


EN BANC

G.R. No. 225152 – PARTIDO DEMOKRATIKO PILIPINO-LAKAS NG BAYAN (PDP-LABAN) herein represented by its Secretary-General, CONG. PANTALEON “BEBOT” ALVAREZ, *petitioner*, v. COMMISSION ON ELECTIONS *EN BANC*, *respondent*; LEON ESTRELLA PERALTA *et. al.*, *intervenors*.

Promulgated:

October 5, 2021

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SEPARATE CONCURRING OPINION

LEONEN, J.:

I fervently believe that this case presents an opportune time for this Court *En Banc* to rule on the constitutionality of Commission on Elections Resolution No. 10147. I humbly submit that this Court must rule on this issue. Nonetheless, I concur in the result and add my reasons in supporting the declaration of illegality of Resolution No. 10147.

The validity of this issuance is being assailed insofar as it effectively creates additional qualifications to national and local elective candidates.¹

Citing (*Gios-Samar*) v. *Department of Transportation and Communications*,² the *ponencia* states that this Court must exercise judicial restraint in passing upon constitutional questions if other grounds exist as bases for the Decision.³

In *Gios-Samar*, petitioner Gios-Samar, Inc. filed a petition for prohibition against respondents Department of Transportation and Communications and Civil Aviation Authority of the Philippines, assailing the constitutionality of the bundling of the invitation to prequalify and bid on airport development, operations, and maintenance of multiple airports. At the time the petition was with this Court, there had been no bidding yet, as the filing was done months ahead of the submission of prequalification queries and qualification documents. During the proceedings, the Department of Transportation and Communications asserted that petitioner had no standing to sue and that the allegations of unconstitutionality of the assailed bundling were speculative and conjectural; thus, there was no justiciable controversy to

¹ *Ponencia*, pp. 5 and 12.

² *Gios-Samar, Inc. v. Department of Transportation and Communications*, G.R. No. 217158, March 12, 2019, < <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970> > [Per J. Jardaleza, *En Banc*].

³ *Ponencia*, pp. 12–14.



speak of. The Civil Aviation Authority of the Philippines, meanwhile, pointed out that petitioner did not allege any special and compelling reason to justify its direct resort to this Court.⁴

Contrary to petitioner Gios-Samar's insistence that the issues presented were legal ones, this Court found that the issues involved were factual. It is in this context that this Court held that where a legal issue requires determination of a factual issue, such factual issue must first be brought before the trial court or the Court of Appeals.⁵ Notwithstanding the transcendental importance of a case, this Court ruled that it is generally not clothed with power to tackle factual questions and play the role of a trial court.⁶ In the process of ruling as such, this Court discussed the "rules of avoidance" and the need to exercise judicial restraint.

This case before us presents a purely legal issue. Therefore, the discussion on the rules of avoidance and exercise of judicial restraint is unsuitable.

While conceding that this case presents an issue of transcendental importance,⁷ the *ponencia* nonetheless stated that this constitutional issue need not be discussed because no actual controversy exists and the constitutional issue is not the *lis mota* of the case.

With due respect, I believe that the constitutional issues presented in this case are justiciable. This Court should not avoid its constitutional duty to decide these issues in view of their transcendental importance. Where a controversy concerns fundamental constitutional issues, the threshold must be adjusted to allow judicial scrutiny, so that issues may be resolved at the earliest stage before anything irreversible is undertaken under cover of an unconstitutional act.⁸

In a recent case,⁹ this Court *En Banc* explained:

An actual case exists "when the act being challenged has had a direct adverse effect on the individual challenging it." Thus, actual case means the presence of that concrete adverseness that can be drawn from the allegations raised by the parties in their pleadings:

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Id. at 6.

⁸ J. Puno, Separate Opinion in *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, G.R. Nos. 183591, 183752, 183893, 183951, and 183962, 589 Phil. 387, 557 (2008) [Per J. Carpio Morales, *En Banc*].

⁹ *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*, G.R. No. 200418, November 10, 2020, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67024>> [Per J. Leonen, *En Banc*].

Jurisprudence provides that an actual case or controversy is one which “involves a conflict of legal rights, an assertion of opposite hypothetical or abstract difference or dispute.” In other words, “[t]here must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence.” Related to the requirement of an actual case or controversy is the requirement of “ripeness,” meaning that the questions raised for constitutional scrutiny are already ripe for adjudication.” A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. It is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to itself as a result of the challenged action.”

.....

Legal standing means “personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged.” That the party must present a personal stake in the case ensures the presence of concrete adverseness:

In public or constitutional litigations, the Court is often burdened with the determination of the *locus standi* of the petitioners due to the ever-present need to regulate the invocation of the intervention of the Court to correct any official action or policy in order to avoid obstructing the efficient functioning of public officials and offices involved in public service. It is required, therefore, that the petitioner must have a personal stake in the outcome of the controversy, for, as indicated in *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*:

The question on legal standing is whether such parties have “alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions.” Accordingly, it has been held that the interest of a person assailing the constitutionality of a statute must be direct and personal. *He must be able to show, not only that the law or any government act is invalid, but also that he sustained or is in imminent danger of sustaining some direct injury as a result of its enforcement, and not merely that he suffers thereby in some indefinite way.* It must appear that the person complaining has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the statute or act complained of.¹⁰
(Emphasis supplied)

¹⁰ Id.

Here, there is a contrariety of legal rights that can be resolved based on existing law and jurisprudence. On one hand, petitioner PDP-Laban insists that Resolution No. 10147 is allegedly void for being issued in excess of respondent's delegated rule-making power.¹¹ On the other hand, respondent Commission on Elections asserts that the 30-day period under Section 14 of Republic Act No. 7166 is extendible and therefore its Resolution No. 10147 is valid. Otherwise (i.e., if the 30-day period is non-extendible and if Resolution No. 10147 was not issued), respondent would have disallowed non-compliant officials from assuming office for violation of this filing requirement—which, in turn, would amount to prescribing an additional qualification for public office.¹² Verily, the constitutionality of Resolution No. 10147 is the *lis mota* of this case.

In its Petition, petitioner alleged the following:

21. Having addressed the procedural concerns in this case, petitioner PDP-Laban will now proceed to comprehensively discuss the substantive issue raised in this petition.

THE ASSAILED RESOLUTION NO. 10147,
WHICH EXTENDED THE DEADLINE FOR THE
FILING OF SOCE FROM JUNE 8 TO JUNE 30, 2016, IS
CONTRARY TO SECTION 14 OF RA7166 WHICH
MANDATES THAT THE THIRTY (30) DAY PERIOD
FOR FILING OF SOCE IS NON-EXTENDIBLE.

....

24. ... all candidates and parties who participated in the May 9, 2016 National and Local Elections, regardless of whether or not they won or lost, must file their SOCEs and the relevant Schedules and supporting documents not later than thirty (30) days after the day of the election, or by June 8, 2016, Wednesday. This period for filing of SOCE is clearly and unarguably MANDATORY and NON-EXTENDIBLE.

25. That being the case, Public Respondent COMELEC En Banc cannot deny that it palpably violated that statutory mandate of Section 14 of RA7166 and purposely disregarded its own procedural rules, i.e., Section 2, Rule 10 of Resolution No. 9991, when it promulgated the questioned Resolution No. 10147.

....

27. As discussed in CFU's Memorandum dated June 15, 2016, a reading of Section 14 of RA7166 would easily reveal that *there is NO DELEGATED AUTHORITY from Congress for the Public Respondent COMELEC En Banc to fix the period to file SOCEs.*

¹¹ Ponencia, p.4.

¹² Id.

....

PUBLIC RESPONDENT COMELEC *EN BANC* ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, IN PROMULGATING THE ASSAILED RESOLUTION NO. 10147 BECAUSE THE ISSUANCE THEREOF EXCEEDED THE DELEGATED RULE-MAKING POWER OF THE PUBLIC RESPONDENT.

....

36. However, Section 6 of Article IS(A) of the 1987 Philippine Constitution reminded the constitutional commissions like Public Respondent COMELEC *En Banc* that:

Section 6. Each Commission *en banc* may promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights. (Emphasis supplied)

....

37. *Like all grants of powers, however, the grant to the Public Respondent COMELEC En Banc of its express-enforcement and administration, and rule-making and implied-interpretative- powers are not without limitations. The exercise of these powers should always be read in conjunction with, not in isolation from, the Constitution and the laws from where it draws the power.*¹³ (Emphasis supplied)

On the other hand, in its Comment, the Commission on Elections contended that:


67. Nothing in Resolution No. 10147 offends the constitutional limitation that the COMELEC's rule-making power "shall not diminish, increase, or modify substantive rights."

....

81. For COMELEC not to allow, in the name of SOCE, so many officials from assuming the offices to which they were validly elected will not only negate the sovereign people's mandate but will add a qualification for public office not heretofore prescribed under the Constitution for high officials or by the Local Government Code for local officials.

82. It requires no serious debate that COMELEC is devoid of such power.¹⁴

To determine whether respondent went beyond its delegated rule-making power in issuing Resolution No. 10147, which should therefore be



¹³ *Rollo*, pp. 12-14.

¹⁴ *Id.* at 94-99.

nullified, I submit that this Court must first ascertain and interpret the pertinent portions of the Constitution (i.e., provisions on the powers granted to respondent as a constitutional commission vis-à-vis those providing the substantive qualifications of a political candidate).

The legal issue posed is ripe for adjudication, as the challenged resolution was allegedly issued and implemented to accommodate the pleas of a single political party who lamented about the filing requirement and requested for an extension of the 30-day period, to the prejudice of the petitioner who faithfully complied with the provisions of Section 14 of Republic Act No. 7166.¹⁵

The resolution on the constitutional issue in this case undoubtedly has far-reaching consequences. The *ponencia* itself states that the legal issue involved is of transcendental importance, as the resolution of this case will affect “all political candidates and their liabilities for non-compliance with the timely submission of their [Statement of Contributions and Expenditures].”¹⁶ It also noted that this case “is capable of repetition” as respondent “had previously issued similar guidelines extending the period to file the [Statement of Contributions and Expenditures].”¹⁷ As noted by Associate Justice Mario V. Lopez:

[T]he [Commission on Elections] previously allowed extension of time in filing the SOCEs due to legal necessity and to prevent vacuum in the public service, thus:

WHEREAS, the Commission [on Elections] *En Banc* received several letter requests for extension of the deadline to file the required [Statement of Contributions and Expenditures] for the May 9, 2016 National and Local Elections (NLE);

WHEREAS, as records show, the deadlines for the filing of [Statements of Contributions and Expenses] has been invariably and consistently extended by the Commission out of legal necessity and particularly in the 2010 and 2013 NLE wherein the Commission allowed the extension of the deadline for filing of [Statements of Contributions and Expenses];

....

WHEREAS, it is clear from the express language of the above-quoted provision that the phrase, “until he has filed the statement of contributions and expenditures herein required”, implies that the [Statements of Contributions and Expenses] may be filed beyond the deadline of thirty (30) days from the date of the elections as fixed herein.

¹⁵ *Rollo*, p. 41.

¹⁶ *Ponencia*, p. 6.

¹⁷ *Id.*

NOW, THEREFORE, the Commission [on Elections] *En Banc*, RESOLVED ... to EXTEND the deadline of filing the Statement of Contributions and Expenditures to 30 June 2016 ... in order to: (a) enable candidates and parties who failed to submit their [Statements of Contributions and Expenses] or whose [Statements of Contributions and Expenses] do not comply with the RULES and REGULATIONS GOVERNING CAMPAIGN FINANCE AND DISCLOSURE to submit or correct their campaign finance statements or reports; and (b) encourage disclosure by candidates and parties their campaign contributions and expenditures during the 2016 NLE and to enable the Commission [on Elections] to initiate the filing of administrative cases for the violation of Section 14 of Republic Act No. 7166 and election offenses related to campaign finance.

....

We find it abhorrent to adopt the erroneous interpretation that our duly elected public officials cannot assume office simply because of the failure of the party treasurer to submit the party's [Statements of Contributions and Expenses] within the 30-day period deadline. The resulting frustration of the people's mandate, the widespread vacuum in the public service, and the likelihood of a constitutional crisis, constitute an absurdity not contemplated by the law. These are risks that the [Commission on Elections] is not willing to take.¹⁸

In this light, I this Court could have taken this opportunity to tackle the constitutionality of Commission on Elections Resolution No. 10147, especially where said issue is ripe for adjudication; is the *lis mota* of the case; and is capable of repetition.

In our jurisdiction, elections are envisioned to be fair and inclusive.¹⁹ This can be surmised from various constitutional provisions which place importance on the equality of opportunity to proffer oneself for public office.²⁰ To this end, the Commission on Elections is empowered to enforce and administer all laws and regulations relative to the conduct of an election.²¹ "No other body is granted such plenary powers regarding elections."²² In view of this constitutional mandate, this Court has given the Commission on Elections wide latitude in devising means and methods that will ensure the accomplishment of the great objective for which it was created: free, orderly,

¹⁸ Id. at 3-4.

¹⁹ CONST., art. II, sec. 1.

²⁰ CONST., art. II, sec. 26; art. IX-C, sec. 4; art. XIII, sec. 1. *See also The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 391 (2015) [Per J. Leonen, *En Banc*]; *Osmeña v. COMELEC*, 351 Phil. 692, 720 (1998) [Per J. Mendoza, *En Banc*]; *National Press Club v. Comelec*, 283 Phil. 795, 810 (1992) [Per J. Feliciano, *En Banc*].

²¹ CONST., art. IX-C, sec. 2.

²² J. Sereno, Concurring Opinion in *Capalla v. Commission on Elections*, 697 Phil. 644, 839 (2012) [Per J. Peralta, *En Banc*].

honest, peaceful, and credible elections.²³ This wide latitude, however, is subject to the limitation that the Commission on Elections cannot, under the guise of enforcing and administering election laws, impose additional qualifications where the Constitution had already expressly prescribed substantive constitutional limitations on these qualifications. Yet, the Commission on Elections may regulate the exercise of the right to run for public office—and as in the enjoyment of all other rights, subject this right to procedural requirements in accordance with the Constitution and related laws.²⁴

In *Akbayan v. Commission on Elections*,²⁵ this Court upheld the constitutionality of a resolution issued by the Commission on Elections which regulated the conduct of voter's registration. In the process, this Court likewise affirmed the law which the Commission on Elections sought to implement through the resolution, by stating that this law was issued pursuant to the State's police power. This Court explained:

In a representative democracy such as ours, the right of suffrage, although accorded a prime niche in the hierarchy of rights embodied in the fundamental law, ought to be exercised within the proper bounds and framework of the Constitution and must properly yield to pertinent laws skillfully enacted by the Legislature, which statutes for all intents and purposes, are crafted to effectively insulate such so cherished right from ravishment and preserve the democratic institutions our people have, for so long, guarded against the spoils of opportunism, debauchery and abuse.

To be sure, the right of suffrage ardently invoked by herein petitioners, is not at all absolute. Needless to say, the exercise of the right of suffrage, as in the enjoyment of all other rights, is subject to existing substantive and procedural requirements embodied in our Constitution, statute books and other repositories of law.

As to the procedural limitation, the right of a citizen to vote is necessarily conditioned upon certain procedural requirements he must undergo: among others, the process of registration. Specifically, a citizen in order to be qualified to exercise his right to vote, in addition to the minimum requirements set by the fundamental charter, is obliged by law to register, at present, under the provisions of Republic Act No. 8189, otherwise known as the "Voter's Registration Act of 1996."

Stated differently, the act of registration is an indispensable precondition to the right of suffrage. For registration is part and parcel of the right to vote and an indispensable element in the election process. Thus, contrary to petitioners' argument, registration cannot and should not be denigrated to the lowly stature of a mere statutory requirement. Proceeding from the significance of registration as a necessary requisite to the right to vote, *the State undoubtedly, in the exercise of its inherent police power, may then enact laws to safeguard and regulate the act of voter's registration for the*

²³ Id.

²⁴ See *Akbayan v. Commission on Elections*, 407 Phil. 618, 635–636 (2001) [Per J. Buena, *En Banc*], where this Court upheld a resolution issued by the Commission on Elections, which regulated the process of voter's registration.

²⁵ Id.

ultimate purpose of conducting honest, orderly and peaceful election, to the incidental yet generally important end, that even pre-election activities could be performed by the duly constituted authorities in a realistic and orderly manner — one which is not indifferent and so far removed from the pressing order of the day and the prevalent circumstances of the times.

Viewed broadly, existing legal proscription and pragmatic operational considerations bear great weight in the adjudication of the issues raised in the instant petitions.

....

It is an accepted doctrine in administrative law that *the determination of administrative agency as to the operation, implementation and application of a law would be accorded great weight considering that these specialized government bodies are, by their nature and functions, in the best position to know what they can possibly do or not do, under prevailing circumstances.*

....

Under these circumstances, we rule that the [Commission on Elections], in denying the request of petitioners to hold a special registration, acted within the bounds and confines of the applicable law on the matter — Section 8 of RA 8189. *In issuing the assailed Resolution, respondent [Commission on Elections] simply performed its constitutional task to enforce and administer all laws and regulations relative to the conduct of an election, inter alia, questions relating to the registration of voters; evidently, respondent [Commission on Elections] merely exercised a prerogative that chiefly pertains to it and one which squarely falls within the proper sphere of its constitutionally-mandated powers.* Hence, whatever action respondent takes in the exercise of its wide latitude of discretion, specifically on matters involving voters' registration, pertains to the wisdom rather than the legality of the act. Accordingly, in the absence of clear showing of grave abuse of power of discretion on the part of respondent [Commission on Elections], this Court may not validly conduct an incursion and meddle with affairs exclusively within the province of respondent [Commission on Elections]— a body accorded by no less than the fundamental law with independence.²⁶ (Emphasis supplied)

Similarly, in *Kabataan Party-List v. Commission on Elections*,²⁷ this Court overruled the contention that biometrics validation requirement has risen to the level of an unconstitutional substantive requirement in the exercise of the right of suffrage. This Court held that a “qualified elector” must still comply with registration procedures in order to vote.²⁸

There is a difference between qualifications²⁹ of candidates and procedural requirements³⁰ concerning elections. Qualification refers to “the

²⁶ Id.

²⁷ 775 Phil. 523 (2015) [Per J. Perlas-Bernabe, *En Banc*].

²⁸ Id. at 546.

²⁹ CONST., art. VI, sec. 3 and art. VII, sec. 3. *See also* Republic Act No. 7160 (1991), Title II, Chapter I, sec. 39.

³⁰ CONST., art. VI, secs. 2, 4, 8. *See also* CONST., art. VII, sec. 4; art. IX-A, sec. 6; art. IX-C, secs. 2(1), 2(5), 3, 4, and 9.

possession of qualities, properties (such as fitness or capacity) inherently or legally necessary to make one eligible [to run] for a position or office, or to perform a public duty or function.”³¹ On the other hand, procedural requirements or rules of procedure refer to “provisions prescribing the method by which substantive rights may be enforced.”³²

Like the exercise of the right of suffrage, the exercise of the right to run for public office may be subject to existing substantive and procedural requirements embodied in our Constitution, as well as related laws, rules and regulations.³³ Similar to *Akbayan*, the assailed resolution in this case was issued pursuant to the constitutional duty of the Commission on Elections to ensure free, clean, and honest elections, and to ensure that there are no over expenditures. It did not provide additional qualifications of candidates.

I agree that the Commission on Elections committed grave abuse of discretion in issuing the assailed Resolution No. 10147 for being contrary to law. Contrary to the legal provision it seeks to implement (i.e., Section 14 of Republic Act No. 7166), Resolution No. 10147 not only extended the deadline within which candidates for the May 9, 2016 national and local elections may file their respective Statements of Contributions and Expenses, but also indiscriminately removed the administrative liability that arose for failure of a candidate to file a Statement of Contributions and Expenditures within the original 30-day period.³⁴

Section 14 of Republic Act No. 7166 provides, among others, (a) a mandatory 30-day period when a Statement of Contributions and Expenditures must be filed by every candidate; (b) the effect of a failure to file a Statement of Contributions and Expenditures within the 30-day period (i.e., a candidate may be prevented from assuming office and may be held liable for an administrative offense); and (c) the effect of non-filing of a Statement of Contributions and Expenditures for a second or subsequent time.³⁵

³¹ 775 Phil. 523, 545 (2015) [Per J. Perlas-Bernabe, *En Banc*].

³² *Primicias v. Ocampo*, 93 Phil. 446, 452 (1953) [Per J. Bautista Angelo, *En Banc*].

³³ See, for example, Section 6 of Republic Act No. 7941, otherwise known as the Party-List System Act which provides that the Commission on Elections may refuse or cancel, after due notice and hearing, the registration of any national, regional or sectoral party, organization or coalition on the ground that it violates or fails to comply with the laws, rules or regulations relating to elections.

³⁴ *Rollo*, p. 34. Resolution No. 10147 dated June 23, 2016 entitled “In Re: Several Requests for Extension To File Statement of Contributions and Expenditures by Candidates, Political Parties, And Partylists Organizations in relation to the 2016 National and Local Elections”. As noted by Justice Lopez, the resolution provides that “RESOLVED, FURTHER, as the COMMISSION hereby FURTHER RESOLVES, to impose administrative fines upon candidates and parties who fail to file their SOCEs on or before June 30, 2016 based on the Scale of Administrative Fines provided under Resolution No. 9939.”

³⁵ Section 14 of Republic Act No. 7166 reads:

SECTION 14. Statement of Contributions and Expenditures: Effect of Failure to File Statement. — Every candidate and treasurer of the political party *shall*, within thirty (30) days after the day of the election, file in duplicate with the offices of the Commission the full, true and itemized statement of all contributions and expenditures in connection with the election.
No person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

Notably, the requirement of filing a Statement of Contributions and Expenditures under Section 14 of Republic Act No. 7166 was previously found in Sections 107³⁶ and 111³⁷ of the Omnibus Election Code. While Republic Act No. 7166 expressly repealed Sections 107 and 111 of the Omnibus Election Code and no longer considers the failure to file a Statement of Contributions and Expenditures within the prescribed period as an election offense,³⁸ Republic Act No. 7166 reincorporated Sections 107 and 111 of the Omnibus Election Code, albeit with modification.

Under the Omnibus Election Code, every candidate was previously required to file a Statement of Contributions and Expenditures twice: first, within seven to ten days prior to the day of the election; and second, within 30 days after the elections.³⁹ At present, Republic Act No. 7166 requires only one filing of a Statement of Contributions and Expenditures, that is, within 30 days after the elections.

As noted by Associate Justice Amy Lazaro-Javier, while Republic Act No. 7166 expressly authorized the Commission on Elections to set the period

The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statement required herein within the period prescribed by this Act.

Except candidates for elective barangay office, failure to file the statements or reports in connection with electoral contributions and expenditures are required herein shall constitute an administrative offense for which the offenders shall be liable to pay an administrative fine ranging from One thousand pesos (P1,000.00) to Thirty thousand pesos (P30,000.00), in the discretion of the Commission.

The fine shall be paid within thirty (30) days from receipt of notice of such failure; otherwise, it shall be enforceable by a writ of execution issued by the Commission against the properties of the offender.

(Emphasis supplied)

³⁶ Section 107 of the Batas Pambansa Blg. 881, otherwise known as Omnibus Election Code provides:
Sec. 107. Statement of contributions and expenditures. – Every candidate and treasurer of the political party *shall*, not later than seven days, or earlier than ten days before the day of the election, file in duplicate with the office indicated in the following section, full, true and itemized, statement of all contributions and expenditures in connection with the election.

Within thirty days after the day of the election, said candidate and treasurer *shall* also file in duplicate a supplemental statement of all statement of contribution and expenditures not included in the statement filed prior to the day of the election.

³⁷ Section 111 of the Batas Pambansa Blg. 881 provides:

Sec. 111. Effect of failure to file statement. - In addition to other sanctions provided in this Code, no person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.

The same prohibition shall apply if the political party which nominated the winning candidate fails to file the statements required herein within the period prescribed by this Code.

³⁸ See Section 39 of Republic Act No. 7166, which provides:

SECTION 39. Amending and Repealing Clause. — *Section 107, 108 and 245 of the Omnibus Election Code are hereby repealed. Likewise, the inclusion in Section 262 of the Omnibus Election Code of the violations of Sections 105, 106, 107, 108, 109, 110, 111 and 112 as among election offenses is also hereby repealed.* This repeal shall have retroactive effect.

Batas Pambansa Blg. 881, Republic Act No. 6646, Executive Order Nos. 144 and 157 and all other laws, orders, decrees, rules and regulations or other issuances, or any part thereof, inconsistent with the provisions of this Act are hereby amended or repealed accordingly.

In turn, Section 262 of the Batas Pambansa Blg. 881 provides:

Sec. 262. Other election offenses. - Violation of the provisions, or pertinent portions, of the following sections of this Code shall constitute election offenses: Sections 9, 18, 74, 75, 76, 80, 81, 82, 83,84, 85, 86, 87, 88, 89, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105,106 107, 108, 109, 110, 111, 112, 122, 123, 127, 128, 129, 132, 134,135, 145, 148, 150, 152, 172, 173, 174, 178, 180, 182, 184, 185, 186,189, 190, 191, 192, 194, 195, 196, 197, 198, 202, 203, 204, 205, 206,207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220,223, 229, 230, 231, 233, 234, 235, 236, 239 and 240.

³⁹ Batas Pambansa Blg. 881 (1985), sec. 107.

for certain matters and to excuse noncompliance of other election offenses, Republic Act No. 7166 did not provide a similar leeway regarding the 30-day period for the filing of a Statement of Contributions and Expenditures.⁴⁰

While the Legislature has had the occasion to modify the requirement of the filing of a Statement of Contributions and Expenditures and reclassified the noncompliance thereof from an election offense to an administrative offense, it nonetheless retained the word “shall” and the effect of failure to comply with this requirement.

It bears emphasizing that the use of the word “shall” signifies that the filing of the Statement of Contributions and Expenditures within 30 days from the day of the elections is mandatory.⁴¹ In view of the peremptory nature of the provision of Section 14 of Republic Act No. 7166, the 30-day reglementary period provided is “final and non-extendible”⁴²—as the Commission on Elections itself previously declared.

Every statute should be construed in connection with those of the same subject matter and should be able to stand together, if they can be done by any fair and reasonable interpretation.⁴³ Assuming that there was an ambiguity in Republic Act No. 7166 owing to a lack of express prohibition against extending the 30-day reglementary period, the Commission on Elections’ position still cannot be countenanced; otherwise, it would render nugatory a remedial measure⁴⁴ provided by Congress, and more significantly, render inutile the Commission on Elections’ constitutional mandate of ensuring free, orderly, honest, peaceful, and credible elections.⁴⁵ That being said, I respectfully disagree with the *ponencia* that winning candidates may belatedly

⁴⁰ See Reflections of Associate Justice Amy Lazaro-Javier, p. 3.

⁴¹ *Pilar v. COMELEC*, 315 Phil. 851-860, July 11, 1995, [J. Quiason, *En Banc*]. See also *Perez v. Court of Appeals*, 325 Phil. 1014, 1022 (1996) [Per J. Romero, Second Division]. See also *Ponencia*, p. 4. See also Reflections of Associate Justice Amy Lazaro-Javier, p. 2.

⁴² *Ponencia*, p. 2; citing the Commission on Elections’ Resolution No. 9991, Rule 10, Section 2.

⁴³ *Akbayan v. Commission on Elections*, 407 Phil. 618, 639 (2001) [J. Buena, *En Banc*].

⁴⁴ See Reflections of Associate Justice Amy Lazaro-Javier, p. 9, which states:

Verily, a concerned citizen may file an injunctive suit to prevent a winning candidate from assuming office come noon of June 30 immediately following his or her election. Congress clarified, however, that such suit must be filed before said winning candidate has assumed office. It, too, must be filed after the lapse of the 30-day period under Section 14, otherwise the case would be premature. To illustrate, insofar as the 2016 elections is concerned, the injunctive suit should be filed from June 9, 2016 until before noon of June 30, 2016.

But when COMELEC extended here the filing of SOCEs to June 30, 2016, the deadline of filing the same coincided with the date of assumption of office. Thus, there was no more window for filing injunctive suits. The beginning, June 30, 2016, also marked the end, June 30, 2016. In other words, COMELEC effectively negated the remedy crafted by Congress against noncompliant officials when it issued Resolution No. 10147.

⁴⁵ CONST., art. IX-C, sec. 2. See also Section 6 of Republic Act No. 7941 which empowers the Commission on Elections to cancel the registration of a national, regional or sectoral party, organization or coalition for violation or failure to comply with laws, rules or regulations relating to elections. In turn, Section 14 of Republic Act No. 7166 provides that “[n]o person elected to any public office shall enter upon the duties of his office until he has filed the statement of contributions and expenditures herein required.”

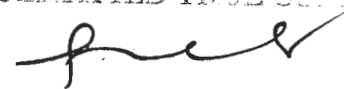
file their respective Statements of Contributions and Expenses and can still enter the duties of their office upon submission of the required Statements.⁴⁶

An administrative agency cannot amend an act of Congress.⁴⁷ Administrative acts shall be valid only when they are not contrary to the laws;⁴⁸ they must not override nor modify, but instead must remain consistent with the law they seek to apply and implement.⁴⁹ In extending the period provided by Section 14 of Republic Act No. 7166 and in effectively absolving the administratively liable arising for non-filing of the Statement of Contributions and Expenditures within the prescribed period, the Commission on Election supplanted the law it sought to implement and thus gravely abused its discretion. In the same vein, I join Associate Justice Amy Lazaro-Javier in saying that the repeated issuance of prior similar resolutions by the Commission on Elections (which extended the period within which Statements of Contributions and Expenses may be filed) cannot serve as precedent to justify the issuance of Resolution No. 10147.

Nonetheless, the effects of an administrative issuance from the promulgation until its invalidation by this Court may have to be recognized as valid when relied upon by the public in good faith.⁵⁰ Thus, I agree with the *ponencia* that the nullification of Resolution No. 10147 ought not to result in the reimposition of administrative liability upon the candidates of the May 2016 elections, who relied thereon in good faith.

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


MARVIC M.V.F. LEONEN
 Senior Associate Justice

CELESTINE TRAVEZOS

 MARIA LUISA M. GARCIA
 CLERK OF COURT
 OFFICE OF THE SENIOR ASSOCIATE JUSTICE
 CIVIL SERVICE COMMISSION

⁴⁶ CIVIL CODE, art. 7. See *Ponencia*, p. 11. See also Reflections of Associate Justice Amy Lazaro-Javier, p. 2.

⁴⁷ *Echegaray v. Secretary of Justice*, 358 Phil. 410, 448 (1998) [*Per Curiam, En Banc*].

⁴⁸ *Lagman v. Medialdea*, 812 Phil. 179, 290 (2017) [J. Del Castillo, *En Banc*].

⁴⁹ *Echegaray v. Secretary of Justice*, 358 Phil. 410, 447–448 (1998) [*Per Curiam, En Banc*].

⁵⁰ *Municipality of Tupi v. Faustino*, G.R. No. 231896, August 20, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65586>> [*Per J. Lazaro-Javier, En Banc*].