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[No. L-33583. February 12, 1972]

FE F. BAUTISTA, Municipal Mayor of Pozorrubio, Pangasinan, petitioner, *vs.* CIPRIANO B. PRIMICIAS, JR., VICENTE MILLORA, PORFIRIO SISON, AGERICO ROSARIO & ALFONSO BINCE, JR. as Governor, Vice Governor, and Members of the Provincial Board, respectively; ANITA T. ESTRADA, Complainant in the Administrative case involved; and JOSE MARTINEZ, Vice Mayor of Pozorrubio, Pangasinan, respondents.

REMEDIAL LAW; PROHIBITION WITH PRELIMINARY INJUNCTION; DISMISSAL; ISSUE OF VALIDITY OF RESOLUTION PREVENTIVELY SUSPENDING PETITIONER, MOOT; TERMINATION OF TERM OF OFFICE OF PETITIONER AND RESPONDENT OFFICIALS.— With the expiration of the term of office of petitioner mayor, who was not reelected, as well as of respondent provincial officials as of the end of the year 1971 without any further action having been taken by the latter and without petitioner's preventive suspension during her said term having been effected, the issue in the case at bar as to the legality and validity of the questioned resolutions of respondent provincial board resolving to preventively suspend said petitioner mayor from her office on the ground of oppression and/or misconduct in office have become moot and academic.

ORIGINAL ACTION in the Supreme Court. Prohibition with preliminary injunction.

The facts are stated in the opinion of the Court.

Saturnino D. Bautista, Custodio O. Parlade and *Doria, Ancheta & Associates* for petitioner.

Magat, Bince, Villar & Associates for Estrada.

Juan O. de la Cruz and *Teodoro Primicias-Regino* for other respondents.

Vicente D. Millora in his own behalf.

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TEEHANKEE, *J.:*

This original action for prohibition with preliminary injunction was filed on June 3, 1971 by the then municipal mayor of Pozorrubio, Pangasinan, against the then provincial governor and members of the provincial board of Pangasinan and other co-respondents.

The petition questioned the legality and validity of Resolution No. 176 dated May 20, 1971 and of Resolution No. 185 dated May 27, 1971 of respondent provincial board resolving to preventively suspend petitioner mayor from her office at the instance of complainant (herein respondent Anita T. Estrada, president of the Pozorrubio Market Vendors Association, Inc.) who had filed administrative charges against petitioner mayor for alleged oppression and/or misconduct in office.

The said administrative complaint dated December 29, 1970 was intimately related to a complaint filed on December 1, 1970 in the Court of First Instance of Pangasinan by the same market vendors association questioning the validity of the municipal ordinances sought to be enforced by petitioner mayor against them in the matter of their vacating their leased market stalls to give way to the construction of a new market building. Said civil complaint was dismissed by the court per its decision dated April 5, 1971, and plaintiff appealed the same to the Court of Appeals.

The petitioner further sought the issuance of a restraining order or preliminary injunction against said resolutions of the provincial board and her impending suspension thereunder, and the Court issued the corresponding temporary restraining order per its resolution of June 4, 1971.

Respondents duly filed their respective answers besides a joint motion to lift restraining order. After discussion of the motion by the parties in their various pleadings, the

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Court issued its Resolution of July 2, 1971, as follows:

> "* * * THE COURT resolved: (a) to issue an amended temporary restraining order so as to restrain the respondents herein from continuing with the hearing of Administrative Case No. 11, entitled 'Anita T. Estrada, complainant, *vs.* Fe F. Bautista, etc., respondent,' of the Provincial Board of Pangasinan; (b) to require the respondents to show cause, not later than July 12, 1971, why the writ of preliminary injunction prayed for should not be issued; and (c) to set the hearing of the case on the merits and on the matter of the issuance of a preliminary injunction on Wednesday, July 14, 1971, at 9:30 a. m."

After the hearing thus held on July 14, 1971, respondents officials filed a manifestation dated July 19, 1971 informing the Court

> "That on July 17, 1971, the Provincial Board of Pangasinan passed a resolution suspending indefinitely the continuation of the investigation of Administrative Case No. 11 entitled Anita Estrada, complainant, *vs.* Mayor Fe Bautista, respondent, and declaring Resolutions Nos. 176 and 185, both current series, of the Board as *functus oficio* and without any further force and effect."

and submitting a certified copy of the resolution referred to, as unanimously approved by the provincial board. The resolution was approved upon the written recommendation of then vice-governor Millora who called the board's attention to the corresponding provisions of the Decentralization Act "that no | administrative | investigation shall commence or continue within ninety (90) days immediately prior to an election." (Section 5, Republic Act No. 5185).

Petitioner's counsel filed a counter-manifestation dated August 7, 1971 expressing concern that the provincial

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board's "indefinite suspension" of the administrative case might be lifted after the November 1971 elections, notwithstanding that the said board had in effect cancelled its questioned resolutions that sought to effect the preventive suspension of petitioner.

With the expiration of the term of office of petitioner mayor * as well as of respondents provincial officials as of the end of the year 1971 without any further action having been taken by the latter and without petitioner's preventive suspension during her said term having been effected, the issues in the case at bar have become moot and academic.

Accordingly, the Court resolved to dismiss the case at bar, without pronouncement as to costs.

Concepcion, C.J., Reyes, J. B. L., Makalintal, Zaldivar, Castro, Fernando, Barredo, Villamor and *Makasiar, JJ.*, concur.

Petition dismissed.

[No. L-33692. February 24, 1972]

SHEIK ACHMAD BASHIER, petitioner *vs.* COMMISSION ON ELECTIONS, TOCOD MACARAYA, SACAR BASMAN, PANGALIAN BALINDONG and MACAPANTON ABBAS, JR., respondents.

[No. L-33699. February 24, 1972]

MACAPANTON ABBAS, JR., petitioner, *vs.* THE COMMISSION ON ELECTIONS, PROVINCIAL BOARD OF CANVASSERS OF LANAO DEL SUR and OGA MAPUPUNO, respondents.

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* As per Comelec certification of Feb. 8, 1972, petitioner was a candidate for the same office of mayor of Pozorrubio at the Nov. 8, 1971 elections and lost to the now incumbent Mayor Artemio R. Saldivar.