legislative district.

The jurisdiction of the COMELEC over the party-list system, and specifically in the registration and cancellation of a party as in this case, is clear in the Constitution and our laws. Article IX-C of the Constitution explicitly states:

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.

. . . .

(5) *Register*, after sufficient publication, *political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government*; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

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> Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.[7] (Emphasis supplied)

The explicit authority granted by the Constitution to the COMELEC is further operationalized under Republic Act No. 7941 or the Party-List System Act. The Party-List System Act is replete with provisions reiterating the COMELEC's authority over party-list organizations. The definition in Section 3 of the party-list system specifically points that a party-list must be registered with the COMELEC:

> SECTION 3. *Definition of Terms*. (a) The party-list system is a mechanism of proportional representation in the election of representatives to the House of Representatives from national, regional and sectoral parties or organizations or coalitions thereof *registered with the Commission on Elections (COMELEC)*. Component parties or organizations of a coalition may participate independently provided the coalition of which they form part does not participate in the party-list system.[8]

Thus, from the start, any party expressing its intent to participate in the party-list system should manifest its intention to the COMELEC:

> 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.[9]

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7 CONST., art. IX-C, sec. 2(1) and (5).

8 Republic Act No. 7941 (1995), sec. 3(a).

9 Republic Act No. 7941 (1995), sec. 4.

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Without a doubt as it is clearly stated in the law, COMELEC is vested with authority to register or refuse registration and/or cancel the registration of the party-list group, thus:

SECTION 5. *Registration*. 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: Provided, That the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.

The COMELEC shall publish the petition in at least two (2) national newspapers of general circulation.

The COMELEC shall, after due notice and hearing, resolve the petition within fifteen (15) days from the date it was submitted for decision but in no case not later than sixty (60) days before election.

SECTION 6. *Refusal and/or Cancellation of Registration*. The COMELEC may, motu propio or upon verified complaint of any 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;

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(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.[10]

COMELEC's authority even extends over the party-list's nominees:

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.[11]

Once a party-list group wins in an election, the COMELEC allocates seats for party-list representatives, and proclaims the representatives based on the list of names submitted by the party before they can sit in the House of Representatives:

SECTION 12. Procedure in Allocating Seats for Party-List Representatives. The COMELEC shall tally all the votes for the parties, organizations, or coalitions on a nationwide basis, rank them according to the number of votes received and allocate party-list representatives proportionately according to the percentage of votes obtained by each party, organization, or coalition as against the total nationwide votes cast for the party-list system.

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[10] Republic Act No. 7941 (1995), secs. 5, 6.

[11] Republic Act No. 7941 (1995), sec. 8.

SECTION 13. How Party-List Representatives are Chosen. Party-list representatives shall be proclaimed by the COMELEC based on the list of names submitted by the respective parties, organizations, or coalitions to the COMELEC according to their ranking in said list.[12]

These provisions demonstrate the far-reaching powers of the COMELEC as the government agency in charge of enforcing and administering election laws when it comes to the party-list system.

In *ABC Party List v. COMELEC*,[13] the Court held that the COMELEC had jurisdiction over the petition for cancellation of the registration and accreditation of ABC Party-List for alleged violation of Section 6(1) of Republic Act No. 7941.[14]

Thus, the COMELEC properly assumed jurisdiction in this case where the cancellation of registration of a party-list group, petitioner An Waray, is involved. Once jurisdiction is acquired, it is not lost,[15] even here involving COMELEC's jurisdiction. Any question relating to the COMELEC's actions comes to us on *certiorari*.[16]

The HRET has never been designed as an appellate body of the COMELEC. The HRET's jurisdiction is squarely defined by the constitutional provision that created it. Specifically, Article VI, Section 17 provides:

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[12] Republic Act No. 7941 (1995), secs. 12, 13.

[13] 661 Phil. 452 (2011) [Per J. Peralta, *En Banc*].

[14] *Id.* at 454.

[15] *Amoguis v. Ballado*, 839 Phil. 1, 28 (2018) [Per J. Leonen, Third Division].

[16] CONST., art. IX-A, sec. 7. Each Commission shall decide by a majority vote of all its Members any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty days from receipt of a copy thereof.

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SECTION 17. The Senate and the House of Representatives shall each have an Electoral Tribunal which shall be the sole judge of all contests relating to the election, returns, and qualifications of their respective Members. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman.[17]

The HRET's jurisdiction is only limited to those enumerated in this provision and to situations it contemplates. The HRET only acts because of an objection to what transpires during an election. Article VI, Section 17 clearly provides that the HRET only acts on the "election, returns, and qualification" of members of the House. "Qualifications" here refers to issues raised concerning the member of the House of Representatives post elections. For an existing party registered under the party-list system, this does not mean the validity of its registration with the COMELEC. Clearly, this case is not about the qualification of a sitting member; this case now is an appeal or a reconsideration of the actions of the COMELEC.

With due respect, if we endow the HRET with the power to determine whether the registration of a party under the party-list system is valid or whether it should be reviewed, we sanction an *ultra vires* act. We also change the balance of power between the COMELEC, the House of Representatives, and the HRET.

Even assuming that it is the individual nominated by a party-list—and not the party-list itself—that is a member of the House of Representatives, legal actions which result to the removal of a member is not within the exclusive jurisdiction of the HRET. For instance, the following are not within the discretion of the HRET: (a) any legal controversy relating to or arising from the removal and replacement of an individual representative based

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[17] CONST., art. VI, sec. 17.

upon the decision of the party itself; (b) any legal controversy relating to or arising from the removal and/or replacement of an individual representative of a party registered with the party-list system based upon a disciplinary action made by the House of Representatives; and (c) any legal controversy relating to or arising from the cancellation of the registration of a party registered with the COMELEC under the party-list system, as in this case.

ACCORDINGLY, I vote to **DENY** the Petition.

DISSENT

LAZARO-JAVIER, *J.*:

The *Majority* denied the Petition for *Certiorari* and decreed that the Commission on Elections (COMELEC) had jurisdiction over the petition to cancel the registration of AN WARAY Party-list (AN WARAY) and correctly ordained that such cancellation was in order. The *Majority* thus adopted the finding of the COMELEC that AN WARAY arrogated unto itself the authority to have its 2nd nominee Victoria Isabel Noel (Victoria) take her oath and assume office in the House of Representatives despite knowing that it was only entitled to one seat during the 2013 National and Local Elections (NLE) per NBOC Resolution No. 13-030 (PL)/0004-14; and on top of violating Section 6 (5)[1] of Republic Act No. 7941,[2] it also violated NBOC Resolution No. 13-030 (PL)/0004-14, ordaining that it was only entitled to one seat in the final distribution of seats to party-list candidates. Further, the *Majority* ruled that the COMELEC did not violate AN WARAY's right to a speedy disposition of its case.

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[1] Section 6. *Refusal and/or Cancellation of Registration*. The COMELEC may, motu proprio or upon verified complaint of any 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: (5) It violates or fails to comply with laws, rules or regulations relating to elections;

[2] Otherwise known as the Party-List System Act.

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The Court bears the duty of harmonizing provisions of law in order to give full effect to the true intent of the Constitution, the highest law of the land. This task holds special importance in election cases to ensure that, to the extent that it is legally permissible, the will of the electorate, as expressed through the democratic process, is not frustrated. I must, therefore, respectfully diverge from the opinion of the *Majority*.

The COMELEC did not have jurisdiction over the petition for cancellation of AN WARAY's party-list registration which directly affects its membership in the Larger House

On one hand, AN WARAY posited that jurisdiction over the dispute properly belonged to the House of Representatives Electoral Tribunal (HRET), involving as it did the qualifications of first, a former member, and, second, an incumbent member of the House of Representatives. On the other hand, respondents countered that the COMELEC had the power to hear and decide the case, framing it as one simply involving the cancellation of AN WARAY's registration as a party-list.

The delineation between the jurisdictions of the two adjudicatory bodies has long been settled by the Constitution and jurisprudence.

a. COMELEC's constitutional and statutory authority

It is not disputed that COMELEC exercises jurisdiction over matters concerning the registration of party-list organizations. Thus, Article IX-C, Section 2(5) of the Constitution relevantly reads:

> **Section 2.** The Commission on Elections shall exercise the following powers and functions: . . . .
>
> (5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the

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Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration. . . .

This is enforced under Section 5 of Republic Act No. 7941, viz.:

Section 5. *Registration*. 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; Provided, That the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veteran, overseas workers, and professionals.

The COMELEC shall publish the petition in at least two (2) national newspapers of general circulation.

The COMELEC shall, after due notice and hearing, resolve the petition within fifteen (15) days from the date it was submitted for decision but in no case not later than sixty (60) days before election.

Per Section 6 of the same law, COMELEC is further vested with the power to refuse or cancel the registration of party-list organizations *viz.*:

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

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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.

In determining whether the action for cancellation of AN WARAY's registration is truly in accord with the caption of the case and how it has been denominated, it is necessary to take stock of the real nature of the controversy. At its core, it specifically delved into the *qualifications* of the incumbent AN WARAY itself which appeared in the Larger House through its agent, Representative Noel.

Notably, AN WARAY was a sitting Representative in the Larger House. Disqualifying the incumbent AN WARAY was a declaration of a House Member's *lack of qualifications*. It did not speak only of effects but of original causes that fall under Article VI, Section 17 of the 1987 Constitution and within the sole, exclusive, and absolute jurisdiction of the HRET.

b. HRET Constitutional Jurisdiction

The Constitution dictates that when it comes to contests relating to the election, returns, and *qualifications* of members of the House of Representatives, jurisdiction belongs *solely* to the HRET, *viz*.:[3]

SECTION 17. The Senate and the **House of Representatives shall each have an Electoral Tribunal** which shall be the **sole judge of all contests relating to the election, returns, and qualifications of their respective Members**. Each Electoral Tribunal shall be composed of nine Members, three of whom shall be Justices of the Supreme Court to be designated by the Chief Justice, and the remaining six shall be

[3] CONST., art. VI, sec. 17.

Members of the Senate or the House of Representatives, as the case may be, who shall be chosen on the basis of proportional representation from the political parties and the parties or organizations registered under the party-list system represented therein. The senior Justice in the Electoral Tribunal shall be its Chairman. (Emphases supplied)

On this score *Abayon v. HRET*[4] unequivocally instructs that the constitutional power of the HRET to decide all contests involving its members must be construed in such a manner as to render the same complete and unimpaired, *viz*.:

> The Court agrees that the power of the HRET to annul elections differ from the power granted to the COMELEC to declare failure of elections. **The Constitution no less, grants the HRET with exclusive jurisdiction to decide all election contests involving the members of the House of Representatives, which necessarily includes** those which raise the issue of fraud, terrorism **or other irregularities** committed before, during **or after the elections.** To deprive the HRET of the prerogative to annul elections would undermine its constitutional fiat to decide election contests. **The phrase "election, returns and qualifications" should be interpreted in its totality as referring to all matters affecting the validity of the contestee's title.** Consequently, the annulment of election results is but a power concomitant to the HRET's constitutional mandate to determine the validity of the contestee's title.
>
> **The power granted to the HRET by the Constitution is intended to be as complete and unimpaired as if it had remained originally in the legislature.** . . . (Emphases supplied, citations omitted)

This exclusive jurisdiction of the HRET has been invariably affirmed by the Court in several cases,[5] and made equally

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[4] 785 Phil. 683 (2016) [Per J. Mendoza, Special *En Banc*].

[5] *Abayon v. HRET*, 626 Phil. 346 (2020) [Per J. Abad, *En Banc*], *Bello v. COMELEC*, 651 Phil. 351 (2020) [Per J. Brion, *En Banc*], *Lico v. COMELEC*, 770 Phil. 445 (2015) [Per C.J. Sereno, *En Banc*], *Limkaichong v. COMELEC*, 601 Phil. 751 (2009) [Per J. Peralta, *En Banc*], *Señeres v. COMELEC*, 603 Phil. 552 (2009) [Per J. Velasco, Jr., *En Banc*], *Vinzons-Chato v. COMELEC*, 548 Phil. 712 (2007) [Per J. Callejo, Sr., *En Banc*], *Aggabao v. COMELEC*, 490 Phil. 285 (2005) [Per J. Ynares-Santiago, *En Banc*], *Guerrero v. COMELEC*, 391 Phil. 344 (2000) [Per J. Quisumbing, *En Banc*], *Perez v. COMELEC*, 375 Phil. 1106 (1999) [Per J. Mendoza, *En Banc*], *Lazatin v. HRET*, 250 Phil. 390 (1988) [Per J. Cortes, *En Banc*].

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applicable to nominees of winning party-lists who would eventually sit in the House of Representatives. The Court has long recognized that voters cast their votes in favor of the party list organization during elections, and ultimately, the votes redound to *both* the party-list organization and their nominee, the first becoming a full-fledged member of the House of Representatives through the agency of the nominee.

c. HRET Jurisdiction over the Qualifications of an Incumbent Party List Member of the House of Representatives

It is my position that the Court cannot confer *carte blanche* jurisdiction upon the COMELEC when it exercises its statutory role of cancelling party-list registration and accreditation. This is especially true when the distinction between the original cause (cancellation of party-list registration and accreditation) and the end-result (cessation of representation in the House of Representatives for both the party-list representative and their agent) is the outcome. Instead, the Court must harmonize and limit COMELEC's statutory power with the jurisdiction of HRET because the latter has roots in the Constitution.

In *Reyes v. HRET*,[6] the Court pronounced that to be considered a member of the House, the following requisites must be present: (1) a valid proclamation; (2) a proper oath; and (3) assumption of office. Once all these requisites are met, jurisdiction over contests relating to the qualifications of the party-list representative shifts from the COMELEC to the HRET in accordance with Article VI, Section 17 of the Constitution.

To harmonize the undisputable jurisdiction of the COMELEC to cancel party-list registration, on the one hand, and the exclusive jurisdiction of the HRET over the election, returns, and *qualifications* of members of the House of Representatives, on the other, **it must be clarified that while the COMELEC may pass upon the question of whether a party-list organization has violated or failed to comply with election laws and consequently cancel its registration as a party-**

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[6] 842 Phil. 133 (2018) [Per J. Carpio, *En Banc*].

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list organization, this jurisdiction only subsists for so long as the party list organization concerned has not been duly proclaimed; and has not as yet taken its oath through its nominee; and has not assumed its office as a member of the House of Representatives. As soon as these three requisites have been accomplished, jurisdiction must already lie with the HRET.

To be sure, qualifying the jurisdiction of the COMELEC over matters that have the effect of removing a member of the House of Representatives is not novel. In *Lico v. COMELEC*,[7] we held that while the COMELEC has jurisdiction over intra-party matters, considering, however, that Lico was already a member of the House of Representatives at the time of his expulsion from the party-list, the matter was no longer within the jurisdiction of the COMELEC, thus:[8]

> The COMELEC notably characterized the Petition for expulsion of petitioner Lico from the House of Representatives and for the succession of the second nominee as party-list representative as a disqualification case. For this reason, the COMELEC dismissed the petition for lack of jurisdiction, insofar as it relates to the question of unseating petitioner Lico from the House of Representatives.
>
> Section 17, Article VI of the 1987 Constitution endows the HRET with jurisdiction to resolve questions on the qualifications of members of Congress. In the case of party-list representatives, the HRET acquires jurisdiction over a disqualification case upon proclamation of the winning party-list group, oath of the nominee, and assumption of office as member of the House of Representatives. In this case, the COMELEC proclaimed Ating Koop as a winning party-list group; petitioner Lico took his oath; and he assumed office in the House of Representatives. Thus, it is the HRET, and not the COMELEC, that has jurisdiction over the disqualification case.
>
> What We find to be without legal basis, however, is the action of the COMELEC in upholding the validity of the expulsion of petitioner Lico from Ating Koop, despite its own ruling that the HRET has jurisdiction

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[7] *Lico v. COMELEC*, 770 Phil. 444 (2015) [Per C.J. Sereno, *En Banc*].

[8] *Id.*

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over the disqualification issue. These findings already touch upon the qualification requiring a party-list nominee to be a *bona fide* member of the party-list group sought to be represented.

The COMELEC justified its Resolution on the merits of the expulsion, by relying on the rule that it can decide intra-party matters as an incident of its constitutionally-granted powers and functions. It cited *Lokin v. COMELEC*, where We held that when the resolution of an intra-party controversy is necessary or incidental to the performance of the constitutionally-granted functions of the COMELEC, the latter can step in and exercise jurisdiction over the intra-party matter. The *Lokin* case, however, involved *nominees* and not incumbent *members* of Congress. In the present case, the fact that petitioner Lico was a member of Congress at the time of his expulsion from Ating Koop removes the matter from the jurisdiction of the COMELEC.

The *rules* on intra-party matters and on the jurisdiction of the HRET are not parallel concepts that do not intersect. Rather, the operation of the *rule* on intra-party matters is circumscribed by Section 17 of Article VI of the *1987 Constitution* and jurisprudence on the jurisdiction of electoral tribunals. The jurisdiction of the HRET is exclusive. It is given full authority to hear and decide the cases on any matter touching on the validity of the title of the proclaimed winner.

In the present case, **the Petition for petitioner Lico's expulsion from the House of Representatives is anchored on his expulsion from Ating Koop, which necessarily affects his title as member of Congress**. A party-list nominee must have been, among others, a *bona fide* member of the party or organization for at least ninety (90) days preceding the day of the election. Needless to say, *bona fide* membership in the party-list group is a **continuing** qualification. We have ruled that qualifications for public office, whether elective or not, are continuing requirements. They must be possessed not only at the time of appointment or election, or of assumption of office, but during the officer's **entire** tenure.

This is not the first time that this Court has passed upon the issue of HRET jurisdiction over the requirements for *bona fide* membership in a party-list organization. In ***Abayon v. HRET***, it was argued that the petitioners did not belong to the marginalized and under-represented sectors that they should represent; as such, they could not be properly considered *bona fide* members of their respective party-list organizations. **The Court held that it was for the HRET to interpret the meaning of the requirement of *bona fide* membership in a**

party-list organization. It reasoned that under Section 17, Article VI of the *Constitution*, the HRET is the sole judge of all contests when it comes to qualifications of the members of the House of Representatives.

Consequently, the COMELEC failed to recognize that the issue on the validity of petitioner Lico's expulsion from Atin Koop is integral to the issue of his qualifications to sit in Congress. This is not merely an error of law but an error of jurisdiction correctible by a writ of *certiorari*; the COMELEC should not have encroached into the expulsion issue, as it was outside its authority to do so. (Emphases supplied, citations omitted)

The COMELEC has jurisdiction to decide intra-party matters incidental to its constitutionally granted powers and functions. But since **Ating Koop** was already an incumbent party-list, and petitioner Lico, its sitting agent in Congress at the time of his expulsion from Ating Koop, its status as such removed the matter from the jurisdiction of the COMELEC. Thus, the operation of the rule on intra-party matters has been circumscribed by Article VI, Section 17 of the Constitution which grants exclusive jurisdiction to the HRET to resolve questions on the elections, returns, and qualifications of members of Congress.

But in *Lico*, the controversy affected only the **agent** of the incumbent party-list. Here, it is the incumbent representative itself—the party-list chosen by the electorate—which is affected. With more reason, therefore, should the jurisdiction of the HRET be upheld here where the controversy affected not a mere agent but the principal itself.

Similar to *Lico*, the cancellation of AN WARAY's party-list registration necessarily affected its title, and that of its nominee, Representative Noel, as a member of the House of Representatives, on the basis of Victoria's actions that COMELEC has imputed to AN WARAY's ultimately as the alleged violator. In cancelling AN WARAY's registration, COMELEC failed to acknowledge that this issue was integral to the qualifications of AN WARAY and its agent as an incumbent member of Congress.

The cancellation of AN WARAY's registration directly affected this party-list organization's standing in the Larger House and

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therefore its *qualifications* as a sitting Representative, including those of its past and current nominees. The nominee's membership in the House of Representatives is derived from the election of the party-list itself. Not only is the nominee's continued membership in the party-list a continuing requirement,[9] the party-list organization itself must continue to be qualified to hold a seat in the House of Representatives. This qualification is intertwined with the status of the party-list as a **registered organization**, thus:

> **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.[10]

The issue pertaining to the qualifications of AN WARAY as a party-list organization transcended and involved its qualifications to sit as a member of the Larger House through its nominee or nominees during the 2013 and 2016 NLEs, on one hand, and the fairly recent 2022 NLE on the other. To reiterate, therefore, the case properly falls within the exclusive jurisdiction of the HRET and not the COMELEC.

The *Majority* nonetheless held that the effect of the cancellation of a party-list's registration should not determine which tribunal exercises jurisdiction over the case. Plainly, since the issue referred to the cancellation of AN WARAY's registration, which is within the COMELEC's constitutionally allocated powers, it validly assumed jurisdiction over the case *regardless* of the consequences of such cancellation.[11]

I beg to differ. As explained, the alleged violation of election laws by AN WARAY 11 years ago cannot be treated independently

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[9] *Id.*

[10] CONST., art. VI, sec 5(1).

[11] *Ponencia*, p. 18.

of its qualifications to continue as a Member of the House Representative and the rights of its nominee to sit on its behalf in House proceedings. More so considering that when AN WARAY was voted upon by the electorate last election, its registration as a party-list organization was validly subsisting and wholly intact. Hence, the sudden cancellation of its registration later cannot be simply separated from its causes and effects particularly on the sovereign people who cast their votes in favor of AN WARAY to be their representative in Congress, believing that AN WARAY was duly accredited and registered.

Certainly, where AN WARAY had already been proclaimed, taken its oath, and assumed its office in the House of Representatives, jurisdiction over its qualifications got vested in the HRET. This jurisdiction was not negated nor moved back to the COMELEC by simply reverting to the time AN WARAY had not been proclaimed yet, had not taken its oath yet, and had not assumed its office yet — precisely because the real respondent is not the nominee but the party-list organization who at the same time was an incumbent Representative. Captioning the cause of action as one for cancellation of registration does not change the challenge to its qualifications as a member of the Larger House, which triggers the HRET's jurisdiction. In any case, this is not a matter of merely determining jurisdiction based on the effect of the case. Rather, as it is the party-list itself which is a member of the Larger House, it is in fact a matter involving faithful adherence to the Constitution.

The *Majority* further held that this jurisdiction of the HRET was limited to an election contest relating to the qualifications of a *member* of the House, i.e., an action specifically to oust such member. It did not include the qualifications of the party-list itself because it is the *nominee*, and not the party-list, who is the Member of the House. Thus, the COMELEC retained jurisdiction over the petition to cancel AN WARAY's party-list registration.[12]

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[12] *Id.* at 14–16.

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Again, I disagree. To repeat, the member of the Larger House is the party-list organization. The nominee is their agent in the House — obviously because an artificial person cannot move on its own. An attack against the qualifications of a nominee is no different from a challenge against the registration or accreditation of a winning party-list organization. Both actions refute the qualifications of one who is a member of the House whether by virtue of election-at-large or nomination. Article VI, Section 17 of the Constitution plainly reads, ". . . all contests relating to the election, returns, and **qualifications** of their respective Members," pure and simple.

What should rather be brought to the fore is the rationale in upholding the jurisdiction of the HRET over that of the COMELEC in these cases. According to *Lico*, "[t]he jurisdiction of the HRET is exclusive. It is given full authority to hear and decide the cases on ***any matter*** *touching on the validity of the title of the proclaimed winner*." Now, the question: does the legality of COMELEC's cancellation of AN WARAY's registration "touch on" the validity of its title as a member of the Larger House? The resounding answer is "yes." For how can a party-list validly hold title to a congressional seat without it being entitled thereto?

With due respect, to sidestep the membership of the party-list in the Larger House might be an unsafe way of construing the power of the HRET. It might be discriminatory against party-list organizations which are incumbent representatives. This distinction is based on the perception that party-list Representatives are different from District Representatives.

There are many ways to skin a cat, so to speak. So too are there numerous remedies available to achieve the same result. A cancelled party-list registration can as easily remove a political opponent from his or her congressional seat as—or perhaps, even more—easily than a *quo warranto* petition. To illustrate:

Party A wishes to oust its opponent, Party B, from Congress, but Party B as well as its nominee is fully qualified to sit in the House of Representatives. Meantime, the prescriptive period to file such election contest before the HRET had expired. In such a case, a direct *quo warranto* petition against Party B would definitely not

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prosper. Knowing this, Party A would obviously not choose to file a *quo warranto* case before the HRET.

What it cannot do before the HRET, it can, however, do easily before the COMELEC through a petition for cancellation of Party B's registration based on some past "infractions" and for a far longer prescriptive period. Once Party B is disenfranchised, it would consequently lose its seat in the House of Representatives and its nominee, resultantly, ousted. In sum, Party A would have been able to achieve the same result as if it had filed and won a *quo warranto* case before the HRET.

At the end of the day, the House of Representatives will still be a couple of members few. A constricted construction of the jurisdiction of the HRET would inevitably allow its circumvention, defeating the very intent of the Constitution. The Court should not permit this palpable substitution for a lost remedy. To do so would be highly unfair, iniquitous, and immoral. More important, it leaves party-lists vulnerable to the whims and caprices, or worse, vindictive spirit of those challenging their existence. Surely, this is not the intent of the Constitution when it delineated the jurisdiction of the COMELEC and the HRET.

Indeed, the COMELEC is mandated by the Constitution to exercise the power of registering party-list organizations.[13] Corollary to such power is the cancellation of the party-list's registration when warranted by law as when the party-list "violates or fails to comply with laws, rules or regulations relating to elections."[14] In the event, however, that a challenge

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[13] SECTION 2. The Commission on Elections shall exercise the following powers and functions:

. . . .

(5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

. . . .

[14] Republic Act No. 7941, sec. 6.

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to the party-list's registration is brought before the COMELEC *while* the party-list is currently serving as a member of the House of Representatives, I posit that the COMELEC must defer to the jurisdiction of the HRET; otherwise, it will intrude into the exclusive realm constitutionally reserved only for the latter.

The COMELEC has explicitly recognized AN WARAY'S assumption into office and its membership in the House of Representatives following the 2013 NLE

According to the *Majority*, AN WARAY's violation of NBOC Resolution No. 13-030 (PL)/0004-14 warranted the cancellation of its party-list registration.[15] This pronouncement, however, overlooked the following undisputed facts:

AN WARAY was proclaimed a winning party-list in the 2013 NLE on May 24, 2013 and initially allocated one guaranteed seat. Later on, **COMELEC informed AN WARAY** per NBOC Resolution No. 0008-13 that it was entitled to **two seats** in the House.[16] AN WARAY relied on this representation of COMELEC. There was certainly no reason not to at the time.

So it assumed office through its first nominee; and later, through its second nominee, Victoria.[17] AN WARAY then *requested* COMELEC to issue a certificate of proclamation in favor of Victoria. COMELEC merely **noted** the request.[18] Meantime AN WARAY finished its term in 2016. COMELEC **never revoked** AN WARAY's second seat. To date, the COMELEC has failed to explain its inaction on AN WARAY's request for issuance of a certificate of proclamation in Victoria's favor.

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[15] *Ponencia*, p. 27.

[16] *Rollo*, p. 90.

[17] *Id.* at 10.

[18] *Id.* at 91.

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In other words, for an entire term of three years, AN WARAY occupied and served its second seat in the Larger House through Victoria without so much any contest, any inkling, *nay*, any shadow of doubt that the second seat AN WARAY was occupying did not rightfully belong to it.

More important, COMELEC even explicitly recognized AN WARAY's assumption of a second seat through its agent Victoria in *Aangat Tayo Party-list, et al. v. COMELEC, et al*.[19] In that case, petitioner therein assailed NBOC Resolution No. 0008-13, under which two seats were allocated to AN WARAY, a party impleaded in the case as private respondent. Thus, in its Comment dated May 2, 2014, the COMELEC manifested, as follows:[20]

> Again, NBOC Resolution No. 0008-13 was issued without prejudice to the proclamation of other parties, organizations or coalitions which may later on be established to be entitled to one guaranteed seat and/or additional seat.
>
> **Pursuant to NBOC Resolution No. 0008-13, the respective representatives of private respondents took their oaths and began to discharge their duties as members of the 16th Congress. They are:**

POLITICAL PARTY/COALITION/SECTORAL ORGANIZATIONS	REPRESENTATIVES
. . . .	
AN WARAY	
	MONTEJO, NEIL BENEDICT A.
	NOEL, VICTORIA G.

. . . .

The respective representatives of private respondents had already taken their oaths and are now assuming office as members of the House

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[19] G.R. No. 210530, September 5, 2017 [Notice, *En Banc*].

[20] *Rollo*, pp. 351–357. (Citations omitted).

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of Representatives. This being so, it is now the House of Representatives Electoral Tribunal (HRET) which has jurisdiction over the matter.

. . . .

Indeed, COMELEC itself recognized in no uncertain terms the assumption of Victoria and Montejo as nominees of AN WARAY, the allocation of two seats to AN WARAY, and the jurisdiction of HRET over the matter.

In any event, though the issues in *Aangat Tayo Party-list* and the present Petition are different, it is evident that COMELEC was aware of and posed no objection to the assumption of office by *several* party-list representatives based on NBOC Resolution No. 0008-13. **Subsequently, following its issuance of NBOC Resolution No. 13-030 (PL)/0004-14, there was no further action from COMELEC directing AN WARAY to vacate its second seat.**

But this is not all.

In 2016, AN WARAY through its agent Victoria served another term in the House of Representatives.[21] Again COMELEC did not lift a finger against AN WARAY—not when it filed its Manifestation of Intent to Participate in the 2016 NLE and not when it assumed office in the House through its agent Victoria.[22] COMELEC was mum. It was silent. And it was silent for a very long time until 2019—already six years after the fact. Those six years were enough for AN WARAY to have finished two whole terms in the House without any fuss regarding the second seat it took during the 2013 NLE.

Thus, the COMELEC should be estopped from still assailing the validity of AN WARAY's assumption of a second seat in 2013. To be sure, COMELEC:

(1) had the duty to notify AN WARAY that it was not entitled to two seats, especially when the latter requested the issuance of a certificate of proclamation in favor of its nominee Victoria;

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[21] *Id.* at 203.

[22] *Id.* at 11.

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(2) yet, inexplicably it refrained from doing so for six whole years;

(3) it even later on expressly recognized in *Aangat Tayo* that Victoria had taken her oath of office pursuant to NBOC Resolution No. 0008-13 and consequently asserted it no longer had jurisdiction over the matter; and

(4) naturally leading AN WARAY to believe that, indeed, it was entitled to two seats in the House in 2013, and that it rightfully sat as AN WARAY's second representative through its agent Victoria.

On this score, the Court had invariably ruled, "the government must not be allowed to deal dishonorably or capriciously with its citizens and must not play an ignoble part or do a shabby thing; and subject to limitations, the doctrine of equitable estoppel may be invoked against public authorities as well as against private individuals."[23] The perfect time to apply this exception is here and now.

The inordinate delay of COMELEC in resolving the case against AN WARAY warranted its dismissal

I submit that there was inordinate delay in the resolution of AN WARAY's case, in violation of AN WARAY's right to a speedy disposition of the case against it. Respondents filed the petition for the cancellation of AN WARAY's party-list registration on May 10, 2019. AN WARAY timely filed its answer on June 3, 2019. A hearing was then conducted on June 11, 2019 after which, AN WARAY submitted its memorandum on July 18, 2019, while respondents filed their memorandum on July 30, 2019.[24] Yet the COMELEC only resolved the petition on June 2, 2023, or more than four years later. *Cagang v. Sandiganbayan*[25] held:

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[23] *Republic v. Sundiam*, 880 Phil. 254, 264 (2020) [Per J. Caguioa, First Division].

[24] *Rollo*, pp. 11–12.

[25] G.R. No. 206438, et al., 837 Phil. 815 (2019) [Per J. Leonen, *En Banc*].

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The burden of proving delay depends on whether delay is alleged within the periods provided by law or procedural rules. If the delay is alleged to have occurred during the given periods, the burden is on the respondent or the accused to prove that the delay was inordinate. **If the delay is alleged to have occurred beyond the given periods, the burden shifts to the prosecution to prove that the delay was reasonable under the circumstances and that no prejudice was suffered by the accused as a result of the delay.**

The determination of whether the delay was inordinate is not through mere mathematical reckoning but through the examination of the facts and circumstances surrounding the case. Courts should appraise a reasonable period from the point of view of how much time a competent and independent public officer would need in relation to the complexity of a given case. If there has been delay, the prosecution must be able to satisfactorily explain the reasons for such delay and that no prejudice was suffered by the accused as a result. The timely invocation of the accused's constitutional rights must also be examined on a case-to-case basis. (Emphasis supplied)

As well, the Court in *Javier v. Sandiganbayan*[26] speaking through the erudite *ponente*, ruled that "if the delay is beyond the time periods provided in the rule to decide the case, the burden of proof shifts to the State." At this point, it is no longer the respondent's duty to invoke his or her right to speedy disposition of cases, but the State's duty to ensure that such constitutionally-guaranteed right was served the respondent in the first place.

According to the *Majority*, while the right to speedy disposition of cases applies in administrative cases, Cagang focused only on administrative cases which are adversarial and may result in criminal prosecution.[27] Additionally, pursuant to *Abella v. Commission on Audit Proper*,[28] a claim for violation of one's right to speedy disposition of cases in an administrative matter that does not lead to a criminal indictment requires an actual, specific,

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[26] 873 Phil. 951 (2020) [Per J. Caguioa, First Division].

[27] *Ponencia*, p. 22.

[28] G.R. No. 238940, April 19, 2022 [Per J.M. Lopez, *En Banc*].

and real injury to the claimant's right which, further, must have conclusive and factual basis.

Once again, I differ. The Court has utilized the standards of *Cagang* in other administrative cases to determine whether there has been inordinate delay as it did in *Abella*.[29] In *Rosario v. Commission on Audit*,[30] for example, the Court applied four factors, i.e., the length of delay, the reason for the delay, assertion of right, and prejudice to petitioner, in appraising whether inordinate delay has been committed by the Commission on Audit (COA) Proper. It ruled in the affirmative, finding the COA Proper's delay of 14 years in resolving the case despite petitioner's quick assertion of her right to the speedy disposition of the case unjustified, ultimately causing her great prejudice.

Too, in *Philippine Deposit Insurance Corporation v. COA*,[31] the standards in *Cagang* were similarly applied to the proceedings before the COA Proper. In fact, the Court reminded:

> Nevertheless, as we have held in *Cagang*, the COA is reminded to set reasonable periods for its auditing processes, with due regard to the complexities and nuances of each case. Delays beyond this period may then be taken against it. . . .

And rightly, Cagang similarly applies here. For the cancellation of registration as a party list is punitive in nature in view of the heavy penalty involved. In any event, I opine that there is an actual, specific, and real injury which cannot be ignored as it involves not only the capacity of AN WARAY to sit as a Member of the House of Representatives in service of its constituents and the nation, but also the obstruction of the will of the electorate that had continued to put its faith and trust in AN WARAY for several NLEs even after AN WARAY's supposed transgression.

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[29] *Rosario v. COA*, G.R. No. 253686, June 29, 2021 [Per J. Lazaro-Javier, *En Banc*]; *PDIC v. COA*, G.R. No. 218068, March 15, 2022 [Per J. M. Lopez, *En Banc*].

[30] G.R. No. 253686, June 29, 2021 [Per J. Lazaro-Javier, *En Banc*].

[31] G.R. No. 218068, March 15, 2022 [Per J. M.V. Lopez, *En Banc*].

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Rule 18, Section 8 of the COMELEC Rules of Procedure provides that any case heard by a division shall be decided within 10 days from the day it is deemed submitted for decision or resolution. Indubitably, more than 10 days have lapsed from the filing of the last memorandum until the resolution of the case by the COMELEC Second Division. Having failed to resolve the petition within the 10-day period provided by the COMELEC Rules of Procedure, the burden lies with the COMELEC to prove that the delay was reasonable and that no prejudice was suffered by AN WARAY as a result of the delay. The COMELEC, however, failed to establish the reasonableness of the four-year delay. Thus, not only was there a patent violation of AN WARAY's right to speedy disposition of cases, there was also clear grave abuse of discretion on the part of COMELEC in ordering the cancellation of AN WARAY's party-list registration, albeit it was devoid of jurisdiction to even take cognizance thereof.

Even granting that the so-called defective proclamation precluded AN WARAY from assuming its second seat in the Larger House, this supposition did not remove the case from HRET's exclusive jurisdiction. Quite the opposite, the Court held in *Limkaichong v. Commission on Elections*[32] that "any allegations as to the invalidity of the proclamation will not prevent the HRET from assuming jurisdiction over all matters essential to a member's qualification to sit in the House of Representatives."[33] Further, there is no issue regarding AN WARAY's present membership in the Larger House through its agent Representative Noel. Despite the COMELEC's entry of judgment that the assailed Resolution dated August 14, 2023 of the COMELEC *En Banc* has become final and executory, such Resolution is not actually final.[34]

Article IX, Section 7 of the 1987 Constitution expressly provides the proper remedy to assail COMELEC decisions, i.e.,

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[32] 601 Phil. 751 (2009) [Per J. Peralta, *En Banc*].

[33] *Id.*

[34] *Rollo*, pp. 585, 704–705.

"unless otherwise provided [...], any decision, order, or ruling of each Commission may be brought to the Supreme Court ***on certiorari*** by the aggrieved party *within thirty days from receipt* of a copy thereof."

Despite this clear wording of the Constitution, Rule 18, Section 13 of the COMELEC Rules of Procedure ordains that in special proceedings like cancellation of the registration of a party-list organization,[35] the decision of the COMELEC *En Banc* attains finality after 30 days **from promulgation**:

Sec. 13. Finality of Decisions or Resolutions. – **(a) In ordinary actions, special proceedings, provisional remedies and special reliefs a decision or resolution of the Commission *en banc* shall become final and executory after thirty (30) days from its promulgation.**

(b) In Special Actions and Special Cases a decision or resolutions of the Commission *en banc* shall become final and executory after five (5) days from its promulgation unless restrained by the Supreme Court.

(c) Unless a motion for reconsideration is seasonably filed, a decision or resolution of a Division shall become final and executory after the lapse of five (5) days in Special actions and Special cases and after fifteen (15) days in all other actions or proceedings, following its promulgation. (Emphasis supplied)

Meanwhile, Rule 64, Sections 3 and 8 of the Rules of Court is worded in accordance with the Constitution, i.e., an aggrieved party may file a petition for *certiorari* with the Supreme Court within 30 days **from notice** of the assailed COMELEC disposition, but the same shall not stay the execution of the said assailed COMELEC decision or resolution:

RULE 64
Review of Judgments and Final Orders and Resolutions of the Commission on Elections and Commission on Audit

Section 3. *Time to file petition*. – The petition shall be filed within thirty (3) days from notice of the judgment or final order or resolution sought to be reviewed. The filing of a motion for new trial or reconsideration

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[35] *See* COMELEC Rules of Procedure, Rule 32.

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of said judgment or final order or resolution, if allowed under the procedural rules of the Commission concerned, shall interrupt the period herein fixed. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of denial.

Section 8. *Effect of filing*. – The filing of petition for *certiorari* shall **not stay the execution of the judgment or final order or resolution sought to be reviewed**, unless the Supreme Court shall direct otherwise upon such terms as it may deem just. (Emphasis supplied)

In *Gana-Carait v. COMELEC*,[36] the Court *En Banc* took the opportunity to harmonize the COMELEC Rules of Procedure vis-à-vis the Constitution and the Rules of Court and ordained that if the aggrieved party timely files a Rule 64 petition within the 30-day reglementary period but the Court did not issue a TRO, the assailed COMELEC disposition shall become executory—**but not final,** *viz*.:

In line with the foregoing, and as aptly pointed out by Justice Alfredo Benjamin S. Caguioa (Justice Caguioa), the proper way of harmonizing Section 8, Rule 23 of the COMELEC Rules with Article IX of the 1987 Constitution and Rule 64 of the Rules of Court is not understand it to mean that **decisions and resolutions of the COMELEC *En Banc*, in the absence of a restraining order from the Court issued within five days from receipt, are rendered only executory – but not final.** Hence, despite COMELEC's issuance of the Certificate of Finality and Entry of Judgment, We find that the COMELEC *En Banc* Resolution did not actually attain finality, and as such, may be the subject of the instant petition, and may be addressed by the Court. (Emphasis supplied)

Here, while the COMELEC *En Banc* Resolution indeed, has become executory, since the Court did not grant AN WARAY's prayer for injunctive relief or *status quo ante* order, the same **has not attained finality**, regardless of the COMELEC's issuance of a Certificate of Finality and Entry of Judgment. For AN WARAY timely assailed the COMELEC *En Banc* Resolution *via* a Rule 64 Petition. Specifically, its Petition was filed on August 22, 2024,

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[36] G.R. No. 257453, August 9, 2022 [Per J. Rosario, *En Banc*].

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well-within 30 days from its receipt of the COMELEC *En Banc*'s Resolution on August 14, 2024.[37]

That AN WARAY through Representative Noel had been dropped from the Roll of the Members of the House of Representatives pursuant to the execution of the COMELEC *En Banc*'s Resolution is of no moment; otherwise, the remedy provided by no less than the Constitution, as enforced under Rule 64 of the Rules of Court would be rendered inutile. To take the contrary stance would lead to the absurd situation where the court would always be rendered powerless to determine on the merits Rule 64 Petitions against the COMELEC simply because in the *interim*, supervening events had transpired relative to the execution of the COMELEC dispositions being assailed as void.

Another, and most important, a judgment rendered without jurisdiction or with grave abuse of discretion is a void judgment.[38] The same has no legal effect for any purpose and can never attain finality, as here.[39]

The cancellation of AN WARAY's party-list registration may not retroactively take effect

To be sure, AN WARAY through their nominee, Representative Noel, was invalidly removed from their seat in the House of Representatives pursuant to the assailed disposition of the COMELEC which, as discussed, was rendered sans jurisdiction and with grave abuse of discretion amounting to lack or excess of jurisdiction. To reiterate, the attendant peculiar circumstances here call for the exercise of the HRET's jurisdiction to review the qualifications of members of the House of Representatives such as AN WARAY.

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[37] *Rollo*, pp. 6–7.

[38] *Imperial v. Armes*, 804 Phil. 439 (2017) [Per J. Jardeleza, Third Division].

[39] *See PNB v. Daradar*, G.R. No. 180203, June 28, 2021 [Per J. Hernando, Third Division].

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Notably, at the time AN WARAY occupied its seat or seats in the House of Representatives through its nominee or nominees, it carried with it the highest imprimatur from which it derived its right to assume office—the *fiat* of the electorate, the sovereign, from whom all government authority emanates.[40] This will of the people ought not to be easily discarded, especially not in hindsight. For the same reason, the removal of AN WARAY from office arising from a supposed defect in its qualifications must be done strictly in accordance with the Constitution, which expressly confers such jurisdiction upon the HRET.

The people have spoken: they cast their votes during the 2013, 2016, and 2022 NLE in favor of AN WARAY to represent them in the Larger House. They did so with the knowledge and belief that this party-list organization to whom they entrust their confidence was fully capacitated to represent them and **will capably do so** in the House of Representatives. This sovereign will ought to be upheld. For at such point in time, the electorate had voted for a legitimate and qualified party-list. The **operative fact doctrine** applies to respect and uphold AN WARAY's incumbent membership in the Larger House.

Indeed, the doctrine of operative fact is an exception to the general rule that the nullification of an unconstitutional law or act carries with it the illegality of its effects. In cases, however, where nullification of the effects will result in inequity and injustice, *as here*, the operative fact doctrine may apply.[41] Where, there are extraordinary circumstances, the application of the doctrine of operative fact seeks to protect those who have relied on such fact from the undue burden arising from a declaration of its unconstitutionality.[42] The Court has held that in applying the doctrine, "courts ought to examine with particularity the effects of the already accomplished acts . . . and determine, on the

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[40] 1987 CONST., art. II, sec. 1.

[41] *Araullo v. Aquino*, G.R. No. 209287, February 3, 2015 [Per J. Bersamin, *En Banc*].

[42] *Film Development Council of the Philippines v. Colon Heritage Realty Corp.*, G.R. No. 203754, October 15, 2019 [Per J. Perlas-Bernabe, *En Banc*].

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basis of equity and fair play, if such effects should be allowed to stand."[43] Albeit the doctrine properly applies to instances where the Court invalidated a legislative or executive measure,[44] there is no reason not to extend its application to the effects of the COMELEC's belated cancellation of a party-list's registration considering that the underlying purpose is one and the same, i.e., to avoid any resulting inequity and injustice arising from such cancellation.

This is especially true considering that the ground or grounds for cancellation here are not against any penal laws, public policy, public order, good morals, or good customs; but a mere result of confusion on some procedural rule which even the COMELEC itself did not seem to fully understand. Most of all, both the COMELEC and respondents have not refuted the position that cancellation of the registration of AN WARAY is too harsh a penalty to be imposed on a first-time offender who over the past two decades has consistently maintained its good standing as a repository of the people's trust and confidence.

As the final arbiter of truth and justice, the Court only ever seeks to steadfastly uphold the Constitution in its pursuit of justice. No expansion of the power of the COMELEC must be decreed which intrudes into the jurisdiction that is constitutionally reserved to the HRET.

All told, I submit that the assailed resolutions of the COMELEC are void for having been issued without jurisdiction. Even then, I contend that the Court should not decree the dismissal of the petition for cancellation of AN WARAY's registration as a party-list organization. Due consideration must be accorded to the people who cast their votes in favor of AN WARAY, a two-decade old party list organization which has consistently won seats in the House of Representatives for the past several national elections. More important, the democratic process of representation compels

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[43] *Id.*

[44] *Agbayani v. Philippine National Bank*, G.R. No. L-23127, April 29, 1971 [Per J. Fernando, *En Banc*].

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a prompt, nay, definitive ruling, once and for all, if indeed An WARAY has lost its qualifications to keep its membership in the House of Representatives. In the higher interest of justice and equity, therefore, I maintain that the Court should refer COMELEC SPP NO. 19-008 to the HRET for appropriate disposition.

Thus, I vote to **PARTLY GRANT** the Petition. The assailed Resolution dated June 2, 2023 and Resolution dated August 14, 2023 in COMELEC SPP NO. 19-008 must be **SET ASIDE**. The Commission on Elections ought to be **DIRECTED** to **TRANSMIT** the complete records of COMELEC SPP NO. 19-008 to the House of Representatives Electoral Tribunal within 10 days from notice.