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[G.R. No. 193643. January 29, 2013]

ANTONIO D. DAYAO, ROLANDO P. RAMIREZ and ADELIO R. CAPCO, *petitioners, vs.* **COMMISSION ON ELECTIONS and LPG MARKETERS ASSOCIATION, INC.,** *respondents.*

[G.R. No. 193704. January 29, 2013]

FEDERATION OF PHILIPPINE INDUSTRIES, INC., *petitioner, vs.* **COMMISSION ON ELECTIONS and LPG MARKETERS ASSOCIATION, INC.,** *respondents.*

SYLLABUS

1. **POLITICAL LAW; ELECTION LAW; PARTY-LIST SYSTEM ACT (R.A. NO. 7941); DISTINCTION BETWEEN THE COMMISSION ON ELECTIONS' (COMELEC) POWER OF REFUSAL AND CANCELLATION OF REGISTRATION UNDER SECTION 6 OF R.A. NO. 7941.—** The distinctiveness of the two powers is immediately apparent from their basic definitions. To refuse is to decline or to turn down, while to cancel is to annul or remove. Adopting such meanings within the context of Section 6, refusal of registration happens during the inceptive stage when an organization seeks admission into the roster of COMELEC-registered party-list organizations through a petition for registration. Cancellation on the other hand, takes place after the fact of registration when an inquiry is done by the COMELEC, *motu proprio* or upon a verified complaint, on whether a registered party-list organization still holds the qualifications imposed by law. Refusal is handed down to a petition for registration while cancellation is decreed on the registration itself after the petition has been approved.

2. **ID.; ID.; ID.; THE TERM "AND/OR" BETWEEN "REFUSAL" AND "CANCELLATION"; CONSTRUED.—** A resort to the rules of statutory construction yields a similar conclusion. The legal meaning of the term "and/or" between "refusal" and

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"cancellation" should be taken in its ordinary significance – "refusal and/or cancellation" means "refusal and cancellation" or "refusal or cancellation". It has been held that the intention of the legislature in using the term "and/or" is that the word "and" and the word "or" are to be used interchangeably. x x x. Hence, effect shall be given to both "refusal and cancellation" and "refusal or cancellation" according to how Section 6 intended them to be employed. The word "and" is a conjunction used to denote a joinder or union; it is pertinently defined as meaning "together with", "joined with", "along or together with." The use of "and" in Section 6 was necessitated by the fact that refusal and cancellation of party-list registration share similar grounds, manner of initiation and procedural due process requirements of notice and hearing. With respect to the said matters, "refusal" and "cancellation" must be taken together. The word "or", on the other hand, is a disjunctive term signifying disassociation and independence of one thing from the other things enumerated; it should, as a rule, be construed in the sense in which it ordinarily implies, as a disjunctive word. As such, "refusal or cancellation", consistent with their disjunctive meanings, must be taken individually to mean that they are separate instances when the COMELEC can exercise its power to screen the qualifications of party-list organizations for purposes of participation in the party-list system of representation. That this is the clear intent of the law is bolstered by the use simply of the word "or" in the first sentence of Section 6 that "[t]he 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."

3. ID.; ID.; ID.; AN OPPOSITION TO A PETITION FOR REGISTRATION IS NOT A CONDITION PRECEDENT TO THE FILING OF A COMPLAINT FOR CANCELLATION.— Consequently, the COMELEC's conclusion that the complaint for cancellation, filed four (4) months after the petition was approved, is actually a belated opposition, obliterates the distinction between the power to register/refuse and the power to cancel. Since an opposition may only be sensibly interposed against a petition for registration, the proceedings for which involve the COMELEC's power to register, it is wrong to impose it as a condition for the exercise of the COMELEC's entirely

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separate power to cancel. As such, the absence of an opposition to a petition for registration cannot serve to bar any interested party from questioning, through a complaint for cancellation, the qualifications of a party-list group.

4. ID.; ID.; ID.; THE ACCREDITATION OF A PARTY-LIST GROUP CAN NEVER ATTAIN PERPETUAL AND IRREFUTABLE CONCLUSIVENESS AGAINST THE GRANTING AUTHORITY.— There is no arguing that the COMELEC Resolution dated January 5, 2010 granting LPGMA's registration has since become final. Such finality, however, pertains only to the Resolution itself and not to the accreditation of LPGMA as a party-list organization. The said Resolution, as in any other resolution granting the registration of any other organization desirous of party-list accreditation, did nothing more but to vest with LPGMA the right to participate in the party-list elections, *i.e.* file a manifestation of its intent to participate and have the same given due course by the COMELEC, the right to field its nominees, the right to exercise all that is bestowed by our election laws to election candidates (hold campaigns, question the canvass of election returns, *etc*.), and the right to assume office should it obtain the required number of votes. With respect to such matters, the COMELEC resolution was already final. LPGMA's right to run, as it did so run, during the 2010 party-list elections is already beyond challenge. However, the Resolution did not create in LPGMA's favor a perpetual and indefeasible right to its accreditation as a party-list organization. Neither did it grant finality and indefeasibility to the factual findings of the COMELEC on the qualifications of the group. Both the accreditation and the facts substantiating the same, can be reviewed and revoked at any time by the COMELEC, *motu proprio*, or upon the instance of any interested party thru a complaint for cancellation, as set forth in Section 6 of R.A. No. 7941.

5. ID.; ID.; ID.; EACH ACCREDITATION HANDED BY THE COMELEC TO A PARTY-LIST CAN BE LIKENED TO THE FRANCHISE GRANTED BY CONGRESS; THE FACT THAT A FRANCHISE/ACCREDITATION MAY BE REVOKED MEANS THAT IT CAN NEVER BE FINAL AND CONCLUSIVE.— 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),

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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 suspended or revoked at the will of the granting authority.

6. ID.; ID.; ID.; TO SAY THAT THE FINDINGS LEADING TO THE GRANT OF REGISTRATION ARE FINAL AND CONCLUSIVE WITH RESPECT TO THE QUALIFICATION OF THE PARTY-LIST GROUP WILL EFFECTIVELY PUT IN VAIN ANY COMPLAINT FOR CANCELLATION THAT MAY BE FILED.— The separate instances when the COMELEC can check the qualifications of party-list groups entail distinct statutory

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powers—the power to register which includes the power to refuse registration, and the power to cancel the registration so granted. Necessarily then, proceedings involving the exercise of one power is independent of the other such that factual findings in the proceedings for a petition for registration are not conclusive with respect to the factual issues that may be raised in a complaint for cancellation. Further, it must be noted that refusal and cancellation share similar grounds. The registration of a putative party-list group can only be granted if none of the disqualifications in Section 6 exists. Conversely, a complaint for cancellation will prosper if any of the same grounds in Section 6 is present. Inevitably then, a negative finding of disqualification in a petition for registration is the very same fact that will be questioned in a complaint for cancellation. Hence, to say that the findings leading to the grant of registration are final and conclusive with respect to the qualification of the party-list group will effectively put in vain any complaint for cancellation that may be filed. It leads to the perilous conclusion that the registration of a party-list group, once granted, is unassailable and perpetual which, in turn, will render nugatory the equally existing power of the COMELEC to cancel the same. R.A. No. 7941 could not have contemplated such an absurdity.

7. ID.; ID.; ID.; IN RULING THAT THE FINALITY OF ITS RESOLUTION DATED JANUARY 5, 2010 STRETCHED THE ACCREDITATION OF RESPONDENT LPG MARKETERS ASSOCIATION, INC., (LPGMA), THE COMELEC PRACTICALLY ENFEEBLED AND DENIED ITS OWN POWER TO CANCEL WHAT IT IS EXCLUSIVELY EMPOWERED TO GRANT.— It is the role of the COMELEC to ensure the realization of the intent of the Constitution to give genuine power to those who have less in life by enabling them to become veritable lawmakers themselves, by seeing to it that only those Filipinos who are marginalized and underrepresented become members of Congress under the party-list system. To effectively discharge this role, R.A. No. 7941 grants the COMELEC the power not only to register party-list groups but also to review and cancel their registration. In ruling that the finality of its Resolution dated January 5, 2010 stretched to the accreditation of LPGMA, the COMELEC practically enfeebled and denied its own power to cancel what it is exclusively empowered to grant.

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8. ID.; ID.; ID.; UNDER PARAGRAPH 5 OF SECTION 6 OF R.A. NO. 7941, A PARTY-LIST ORGANIZATION MAY BE DISQUALIFIED ON THE GROUND THAT ITS OFFICERS AND MEMBERS DO NOT BELONG TO THE MARGINALIZED AND UNDERREPRESENTED SECTOR.— The allegation in the complaint for cancellation, that the incorporators, officers and members of LPGMA do not belong to the marginalized or underrepresented sector, is within the ambit of paragraph 5 of Section 6. In *Ang Bagong Bayani-OFW Labor Party v. COMELEC,* the Court explained that the "laws, rules or regulations relating to elections" referred to in paragraph 5 include Section 2 of R.A. No. 7941, which declares the underlying policy for the law that marginalized and underrepresented Filipino citizens become members of the House of Representatives, *viz*: Note should be taken of paragraph 5, which disqualifies a party or group for violation of or failure to comply with election laws and regulations. These laws include Section 2 of RA 7941, which states that the party-list system seeks to "enable Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties x x x to become members of the House of Representatives." A party or an organization, therefore, that does not comply with this policy must be disqualified. The party-list system of representation was crafted for the marginalized and underrepresented and their alleviation is the ultimate policy of the law. In fact, there is no need to categorically mention that "those who are not marginalized and underrepresented are disqualified." As state policy, it must permeate every discussion of the qualification of political parties and other organizations under the party-list system.

9. ID.; ID.; ID.; THE COMELEC COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE COMPLAINT FOR CANCELLATION OF LPGMA'S PARTY-LIST ACCREDITATION.— All told, the COMELEC committed grave abuse of discretion in dismissing the complaint for cancellation of LPGMA's party-list accreditation. In the ordinary course of procedure, the herein complaint should be remanded to the COMELEC considering that the poll body did not proceed to make a proximate determination of the present circumstances of LPGMA's qualifications. In view, however of superseding incidents, the issue involved in the complaint for cancellation

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can be deemed to have been already settled and a remand to the COMELEC would only be circuitous and dilatory.

10. ID.; ID.; ID.; SINCE THE COMELEC HAS ALREADY DETERMINED AND DECLARED THAT THE PRESENT FACTUAL CIRCUMSTANCES OF LPGMA MEET THE QUALIFICATIONS IMPOSED BY LAW ON PARTY-LIST GROUPS, IT WILL BE A NEEDLESS ROUND ABOUT TO STILL REMAND THE COMPLAINT TO THE COMELEC FOR IT TO DETERMINE ANEW THE PRESENT STATE OF LPGMA'S QUALIFICATIONS.— On August 2, 2012, the COMELEC issued Resolution No. 9513 which subjected to summary evidentiary hearings all existing and registered party-list groups, including LPGMA, to assess their continuing compliance with the requirements of R.A. No. 7941 and the guidelines set in *Ang Bagong Bayani*. The Resolution stated, among others, that the registration of all non-compliant groups shall be cancelled. LPGMA submitted to a factual and evidentiary hearing before the COMELEC *en banc* on August 28, 2012. On December 13, 2012, the COMELEC issued a Resolution identifying and listing the party-list groups found to have complied with the qualifications set by law and jurisprudence. The list of retained party-list groups included LPGMA. x x x Evidently, the COMELEC has already determined and declared that the present factual circumstances of LPGMA meet the qualifications imposed by law on patty-list groups. It will be a needless roundabout to still remand the complaint to the COMELEC for it to determine anew the present state of LPGMA's qualifications. No useful purpose will be served thereby and it will just be a tedious process of hearing the factual and evidentiary matters of LPGMA's qualifications again. The COMELEC in its Resolution dated December 13, 2012 has passed upon the issue and all other relevant questions raised in the complaint.

VELASCO, JR., *separate opinion:*

1. POLITICAL LAW; ELECTION LAW; PARTY-LIST SYSTEM ACT (R.A. NO. 7941) ONCE THE COMMISSION ON ELECTIONS (COMELEC), AFTER DUE PROCEEDINGS, ISSUES A CERTIFICATE OF REGISTRATION UNDER THE PREVAILING COMELEC RULES OF PROCEDURE, THE

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CORRESPONDING ISSUANCE ATTAINS FINALITY INSOFAR AS THE RIGHT OF THE PARTY-LIST ORGANIZATION (PLO) TO PARTICIPATE IN THE ELECTIONS IS CONCERNED.— With all due respect, I submit that once COMELEC, after due proceedings, issues a certificate of registration under prevailing COMELEC Rules of Procedure, the corresponding issuance attains finality insofar as the right of the PLO to participate in the elections is concerned. The decision on the registration of the organization, inclusive of its qualifications, becomes a settled matter, sans any appeal. The old familiar rule is that, at the risk of occasional errors, judgments, decisions or orders of courts and administrative bodies must become final at sometime; that closed proceedings should remain closed. The previous grant of a certificate of registration in favor of a PLO should operate to vest it with the right to participate in the elections, unless it voluntarily chooses not to file its manifestation of intention to run in an upcoming election, or its certificate of registration is subsequently canceled by COMELEC in a petition for cancellation under Section 6 of Republic Act No. (RA) 7941 or the *Party-List System Act.*

2. ID.; ID.; ID.; CANCELLATION OF REGISTRATION OR THE CHALLENGE TO THE ACCREDITATION SHOULD BE LIMITED TO ACTS COMMITTED OR CAUSES AND EVENTS OCCURRING AFTER THE GRANT OF THE CERTIFICATE OF REGISTRATION; THE COMELEC CANNOT, WHETHER *MOTU PROPRIO* OR THROUGH A VERIFIED COMPLAINT, CONSIDER THE CANCELLATION OF A PARTY-LIST'S CERTIFICATE OF REGISTRATION BASED ON GROUNDS THAT ARE ALLEGED TO BE EXISTING EVEN PRIOR TO THE REGISTRATION.— It should be made clear enough that a grant of said certificate of registration does not translate to the PLO being impervious to an action for cancellation of registration, or to be more precise, to cancellation of accreditation. As the *ponencia* aptly puts it, the accreditation of a PLO, following the issuance of a certificate of registration, can never attain perpetual and irrefutable conclusiveness against the granting authority or accord finality to the factual findings of the COMELEC on the qualifications of the group. I agree with the *ponencia*'s formulation, but with this **qualification**: the cancellation of registration or the challenge to accreditation

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should, I submit, be limited to acts committed or causes and events occurring **after** the grant of the certificate of registration. The COMELEC cannot, whether *motu proprio* or through a verified complaint, consider the cancellation of a party list's certificate of registration based on grounds that are alleged to be existing even prior to the registration.

3. **ID.; ID.; ID.; WHEN THE COMELEC ISSUES A CERTIFICATE OF REGISTRATION IN FAVOR OF THE PARTY-LIST ORGANIZATION, IT, IN EFFECT, DETERMINES THAT THE ORGANIZATION HAS ALL THE QUALIFICATIONS AND NONE OF THE DISQUALIFICATIONS TO PARTICIPATE IN THE ELECTIONS.—** To reiterate, when COMELEC issues a certificate of registration in favor of a PLO, it, in effect, determines that the organization has all the qualifications and none of the disqualifications to participate in the elections. In the present case, the petitioners went to great lengths to discuss their allegations that LPGMA does not represent a marginalized or underrepresented sector of society. A closer scrutiny of petitioners' reference to paragraphs 5 and 6 of Sec. 6, RA 7941 reveals that instead of the cancellation of the registration of LPGMA , their contentions still relate to their basic position that LPGMA , composed as it is of big businesses, is not qualified to be registered as a legitimate PLO, and, hence, not eligible to participate in party-list elections. Therefore, more than alleging any ground for disqualification or cancellation of registration, petitioners are, in fact, questioning the qualifications of LPGMA , which had already been passed upon and considered as basis for the grant of its registration. For this reason, the petitions must fail.

4. **ID.; ID.; ID.; THE PETITIONS FOR CANCELLATION WERE BELATEDLY FILED; PETITIONERS SHOULD HAVE FILED AN OPPOSITION TO LPGMA'S PETITION FOR REGISTRATION.—** COMELEC correctly ruled that the complaint for cancellation based on the above-mentioned ground was belatedly filed, since LPGMA 's registration had already been approved as early as January 5, 2010, but it took petitioners several months before filing the complaint for cancellation of registration. They failed to oppose the registration or intervene in the proceedings, despite having been constructively notified thereof by its publication. Hence, the COMELEC Resolution on the registration of LPGMA as a PLO became final.

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5. ID.; ID.; ID.; IT CANNOT PLAUSIBLY BE THE INTENTION OF THE LAW THAT A PARTY-LIST ORGANIZATION'S REGISTRATION IS PERPETUALLY OPEN TO CHALLENGES FOR CANCELLATION.— While it may be that denial or refusal of registration, on one hand, and cancellation of registration or accreditation, on the other, share the same grounds and are initiated in the same way, *i.e.*, *motu proprio* or through a verified complaint, it cannot plausibly be the intention of the law that a PLO's registration is **perpetually** open to challenges for cancellation. The "cancellation" referred to in Sec. 6 is different from "refusal," in that refusal is proper if, at the outset, the COMELEC finds that a PLO seeking registration is not qualified or is disqualified from participating in the elections, that is to say, from the start, there already exists a ground not to allow it from participating in the elections. Cancellation of registration, meanwhile, refers to instances when there is already a certificate of registration, but after the grant of such certificate, a ground for disqualification on the part of the PLO concerned ensues, or that it subsequently fails to maintain all the qualifications of a PLO under pertinent laws.

6. ID.; ID.; ID.; THE PETITIONS ARE BARRED BY THE JANUARY 5, 2010 RESOLUTION OF THE COMELEC APPROVING THE REGISTRATION OF RESPONDENT LPGMA.— In its January 5, 2010 Resolution granting LPGMA 's petition for registration, the COMELEC peremptorily found and so declared LPGMA as representing a marginalized and underrepresented sector. x x x The above ruling should sufficiently address the arguments raised in the petitions before Us. Indeed, the COMELEC's determination of a PLO's qualifications during the registration proceedings ought to dispose of the issue of its qualification to participate in future elections. The ruling that the organization is so qualified at the time of its registration should be considered final and conclusive at some point in time. The COMELEC cannot be expected to periodically review a PLO's qualifications on the basis of concerns that could have been brought up in prior proceedings. It cannot, at every turn, be asked to evaluate anew a PLO's eligibility to participate in the elections heretofore passed upon in an appropriate registration proceeding. It behooves the Court to prevent this repetitive and unnecessary endeavor. Hence, the dismissal of the instant petitions is legal as it is practical.

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7. ID.; ID.; ID.; ONCE PROCLAIMED, THE HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL HAS JURISDICTION TO PASS UPON A PARTY-LIST ORGANIZATION'S QUALIFICATIONS.— While the winning PLO nominee sits in the Lower House, it is not the nominee who is actually elected into office, but the PLO itself. The PLO is, in fine, the candidate, the one voted upon, and the "member" of the Lower House. While there is still no clear-cut ruling on the issue of whether proceedings questioning the qualifications of PLOs after proclamation are within the jurisdiction of HRET or COMELEC, it is my considered view that the said cases fall properly under the jurisdiction of HRET as the **"sole judge"** of all contests relating to the election, returns, and qualifications of the "members" of the House of Representatives, following its constitutional mandate under Sec. 17, Article VI of the Constitution. It may be stated in this regard that a nominee sits as a representative of a PLO. Once the PLO loses its accreditation for causes recognized by law, then it loses its eligibility for a party-list seat. Accordingly, its nominee, if there be any sitting in the House of Representatives, loses his or her standing to represent the organization. On the matter of which between the COMELEC and HRET possesses jurisdiction over questions respecting a member of the Lower House, *Guerrero v. COMELEC* teaches that once a winning candidate has been proclaimed, taken his oath, and assumed office as a member of the House of Representatives, COMELEC's jurisdiction over election contests relating to the election, returns, and qualifications of members of the House ends, and the HRET's jurisdiction begins. In the case here, however, as already discussed above, there is no need to refer the case to HRET, as the instant petitions have to be rejected for lack of merit.

ABAD*, J., separate opinion:*

1. POLITICAL LAW; ELECTION LAW; PARTY-LIST SYSTEM ACT (R.A. NO. 7941); SECTION 6 OF R.A. NO. 7941 IS PURELY SUBSTANTIVE LAW; WHAT THE PROVISION SUBSTANTIALLY DOES IS SIMPLY VEST ON THE COMMISSION ON ELECTIONS (COMELEC) THE POWER TO REFUSE REGISTRATION OR ORDER ITS CANCELLATION ON SPECIFIED GROUNDS, THE DETAILED RULES THAT GOVERN REFUSAL OR CANCELLATION OR REGISTRATION ARE FOUND IN THE COMELEC RULES OF

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PROCEDURE.— The *ponencia* points out that it did not matter that petitioners failed to file from the beginning an opposition to LPGMA 's application for registration as party-list organization. The *ponencia* explains that (a) since Section 6 of R.A . 7941 does not require that the party who initiates an action for cancellation of registration must have previously opposed the registration and (b) since the same Section 6 sets no period for the filing of a complaint for cancellation of registration, it follows that petitioners could file their complaint for cancellation at any time and that the COMELEC was duty bound to hear and adjudicate the same. x x x But Section 6 does not, contrary to the *ponencia*'s thesis, set rules of procedure from which one can draw inferences based on what such rules fail to expressly provide. Section 6 is pure substantive law. It does not pretend to prescribe a comprehensive and unique procedure designed for the cancellation of registration of a party-list organization. W hat it substantially does is simply vest on the COMELEC the power to refuse registration or order its cancellation on specified grounds. The detailed rules that govern refusal or cancellation of registration are found in the COMELEC Rules of Procedure.

2. **ID.; ID.; ID.; A RULING OF THE COMELEC IN THE EXERCISE OF ITS ADJUDICATIVE POWER WHICH EITHER GRANTS OR REFUSES REGISTRATION OR CANCELS ONE PREVIOUSLY GRANTED CAN ATTAIN FINALITY AFTER 15 DAYS FOLLOWING ITS PROMULGATION.—** The *ponencia* is right that an action for cancellation of registration previously granted is allowed under Section 6. But it cannot be implied from the right to bring an action to cancel registration under Section 6 that a COMELEC resolution granting registration can never become final. The COMELEC exercises adjudicative power when it grants or refuses registration or cancels one that it has previously granted. Consequently, like the exercise of any adjudicative power that the law vests in the COMELEC, its ruling, which either grants or refuses registration or cancels one previously granted, can attain finality after 15 days following its promulgation.

3. **ID.; ID.; ID.; THE FACT THAT LPG MARKETERS ASSOCIATION, INC. (LPGMA), WON IN THE MAY 10, 2010 ELECTIONS, THE 18TH NATIONWIDE AMONG THE GREAT NUMBER OF SECTORAL PARTY-LIST ORGANIZATIONS THAT RAN, IS THE CLEAREST AFFIRMATION OF ITS QUALIFICATION.—**

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The grounds for cancellation of registration assume that the grantee committed fraud or misrepresentation in obtaining registration. For instance, the COMELEC rules require a party-list applicant to state in its verified petition "(8) That it is not a religious sect or denomination," a ground for refusing or cancelling registration. Religious sects or denominations are disqualified from running as party-list organizations. If it turns out that the grantee of registration lied in its petition because it in fact merely fronts for a religious sect, any voter can file an action for the cancellation of its registration. A decision fraudulently obtained cannot become final. Here, LPGMA , as an applicant in the original petition for registration, carried the burden of proving the affirmative of its claim that it was entitled to registration as a party-list organization since it represented a marginalized and underrepresented sector. Thus, although petitioners did not intervene to oppose LPGMA 's application for registration, the COMELEC heard the affirmative issue, which the law itself tendered, regarding the marginalized and underrepresented status of LPGMA 's members. The COMELEC received evidence on that issue and resolved the same with a ruling that LPGMA met the requirement. And, when no one appealed from that ruling, the same became final and executory. Notably, petitioners did not claim in its complaint for cancellation that LPGMA submitted falsified evidence that misled the COMELEC in granting its registration. Petitioners simply wanted the COMELEC to reopen the registration proceeding, retry an issue it had already adjudicated based on evidence, require LPGMA to once again prove its qualifications, and allow petitioners to present evidence which, ironically, were already available to them at the time the original registration was being heard. The LPGMA won in the May 10, 2010 elections, the 18th nationwide among the great number of sectoral party-list organizations that ran. This is the clearest affirmation of its qualification.

APPEARANCES OF COUNSEL

Jephte S. Daliva for petitioners in G.R. No. 193643.

Rufino M. Margate, Jr. for petitioner in G.R. No. 193704.

The Solicitor General for public respondent.

Melito A. Vergara III and *Amado Paolo C. Dimayuga* for private respondent.

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D E C I S I O N

REYES, *J.*:

The Case

At bench are consolidated[1] petitions for *certiorari* under Rule 65 of the Rules of Court, with prayer for the issuance of a temporary restraining order, seeking the annulment of the Resolutions of the Commission on Elections (COMELEC) dated August 5, 2010[2] and September 6, 2010.[3]

The first assailed resolution denied the complaint filed by petitioners Antonio D. Dayao, Rolando P. Ramirez, Adelio R. Capco and Federation of Philippine Industries, Inc. (FPII) for the cancellation of the registration of private respondent LPG Marketers Association, Inc. (LPGMA) as a sectoral organization under the Party-List System of Representation. The second assailed resolution denied reconsideration.

The Facts

The individual petitioners are dealers of different brands of liquefied petroleum gas (LPG)[4] while petitioner FPII is an association comprised of entities engaged in various industries in the country.[5]

Private respondent LPGMA is a non-stock, non-profit association of consumers and small industry players in the LPG and energy sector who have banded together in order to pursue their common objective of providing quality, safe and reasonably

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[1] Per Resolution dated October 12, 2010; *rollo* (G.R. No. 193704), p. 835.

[2] *Rollo* (G.R. No. 193643), pp. 65-70.

[3] *Id.* at 85-90.

[4] Total Gas for Antonio Dayao, Petron Gasul for Adelio Capco and Shellane for Rolando Ramirez; *id.* at 260.

[5] *Rollo* (G.R. No. 193704), p. 678.

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priced gas and oil products.[6] The group advocates access to reasonably priced LPG by household consumers.[7]

On May 21, 2009, LPGMA sought to advance its cause by seeking party-list accreditation with the COMELEC, through a petition for registration as a sectoral organization for the purpose of participating in the May 10, 2010 elections under Republic Act (R.A.) No. 7941 or the Party-List System Act. LPGMA claimed that it has special interest in the LPG industry and other allied concerns. It averred that one of its programs is the promotion of fair trade practices and prevention of re-entry of cartels and monopolies by actively pursuing the initial gains of oil deregulation, and vigilant advocacy for the curtailment of bureaucratic and regulatory procedures and governmental practices detrimental to the entry, development and well-being of small LPG entrepreneurs.[8]

After the requisite publication, verification and hearing,[9] and without any apparent opposition, LPGMA's petition was approved by the COMELEC in its Resolution dated January 5, 2010.[10]

Four (4) months thereafter, individual petitioners lodged before the COMELEC a complaint for the cancellation of LPGMA's registration as a party-list organization.[11] They were later on joined by FPII as a complainant-in-intervention.[12]

The complaint was docketed as SPP No. 10-010 and it proffered in essence that LPGMA does not represent a marginalized sector of the society because its incorporators,

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[6] *Id.* at 192.

[7] *Rollo* (G.R. No. 193643), p. 148.

[8] *Rollo* (G.R. No. 193704), pp. 77-190.

[9] *Rollo* (G.R. No. 193643), pp. 1163-1168, 1238-1244.

[10] *Id.* at 246-252.

[11] *Id.* at 260-269.

[12] *Rollo* (G.R. No. 193704), pp. 678-688. The motion for intervention was approved in COMELEC Resolution dated August 5, 2010, *rollo* (G.R. No. 193643), pp. 65-70.

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officers and members are not marginalized or underrepresented citizens since they are actually marketers and independent re-fillers of LPG that control 45% of the national LPG retail market and have significant ownership interests in various LPG refilling plants. To buttress the complaint, FPII emphasized that the business of marketing and refilling LPG requires substantial working capital as it involves the purchase of LPG from importers or big oil players in the country, establishment of refilling plants and safety auxiliary equipments, purchase or lease of thousands of LPG containers, mobilization of a marketing, distribution and delivery network. FPII also alleged that LPGMA is a mere lobby group that espouses their own interests before the Congress and the Department of Energy.

In response, LPGMA countered that Section 5(2), Article VI of the 1987 Constitution does not require that party-list representatives must be members of the marginalized and/or underrepresented sector of the society. It also averred that the ground cited by the petitioners is not one of those mentioned in Section 6 of R.A. No. 7941 and that petitioners are just trying to resurrect their lost chance to oppose the petition for registration.[13]

In its first assailed Resolution dated August 5, 2010,[14] the COMELEC dismissed the complaint for two reasons. *First*, the ground for cancellation cited by the petitioners is not among the exclusive enumeration in Section 6 of R.A. No. 7941. *Second*, the complaint is actually a belated opposition to LPGMA's petition for registration which has long been approved with finality on January 5, 2010. The ruling was reiterated in the COMELEC Resolution dated September 6, 2010[15] denying the petitioners' motions for reconsideration.[16]

Pivotal to the said resolutions are the ensuing ratiocinations of the COMELEC, *viz*:

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[13] *Rollo* (G.R. No. 193643), pp. 601-609.

[14] *Id.* at 65-70.

[15] *Id.* at 85-90.

[16] For the individual petitioners, *id.* at 105-117; For petitioner FPII, *rollo* (G.R. No. 193704), pp. 711-718.

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LPGMA's registration was approved x x x as early as 05 January 2010. Instead of opposing said registration or intervening therein after having been constructively notified thereof by its publication, [petitioners] waited almost four (4) entire months before filing the instant complaint. The purpose of publication in these kinds of cases is similar to that of land registration cases, which is "to apprise the whole world that such a petition has been filed and that whoever is minded to oppose it for good cause may do so." This belated filing x x x is an unfortunate attempt to circumvent the obviously final and executory nature of the Resolution dated 05 January 2010. Granting the present complaint will only reward [petitioners'] inaction x x x.[17] (Citations omitted)

The [petitioners] must be reminded that the matter has already been ruled upon. In the Resolution promulgated on January 5, 2010 x x x, this Commission (First Division) has resolved to grant the Petition for Registration of LPGMA as a sectoral organization under the party-list system of representation. After a thorough evaluation of the Petition, the Commission (First Division) has concluded that LPGMA truly represents a marginalized and underrepresented sector. With respect to the said conclusion, absent any circumstance subsequent to the promulgation of the mentioned Resolution which would call for the cancellation of registration of LPGMA, the same can no longer be disturbed by this Commission. To warrant a cancellation of LPGMA's registration, there should be a strong showing that there has been a change in the relevant factual matters surrounding the Petition x x x.[18]

Ascribing grave abuse of discretion to the COMELEC, the petitioners now implore the Court to determine the correctness of the COMELEC resolutions dated August 5, 2010 and September 6, 2010.

The Arguments of the Parties

After directing the respondents to comment on the petitions,[19] the Court received on March 17, 2011 from the Office of the Solicitor General (OSG), a Manifestation and Motion to Remand (In Lieu of Comment).[20] According to the OSG, since the

[17] *Id.* at 68-69.

[18] *Id.* at 89.

[19] *Id.* at 1109-1110.

[20] *Id.* at 1212-1224.

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COMELEC failed to resolve the factual issue on the qualifications of LPGMA as a registered party-list organization, the case must be remanded to the electoral body for summary hearing and reception of evidence on the matter.

For its part, LPGMA retorted that another hearing would be a superfluity because the COMELEC has already heard and verified LPGMA's qualifications during the proceedings for its petition for registration. LPGMA asserts that the petitions should instead be dismissed as they involve factual questions that cannot be entertained in a petition for *certiorari* under Rule 65 of the Rules of Court.[21]

On December 26, 2012, LPGMA manifested[22] to the Court that pursuant to COMELEC Resolution dated December 13, 2012, LPGMA passed the recent automatic review conducted by the COMELEC on the qualifications of party-list groups. LPGMA was found compliant with the guidelines set by law and jurisprudence and its accreditation was retained for purposes of the 2013 party-list elections.

Ruling of the Court

There was no valid justification for the dismissal of the complaint for cancellation. However, in light of COMELEC Resolution dated December 13, 2012, the present petitions ought to be dismissed.

An opposition to a petition for registration is not a condition precedent to the filing of a complaint for cancellation.

Section 6, R.A. No. 7941 lays down the grounds and procedure for the cancellation of party-list accreditation, *viz:*

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,

[21] *Id.* at 1120-1142.

[22] *Id.* at 1364-1369.

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the registration of any national, regional or sectoral party, organization or coalition on any of the following grounds:

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

For the COMELEC to validly exercise its statutory power to cancel the registration of a party-list group, the law imposes only two (2) conditions: (1) due notice and hearing is afforded to the party-list group concerned; and (2) any of the enumerated grounds for disqualification in Section 6 exists.

Section 6 clearly does not require that an opposition to the petition for registration be previously interposed so that a complaint for cancellation can be entertained. Since the law does not impose such a condition, the COMELEC, notwithstanding its delegated administrative authority to promulgate rules for the implementation of election laws, cannot read into the law that which it does not provide. The poll body is mandated to enforce and administer election-related laws. It has no power to contravene or amend them.[23]

Moreover, an opposition can be reasonably expected only during the petition for registration proceedings which involve

[23] *Veterans Federation Party v. Commission on Elections,* 396 Phil. 419, 424-425 (2000).

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the COMELEC's power to register a party-list group, as distinguished from the entirely separate power invoked by the complaint, which is the power to cancel.

The distinctiveness of the two powers is immediately apparent from their basic definitions. To refuse is to decline or to turn down,[24] while to cancel is to annul or remove.[25] Adopting such meanings within the context of Section 6, refusal of registration happens during the inceptive stage when an organization seeks admission into the roster of COMELEC-registered party-list organizations through a petition for registration. Cancellation on the other hand, takes place after the fact of registration when an inquiry is done by the COMELEC, *motu proprio* or upon a verified complaint, on whether a registered party-list organization still holds the qualifications imposed by law. Refusal is handed down to a petition for registration while cancellation is decreed on the registration itself after the petition has been approved.

A resort to the rules of statutory construction yields a similar conclusion.

The legal meaning of the term "and/or" between "refusal" and "cancellation" should be taken in its ordinary significance – "refusal and/or cancellation" means "refusal and cancellation" or "refusal or cancellation". It has been held that the intention of the legislature in using the term "and/or" is that the word "and" and the word "or" are to be used interchangeably.[26]

> The term "and/or" means that effect shall be given to both the conjunctive "and" and the disjunctive "or" or that one word or the other may be taken accordingly as one or the other will best effectuate the purpose intended by the legislature as gathered from the whole statute. The term is used to avoid a construction which by the use of the disjunctive "or" alone will exclude the combination of several

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[24] ROGET'S II, *The New Thesaurus* (1988), p. 400.

[25] *Id.* at 72.

[26] See *China Banking Corporation v. HDMF*, 366 Phil. 913, 929 (1999).

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of the alternatives or by the use of the conjunctive "and" will exclude the efficacy of any one of the alternatives standing alone.[27]

Hence, effect shall be given to both "refusal and cancellation" and "refusal or cancellation" according to how Section 6 intended them to be employed. The word "and" is a conjunction used to denote a joinder or union; it is pertinently defined as meaning "together with", "joined with", "along or together with."[28] The use of "and" in Section 6 was necessitated by the fact that refusal and cancellation of party-list registration share similar grounds, manner of initiation and procedural due process requirements of notice and hearing. With respect to the said matters, "refusal" and "cancellation" must be taken together. The word "or", on the other hand, is a disjunctive term signifying disassociation and independence of one thing from the other things enumerated; it should, as a rule, be construed in the sense in which it ordinarily implies, as a disjunctive word.[29] As such, "refusal or cancellation", consistent with their disjunctive meanings, must be taken individually to mean that they are separate instances when the COMELEC can exercise its power to screen the qualifications of party-list organizations for purposes of participation in the party-list system of representation.

That this is the clear intent of the law is bolstered by the use simply of the word "or" in the first sentence of Section 6 that "[t]he 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."

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[27] Agpalo, *STATUTORY CONSTRUCTION*, p. 206 (2003), citing *A.E. Davidson v. F. W. Wollworth Co.*, 198 SE 738, 118 ALR 1363 (1938); Annotations, 118 ALR 1367 (1939); *China Banking Corporation v. HDMF*, *id.* at 928.

[28] *Id.*, citing the concurring opinion of Justice Castro, *Phil. Constitution Ass'n., Inc. v. Mathay,* 124 Phil. 890, 924 (1966).

[29] *Id.* at 204; see also *Heirs of George Y. Poe v. Malayan Insurance Company, Inc.*, G.R. No. 156302, April 7, 2009, 584 SCRA 152, 168.

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Consequently, the COMELEC's conclusion that the complaint for cancellation, filed four (4) months after the petition was approved, is actually a belated opposition, obliterates the distinction between the power to register/refuse and the power to cancel. Since an opposition may only be sensibly interposed against a petition for registration, the proceedings for which involve the COMELEC's power to register, it is wrong to impose it as a condition for the exercise of the COMELEC's entirely separate power to cancel. As such, the absence of an opposition to a petition for registration cannot serve to bar any interested party from questioning, through a complaint for cancellation, the qualifications of a party-list group.

II. The accreditation of a party-list group can never attain perpetual and irrefutable conclusiveness against the granting authority.

There is no arguing that the COMELEC Resolution dated January 5, 2010 granting LPGMA's registration has since become final. Such finality, however, pertains only to the Resolution itself and not to the accreditation of LPGMA as a party-list organization.

The said Resolution, as in any other resolution granting the registration of any other organization desirous of party-list accreditation, did nothing more but to vest with LPGMA the right to participate in the party-list elections, *i.e.* file a manifestation of its intent to participate and have the same given due course by the COMELEC, the right to field its nominees, the right to exercise all that is bestowed by our election laws to election candidates (hold campaigns, question the canvass of election returns, *etc*.), and the right to assume office should it obtain the required number of votes. With respect to such matters, the COMELEC resolution was already final. LPGMA's right to run, as it did so run, during the 2010 party-list elections is already beyond challenge.

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However, the Resolution did not create in LPGMA's favor a perpetual and indefeasible right to its accreditation as a party-list organization. Neither did it grant finality and indefeasibility to the factual findings of the COMELEC on the qualifications of the group. Both the accreditation and the facts substantiating the same, can be reviewed and revoked at any time by the COMELEC, *motu proprio,* or upon the instance of any interested party thru a complaint for cancellation, as set forth in Section 6 of R.A. No. 7941.

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.[30]

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.

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[30] *Del Mar v. PAGCOR,* 400 Phil. 307, 330 (2000). (Citations omitted)

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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,[31] 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 suspended or revoked at the will of the granting authority.

The separate instances when the COMELEC can check the qualifications of party-list groups entail distinct statutory powers– the power to register which includes the power to refuse registration, and the power to cancel the registration so granted. Necessarily then, proceedings involving the exercise of one power is independent of the other such that factual findings in the proceedings for a petition for registration are not conclusive

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[31] P.D. No. 902-A, Sec. 6.

x x x x x x x x x

(i) To suspend, or revoke, after proper notice and hearing, the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law, including the following:

[1] Fraud in procuring its certificate of registration;

[2] Serious misrepresentation as to what the corporation can do or is doing to the great prejudice of or damage to the general public;

[3] Refusal to comply or defiance of any lawful order of the Commission restraining commission of acts which would amount to a grave violation of its franchise;

[4] Continuous inoperation for a period of at least five (5) years;

[5] Failure to file by-laws within the required period;

[6] Failure to file required reports in appropriate forms as determined by the Commission within the prescribed period;

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with respect to the factual issues that may be raised in a complaint for cancellation.

Further, it must be noted that refusal and cancellation share similar grounds. The registration of a putative party-list group can only be granted if none of the disqualifications in Section 6 exists. Conversely, a complaint for cancellation will prosper if any of the same grounds in Section 6 is present. Inevitably then, a negative finding of disqualification in a petition for registration is the very same fact that will be questioned in a complaint for cancellation. Hence, to say that the findings leading to the grant of registration are final and conclusive with respect to the qualification of the party-list group will effectively put in vain any complaint for cancellation that may be filed. It leads to the perilous conclusion that the registration of a party-list group, once granted, is unassailable and perpetual which, in turn, will render nugatory the equally existing power of the COMELEC to cancel the same. R.A. No. 7941 could not have contemplated such an absurdity.

The Court has recognized the COMELEC's cancellation power in several occasions.

In *Bello v. COMELEC*,[32] the Court confirmed that a complaint for the cancellation of party-list registration, aside from a petition for the disqualification of the party-list nominee, provides a "plain, speedy and adequate remedy", against a party-list organization alleged to have failed to comply with Section 6 of COMELEC Resolution No. 8807[33] which requires a party-list group and its nominees to submit documentary evidence to prove that they belong to a marginalized and underrepresented sector.

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[32] G.R. No. 191998, December 7, 2010, 637 SCRA 59, 71.

[33] Section 6 of the Resolution provides that the party-list group and the nominees must submit documentary evidence to duly prove that the nominees truly belong to the marginalized and underrepresented sector/s, and to the sectoral party, organization, political party or coalition they seek to represent. It likewise provides that the COMELEC Law Department shall require party-list groups and nominees to make the required documentary submissions, if not already complied with prior to the effectivity of the Resolution, not later than three (3) days from the last day of filing of the list of nominees.

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In the recent *ABC (Alliance for Barangay Concerns) Party-List v. COMELEC,*[34] the Court reiterated that Section 6 of R.A. No. 7941 validates the authority of the COMELEC, not only to register political parties, organizations or coalitions, but also to cancel their registration based on the same legal grounds. Such authority emanates from no less than Section 2(5), Article IX-C of the Constitution, which states:

> Sec. 2. The Commission on Elections shall exercise the following powers and functions:
>
> xxx xxx xxx
>
> (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. (Underscoring ours)

It is the role of the COMELEC to ensure the realization of the intent of the Constitution to give genuine power to those who have less in life by enabling them to become veritable lawmakers themselves, by seeing to it that only those Filipinos who are marginalized and underrepresented become members of Congress under the party-list system.[35] To effectively discharge this role, R.A. No. 7941 grants the COMELEC the power not only to register party-list groups but also to review and cancel their registration.

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[34] G.R. No. 193256, March 22, 2011, 646 SCRA 93, 103-104.

[35] *Ang Bagong Bayani-OFW Labor Party v. COMELEC,* 412 Phil. 308, 334 (2001).

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In ruling that the finality of its Resolution dated January 5, 2010 stretched to the accreditation of LPGMA, the COMELEC practically enfeebled and denied its own power to cancel what it is exclusively empowered to grant.

Under paragraph 5 of Section 6, a party-list organization may be disqualified on the ground that its officers and members do not belong to the marginalized and underrepresented sector.

The allegation in the complaint for cancellation, that the incorporators, officers and members of LPGMA do not belong to the marginalized or underrepresented sector, is within the ambit of paragraph 5 of Section 6.

In *Ang Bagong Bayani-OFW Labor Party v. COMELEC*,[36] the Court explained that the "laws, rules or regulations relating to elections" referred to in paragraph 5 include Section 2 of R.A. No. 7941,[37] which declares the underlying policy for the law that marginalized and underrepresented Filipino citizens become members of the House of Representatives, *viz*:

> Note should be taken of paragraph 5, which disqualifies a party or group for violation of or failure to comply with election laws and regulations. These laws include Section 2 of RA 7941, which states

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[36] *Id*.

[37] R.A. No. 7941, Sec. 2. *Declaration of Policy.* – The State shall promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to the marginalized and underrepresented sectors, organizations and parties, and who lack well-defined political constituencies but who could contribute to the formulation and enactment of appropriate legislation that will benefit the nation as a whole, to become members of the House of Representatives. Towards this end, the State shall develop and guarantee a full, free and open party system in order to attain the broadest possible representation of party, sectoral or group interests in the House of Representatives by enhancing their chances to compete for and win seats in the legislature, and shall provide the simplest scheme possible.

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that the party-list system seeks to "enable Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties x x x to become members of the House of Representatives." A party or an organization, therefore, that does not comply with this policy must be disqualified.[38]

The party-list system of representation was crafted for the marginalized and underrepresented and their alleviation is the ultimate policy of the law. In fact, there is no need to categorically mention that "those who are not marginalized and underrepresented are disqualified." As state policy, it must permeate every discussion of the qualification of political parties and other organizations under the party-list system.[39]

All told, the COMELEC committed grave abuse of discretion in dismissing the complaint for cancellation of LPGMA's party-list accreditation. In the ordinary course of procedure, the herein complaint should be remanded to the COMELEC considering that the poll body did not proceed to make a proximate determination of the present circumstances of LPGMA's qualifications. In view, however of superseding incidents, the issue involved in the complaint for cancellation can be deemed to have been already settled and a remand to the COMELEC would only be circuitous and dilatory.

On August 2, 2012, the COMELEC issued Resolution No. 9513[40] which subjected to summary evidentiary hearings all existing and registered party-list groups, including LPGMA, to assess their continuing compliance with the requirements of R.A. No. 7941 and the guidelines set in *Ang Bagong Bayani*. The Resolution stated, among others, that the registration of all non-compliant groups shall be cancelled. LPGMA submitted to a factual and evidentiary hearing before the COMELEC *en banc* on August 28, 2012.

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[38] *Supra* note 35, at 344.

[39] *Id*.

[40] In the matter of: (1) the automatic review by the Commission *En Banc* of Pending Petitions for Registration of Party-List Groups; and (2) setting for hearing the accredited party-list groups or organizations which are existing and which have filed manifestations of intent to participate in the 2013 national and local elections.

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On December 13, 2012, the COMELEC issued a Resolution[41] identifying and listing the party-list groups found to have complied with the qualifications set by law and jurisprudence. The list of retained party-list groups included LPGMA. Pertinent portions of the Resolution read:

> After exhaustive deliberation and careful review of the records, the Commission *en banc* finds the following groups accredited with the party- list system compliant with the law and jurisprudence, and thus resolves to retain their registration for purposes of allowing them to participate in the 2013 elections. These groups and organizations, as well as their respective nominees, possess all the qualifications and none of the disqualifications under the law. Moreover, these groups belong to the marginalized and underrepresented sectors they seek to represent; they have genuinely and continuously supported their members and constituents, as shown by their track records.
>
> In order to streamline the list of accredited groups that will be allowed to participate in the 2013 elections, both the existing groups retained, and the new applicants whose petitions for registration have been granted, shall be listed herein. The Commission however finds it necessary to identify the groups retained or allowed but with dissent from some of the Commissioners, thus:
>
> xxx xxx xxx

Table 2

EXISTING PARTY-LIST RETAINED (With dissent)		
	PARTY-LIST	**ACRONYM**
35	x x x LPG Marketers Association, Inc. x x x[42]	LPGMA

Evidently, the COMELEC has already determined and declared that the present factual circumstances of LPGMA meet the

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[41] A certified true copy thereof was submitted to the Court by LPGMA on December 26, 2012; *rollo* (G.R. No. 193643), pp. 1370-1384.

[42] *Id.* at 1381-1382.

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qualifications imposed by law on party-list groups. It will be a needless roundabout to still remand the complaint to the COMELEC for it to determine anew the present state of LPGMA's qualifications. No useful purpose will be served thereby and it will just be a tedious process of hearing the factual and evidentiary matters of LPGMA's qualifications again. The COMELEC in its Resolution dated December 13, 2012 has passed upon the issue and all other relevant questions raised in the complaint.

WHEREFORE, in view of all the foregoing, the consolidated petitions are hereby **DISMISSED**.

SO ORDERED.

Sereno, C.J., Carpio, Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Villarama, Jr., Perez, Mendoza, Perlas-Bernabe, and *Leonen, JJ.,* concur.

Velasco, Jr. and *Abad, JJ.,* please see separate opinions.

SEPARATE OPINION

VELASCO, JR., *J.*:

I concur in the well-written *ponencia* of Mr. Justice Reyes dismissing the instant petitions, albeit, with regret, I cannot share certain conclusions arrived thereat.

The issue presented in this recourse is whether respondent Commission on Elections (COMELEC) committed grave abuse of discretion in dismissing, for reasons stated in its assailed Resolutions of August 5, 2010 and September 6, 2010, the complaint for the cancellation of respondent LPG Marketers Association's (LPGMA's) accreditation as a party-list organization (PLO). The *ponencia* resolves the poser in the affirmative and would have the instant petitions remanded to COMELEC for it to undertake summary evidentiary proceedings on the qualifications of LPGMA as a party-list group. The remand action is predicated on the postulate that the COMELEC

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Resolution of January 5, 2010 granting LPGMA's petition for registration as a sectoral organization for the purpose of the 2010 elections is not final and can never attain finality *vis-à-vis* its possession of the qualifications or the lack of them. Owing, however, to COMELEC Resolution No. 9513, subjecting to summary evidentiary hearings all existing registered party-list groups, and another recent resolution, finding LPGMA as possessing all of the qualifications and none of the disqualifications under the law, the *ponencia* finds it unnecessary and a needless roundabout to still remand the petitions to COMELEC for the purpose stated above.

With the view I take of the case, COMELEC could rightfully dismiss outright the petition for cancellation commenced with it against LPGMA, regardless of whether it has undertaken, pursuant to its Resolution No. 9513, a review of the qualifications of PLOs, including that of LPGMA.

As it were, the petitioners have hardly shown any basis for their ascription of grave abuse of discretion on the part of COMELEC. Instead, their petitions indirectly seek to have this Court review the determination of respondent LPGMA's qualifications, something that the poll body has already done before.

This, thus, brings up the question of whether or not the decision of the COMELEC, embodied in its Resolution of January 5, 2010, granting LPGMA original petition for registration as a party-list group may be revisited and revoked, as the *ponencia* urges. With all due respect, I submit that once COMELEC, after due proceedings, issues a certificate of registration under prevailing COMELEC Rules of Procedure, the corresponding issuance attains finality insofar as the right of the PLO to participate in the elections is concerned. The decision on the registration of the organization, inclusive of its qualifications, becomes a settled matter, sans any appeal. The old familiar rule is that, at the risk of occasional errors, judgments, decisions or orders of courts and administrative bodies must become final at sometime; that closed proceedings should remain closed.

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The previous grant of a certificate of registration in favor of a PLO should operate to vest it with the right to participate in the elections, unless it voluntarily chooses not to file its manifestation of intention to run in an upcoming election, or its certificate of registration is subsequently canceled by COMELEC in a petition for cancellation under Section 6 of Republic Act No. (RA) 7941 or the *Party-List System Act.*

It should be made clear enough that a grant of said certificate of registration does not translate to the PLO being impervious to an action for cancellation of registration, or to be more precise, to cancellation of accreditation. As the *ponencia* aptly puts it, the accreditation of a PLO, following the issuance of a certificate of registration, can never attain perpetual and irrefutable conclusiveness against the granting authority or accord finality to the factual findings of the COMELEC on the qualifications of the group. I agree with the *ponencia's* formulation, but with this **qualification**: the cancellation of registration or the challenge to accreditation should, I submit, be limited to acts committed or causes and events occurring **after** the grant of the certificate of registration. The COMELEC cannot, whether *motu proprio* or through a verified complaint, consider the cancellation of a party list's certificate of registration based on grounds that are alleged to be existing even prior to the registration.

To reiterate, when COMELEC issues a certificate of registration in favor of a PLO, it, in effect, determines that the organization has all the qualifications and none of the disqualifications to participate in the elections.

In the present case, the petitioners went to great lengths to discuss their allegations that LPGMA does not represent a marginalized or underrepresented sector of society. A closer scrutiny of petitioners' reference to paragraphs 5 and 6 of Sec. 6, RA 7941 reveals that instead of the cancellation of the registration of LPGMA, their contentions still relate to their basic position that LPGMA, composed as it is of big businesses, is not qualified to be registered as a legitimate PLO, and, hence, not eligible to participate in party-list elections. Therefore, more

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than alleging any ground for disqualification or cancellation of registration, petitioners are, in fact, questioning the qualifications of LPGMA, which had already been passed upon and considered as basis for the grant of its registration. For this reason, the petitions must fail.

The petitions were belatedly filed; petitioners should have filed an opposition to LPGMA's Petition for Registration

COMELEC correctly ruled that the complaint for cancellation based on the above-mentioned ground was belatedly filed, since LPGMA's registration had already been approved as early as January 5, 2010, but it took petitioners several months before filing the complaint for cancellation of registration. They failed to oppose the registration or intervene in the proceedings, despite having been constructively notified thereof by its publication. Hence, the COMELEC Resolution on the registration of LPGMA as a PLO became final.

The rule enunciated in Sec. 6, RA 7941 is that the COMELEC may, *motu proprio* or upon verified complaint of an interested party, deny the registration of the PLO on any of the grounds listed in said section. Cancellation of registration or accreditation, on the other hand, while concededly also based on the same grounds enumerated in Sec. 6, is different from refusal to accredit the PLO in that the latter presupposes a prior registration. Again following Sec. 6, this may be done *motu proprio* or through a verified complaint filed by an interested party.

While it may be that denial or refusal of registration, on one hand, and cancellation of registration or accreditation, on the other, share the same grounds and are initiated in the same way, *i.e.*, *motu proprio* or through a verified complaint, it cannot plausibly be the intention of the law that a PLO's registration is **perpetually** open to challenges for cancellation.

The "cancellation" referred to in Sec. 6 is different from "refusal," in that refusal is proper if, at the outset, the COMELEC finds that a PLO seeking registration is not qualified or is disqualified from participating in the elections, that is to say,

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from the start, there already exists a ground not to allow it from participating in the elections. Cancellation of registration, meanwhile, refers to instances when there is already a certificate of registration, but after the grant of such certificate, a ground for disqualification on the part of the PLO concerned ensues, or that it subsequently fails to maintain all the qualifications of a PLO under pertinent laws.

Petitions are barred by the January 5, 2010 Resolution of COMELEC approving the registration of respondent LPGMA

Petitioners anchor their challenge against the accreditation of LPGMA on the first guideline set forth in *Ang Bagong Bayani-OFW Labor Party v. COMELEC*,[1] *i.e.*, that the organization represents the marginalized and underrepresented sector of society. They allege, in the main, that: (1) LPGMA, is composed of refillers, marketers, and dealers of liquefied petroleum gas;[2] and (2) its nominees themselves are part of big businesses.[3]

COMELEC has already passed upon the question of whether or not LPGMA represents a marginalized/underrepresented sector during the proceedings relative to its petition for registration.[4] Notably, the issue of representation is the very same ground petitioners, in their petition for cancellation, had raised before the COMELEC and now before the Court.

In its January 5, 2010 Resolution granting LPGMA's petition for registration, the COMELEC peremptorily found and so declared LPGMA as representing a marginalized and underrepresented sector. The COMELEC *En Banc* wrote:

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[1] G.R. No. 147589, June 26, 2001, 359 SCRA 698.

[2] *Rollo*, p. 11

[3] *Id.* at 13.

[4] *Id.* at 61.

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> After a thorough evaluation of the Petition, the Commission (First Division) has concluded that LPGMA truly represents a marginalized and underrepresented sector. With respect to the said conclusion, absent any circumstance subsequent to the promulgation of the mentioned Resolution which could call for the cancellation of registration of LPGMA, the same can no longer be disturbed by this Commission. To warrant a cancellation of LPGMA's registration, there should be a showing that there has been a change in the relevant factual matters surrounding the Petition for Registration of LPGMA, which, if considered, could change the outcome of the said case. Otherwise, the determination of whether a party-list organization represents the marginalized and underrepresented sectors would be a never-ending controversy.[5]

The above ruling should sufficiently address the arguments raised in the petitions before Us. Indeed, the COMELEC's determination of a PLO's qualifications during the registration proceedings ought to dispose of the issue of its qualification to participate in future elections. The ruling that the organization is so qualified at the time of its registration should be considered final and conclusive at some point in time.

The COMELEC cannot be expected to periodically review a PLO's qualifications on the basis of concerns that could have been brought up in prior proceedings. It cannot, at every turn, be asked to evaluate anew a PLO's eligibility to participate in the elections heretofore passed upon in an appropriate registration proceeding. It behooves the Court to prevent this repetitive and unnecessary endeavor. Hence, the dismissal of the instant petitions is legal as it is practical.

Once proclaimed, HRET has jurisdiction to pass upon a party-list organization's qualifications

Should a question regarding a participating PLO's qualifications is raised before the COMELEC, but the PLO is subsequently declared and proclaimed to have won a seat or seats in Congress, the COMELEC loses its jurisdiction over the case. Following

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[5] *Id*.

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such proclamation, jurisdiction over qualification issues then devolves upon the House of Representatives Electoral Tribunal (HRET), and it is incumbent upon the COMELEC to refer the case to the HRET. If the same case is pending with the Court when proclamation supervenes, the remand action, if proper, should be to the HRET.

This is as it should be. While the winning PLO nominee sits in the Lower House, it is not the nominee who is actually elected into office, but the PLO itself. The PLO is, in fine, the candidate, the one voted upon, and the "member" of the Lower House. While there is still no clear-cut ruling on the issue of whether proceedings questioning the qualifications of PLOs after proclamation are within the jurisdiction of HRET or COMELEC, it is my considered view that the said cases fall properly under the jurisdiction of HRET as the **"sole judge"** of all contests relating to the election, returns, and qualifications of the "members" of the House of Representatives, following its constitutional mandate under Sec. 17, Article VI of the Constitution. It may be stated in this regard that a nominee sits as a representative of a PLO. Once the PLO loses its accreditation for causes recognized by law, then it loses its eligibility for a party-list seat. Accordingly, its nominee, if there be any sitting in the House of Representatives, loses his or her standing to represent the organization.

On the matter of which between the COMELEC and HRET possesses jurisdiction over questions respecting a member of the Lower House, *Guerrero v. COMELEC*[6] teaches that once a winning candidate has been proclaimed, taken his oath, and assumed office as a member of the House of Representatives, COMELEC's jurisdiction over election contests relating to the election, returns, and qualifications of members of the House ends, and the HRET's jurisdiction begins.

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[6] G.R. No. 137004, July 26, 2000, 336 SCRA 458.

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In the case here, however, as already discussed above, there is no need to refer the case to HRET, as the instant petitions have to be rejected for lack of merit.

SEPARATE OPINION

ABAD, *J.*:

I vote to dismiss the petitions but for other reasons.

On May 21, 2009 respondent LPG Marketers Association, Inc. (LPGMA) filed with respondent Commission on Elections (COMELEC) a petition for registration as a sectoral organization[1] so it could take part in the 2010 party-list elections.[2] LPGMA claimed that it is an organization of both consumers and small industry players who advocate, among others, an equal and level playing field in the liquefied petroleum gas or LPG industry with the view to making quality, safe, and reasonably priced gas and oil products accessible to the people.

In due course, the COMELEC verified, through its Regional Election Director in the National Capital Region, LPGMA's existence in the constituency for which it seeks registration. Following this, the COMELEC ordered the publication of LPGMA's petition for registration to give interested parties the opportunity to be heard on the registration. Following such publication, the COMELEC conducted a hearing in which it verified the legitimacy and existence of LPGMA, its track record and past activities, the qualifications of its members, and its financial capability to launch and sustain a nationwide campaign in the 2010 party-list elections. On January 5, 2010 the COMELEC's First Division granted LPGMA's petition for registration.[3]

Over three months later or on April 12, 2010 petitioners Antonio D. Dayao, Rolando P. Ramirez, and Adelio R. Capco filed with the COMELEC a complaint for cancellation of LPGMA's party-

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[1] Docketed as SPP 09-048 (PL).

[2] *Rollo* (G.R. No. 193643), pp. 126-132.

[3] *Id.* at 246-252.

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list registration.[4] Petitioners alleged that the incorporators, trustees, and officers of LPGMA were marketers and independent LPG refillers who had a 45% share in the national LPG retail market. Hence, the COMELEC could not consider LPGMA members marginalized and constituted an underrepresented sector of society. On May 6, 2010, four days before the elections, petitioner Federation of Philippine Industries, Inc. intervened and adopted petitioners' complaint.[5]

On August 5, 2010 the COMELEC First Division dismissed petitioners' complaint on the grounds,[6] *first*, that petitioners failed to cite any of the grounds for cancellation of registration enumerated in Section 6 of Republic Act (R.A.) 7941;[7] and *second*, that petitioners filed a late opposition to LPGMA's registration despite notice by publication of its petition in two newspapers of general circulation. Petitioners waited more than three months after the approval of registration before filing their opposition.

Petitioners moved for reconsideration of the First Division's ruling but the COMELEC *En Banc* denied the same on September 6, 2010,[8] hence, these consolidated petitions.

The Issue Presented

The issue presented in these consolidated petitions is: whether or not the COMELEC gravely abused its discretion in dismissing petitioners' complaint for the cancellation of the party-list registration of LPGMA for the reasons a) that the complaint failed to state a proper ground for cancellation of registration; and b) the complaint was filed out of time.

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[4] *Id.* at 260-267, docketed as SPP 10-010.

[5] *Rollo* (G.R. No. 193704), pp. 678-684.

[6] *Rollo* (G.R. No. 193643), pp. 65-70.

[7] The Party-List System Act.

[8] *Rollo* (G.R. No. 193643), pp. 85-90.

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Discussion

In his *ponencia*, Justice Bienvenido L. Reyes would have the Court remand the case to the COMELEC for it to conduct summary evidentiary hearings on the qualifications of LPGMA as a party-list organization had it not been for the fact that the COMELEC issued a Resolution dated December 13, 2012 finding LPGMA compliant with the qualifications set by law and jurisprudence. The *ponencia* theorizes that the factual findings in the petition for registration of LPGMA are not final and conclusive on the factual issues raised in the complaint for the cancellation of its registration.

The *ponencia* points out that it did not matter that petitioners failed to file from the beginning an opposition to LPGMA's application for registration as party-list organization. The *ponencia* explains that (a) since Section 6 of R.A. 7941 does not require that the party who initiates an action for cancellation of registration must have previously opposed the registration and (b) since the same Section 6 sets no period for the filing of a complaint for cancellation of registration, it follows that petitioners could file their complaint for cancellation at any time and that the COMELEC was duty bound to hear and adjudicate the same.

Section 6 of R.A. 7941 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:

(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;

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(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.

But Section 6 above does not, contrary to the *ponencia*'s thesis, set rules of procedure from which one can draw inferences based on what such rules fail to expressly provide. Section 6 is pure substantive law. It does not pretend to prescribe a comprehensive and unique procedure designed for the cancellation of registration of a party-list organization. What it substantially does is simply vest on the COMELEC the power to refuse registration or order its cancellation on specified grounds. The detailed rules that govern refusal or cancellation of registration are found in the COMELEC Rules of Procedure.

Obviously, the power to refuse registration provided in Section 6 above refers to the action that the COMELEC may take in relation to an original petition for registration as party-list organization under Section 5 of R.A. 7941.[9] To "refuse" registration is to presume that a petition for registration has been made. On the other hand, it is implicit that the power to cancel registration refers to the action that the COMELEC may take after it has already granted registration. The *ponencia* is right that an

[9] 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.

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action for cancellation of registration previously granted is allowed under Section 6.

But it cannot be implied from the right to bring an action to cancel registration under Section 6 that a COMELEC resolution granting registration can never become final. The COMELEC exercises adjudicative power when it grants or refuses registration or cancels one that it has previously granted.[10] Consequently, like the exercise of any adjudicative power that the law vests in the COMELEC, its ruling, which either grants or refuses registration or cancels one previously granted, can attain finality after 15 days following its promulgation.[11]

Can the finality of a ruling granting registration be reconciled with the provision of R.A. 7941 which allows the filing of an action for cancellation of registration that the COMELEC has previously granted?

The answer is yes. The grounds for cancellation of registration assume that the grantee committed fraud or misrepresentation in obtaining registration. For instance, the COMELEC rules require a party-list applicant to state in its verified petition "(8) That it is not a religious sect or denomination," a ground for refusing or cancelling registration.Religious sects or denominations are disqualified from running as party-list organizations. If it turns out that the grantee of registration lied in its petition because it in fact merely fronts for a religious sect, any voter can file an action for the cancellation of its registration. A decision fraudulently obtained cannot become final.

Here, LPGMA, as an applicant in the original petition for registration, carried the burden of proving the affirmative of its claim that it was entitled to registration as a party-list

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[10] Part V, F (Special Proceedings), Rule 32 (Registration of Political Parties or Organizations), COMELEC Rules of Procedure.

[11] Section 13(c), Rule 18, COMELEC Rules of Procedure.

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organization since it represented a marginalized and underrepresented sector. Thus, although petitioners did not intervene to oppose LPGMA's application for registration, the COMELEC heard the affirmative issue, which the law itself tendered, regarding the marginalized and underrepresented status of LPGMA's members. The COMELEC received evidence on that issue and resolved the same with a ruling that LPGMA met the requirement. And, when no one appealed from that ruling, the same became final and executory.

Notably, petitioners did not claim in its complaint for cancellation that LPGMA submitted falsified evidence that misled the COMELEC in granting its registration. Petitioners simply wanted the COMELEC to reopen the registration proceeding, retry an issue it had already adjudicated based on evidence, require LPGMA to once again prove its qualifications, and allow petitioners to present evidence which, ironically, were already available to them at the time the original registration was being heard.

The LPGMA won in the May 10, 2010 elections, the 18th nationwide among the great number of sectoral party-list organizations that ran. This is the clearest affirmation of its qualification.

ACCORDINGLY, I vote to **DISMISS** the consolidated petitions for failure to show that the COMELEC committed grave abuse of discretion in issuing its challenged orders.