

**MALACAÑANG  
MANILA**

**ADMINISTRATIVE ORDER NO. 318**

**IMPOSING THE PENALTY OF SIX (6) MONTHS' SUSPENSION  
ON GOVERNOR RODOLFO FARIÑAS OF THE PROVINCE OF  
ILOCOS NORTE**

This refers to the two administrative complaints filed by Undersecretary Alvin G. Dans ("Complainant," for brevity) in his capacity as Undersecretary for Local Government, against Ilocos Norte Governor Rodolfo C. Farinas ("Respondent", for brevity) for Gross Misconduct in Office, Gross Neglect of Duty, Grave Abuse of Authority and Conduct Prejudicial to the Best Interest of Public Service. The acts complained of consist of the following, to wit:

**ADM. CASE NO. SC-ADM-001**

Respondent is the duly elected governor of the Province of Ilocos Norte. He was charged criminally for Illegal Detention before the Regional Trial Court, Branch 96 in Quezon City entitled "People of the Philippines versus Governor Rodolfo C. Farinas, docketed as Criminal Case No. Q-95-61973. Since no bail was initially recommended, Respondent was incarcerated at the provincial jail of Ilocos Norte from November 1, 1995 up to February 1, 1996, when his motion for bail was granted. Despite his incarceration however, Respondent continued to discharge the functions, duties and responsibilities of Provincial Governor of Ilocos Norte. Thus, Complainant alleges that said act constitutes a violation of Section 4(A) (b) of RA 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees and usurpation of official functions tantamount to grave abuse of authority, grave misconduct, neglect of duty and conduct prejudicial to the best interest of public service.

**ADM. CASE NO. SC-ADM-002**

On December 4, 1995, Respondent filed with the Office of the President thru the Secretary of Department of Interior and Local Government, an application for leave of absence covering the period December 18-22, 1995 for the purpose of bringing his family for a holiday trip to the Republic of China.

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Sec. 4. Norms of Conduct of Public Officials and Employees. (A) Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties: (b) Professionalism. Public officials and employees shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill. They shall enter public service with utmost devotion and responsibility. They shall never be in any way involved in the sale, distribution or peddling of undue patronage.



On December 7, 1995, Director Rolando Acosta, Bureau of Local Government Supervision, DILG, sent a telegram message to Respondent informing him that the application for leave of absence was received by his office only on December 6, 1995, and thus no action can be taken thereon<sup>2</sup> for failure to comply with DILG Memorandum No. 94-120. Despite the absence of authority to travel abroad, Respondent left for the Republic of China. Thus, Complainant asserts that said act constitutes a violation of Section 4 (A) (b) of RA 6713, otherwise known as the Code of Ethics and Ethical Standards for Public Officials and Employees and violation of OP Memorandum Circular No. 18; Administrative Order No. 267, series of 1992 in relation to DILG Memorandum Circular No. 94-120 dated July 07, 1995 tantamount to grave misconduct in office, gross neglect of duty and gross insubordination.

On April 10, 1996, I issued Administrative Order No. 264 creating a Special Committee to hear the administrative cases. The Committee was composed of: Secretary of Justice Teofisto T. Guingona (Chairman), Chief Presidential Legal Counsel Renato L. Cayetano (Member) and Secretary of Energy Francisco L. Viray (Member). Subsequently on May 13, 1996, the Special Committee issued an Order requiring Respondent to file his verified answer. However, instead of filing his Answer, Respondent filed a Motion for Bill of Particulars.

In compliance with the Committee's Order, Complainant filed his Bill of Particulars detailing the accusations in his twin complaints. On July 8, 1996, Respondent filed his Answers to both charges.

In his Answer in Adm. Case No. SC-ADM-001, Respondent admitted the material allegation in the complaint that during the period of his detention, he exercised his powers, duties, responsibilities and functions as Governor. Respondent however argues that there was no temporary physical and legal incapacity that would lead to a temporary vacancy in the Office of the Provincial Governor since he was not in coma, nor had lost any of his senses nor suffered any ailment that rendered him physically incapable. He further contends that his detention in jail could not be interpreted as a legal incapacity since he

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x x x To effectively implement the existing policies on foreign travels, the following policies and guidelines are hereby issued, for the information and guidance of all concerned.

(a) All government officials and employees who intend to travel abroad whether for official business or personal reason(s) shall be covered by this policy.

(b) Application for travel authority shall be approved in the following manner:

(1) By the President, in case of provincial governors, city mayors of highly urbanized and independent component cities; x x x

(c) The requests shall be received by the DILG Central Office through the Bureau of Local Government Supervision (BLGS) at least fifteen (15) working days prior to the scheduled date of departure in the case of provincial governors x x x



was not ordered suspended by any court or any administrative body, nor was he ordered jailed somewhere outside the Province of Ilocos Norte. Respondent stresses that Complainant never informed him nor directed Vice Governor Mariano R. Nalupta nor appointed anyone to take over as Acting Governor of Ilocos Norte.

As regards ADM. CASE No. SC-ADM-002, Respondent likewise admitted that he traveled abroad without authority and permission of the Regional Trial Court where his criminal case is pending, and the Office of the President. Respondent argues that he did not need to secure a travel authority from the Office of the President because his travel did not fall within provisions of the Local Government Code, specifically Section 96 thereof, which only provides three (3) instances where such travel authority must be procured and these are firstly, when the period of travel extends to more than three (3) months; secondly, during periods of emergency or crisis; and thirdly, when the travel involves the use of public funds. Thus --

**Sec. 96. Permission to Leave Station - x x x (c) Local government officials traveling abroad shall notify their respective sanggunian; Provided, that when the period of travel extends to more than three (3) months, during periods of emergency or crisis or when the travel involves the use of public funds, permission from the Office of the President shall be secured.**

Complainant alleges that the provisions in the executive issuances requiring authority from the President for all types of travel by the Governor has the effect of amending the provisions of the Local Government Code.

During the Preliminary Conference, the parties agreed to submit the case for resolution considering that no factual issues are involved.

The Special Committee submitted the following report of its findings and recommendations:

**"RE: ADM. CASE NO. SC-ADM-001**

After an assiduous evaluation of the legal issues involved, we find the Respondent to have committed conduct prejudicial to the best interest of the service by exercising the functions, powers, duties and responsibilities of the Provincial Governor of Ilocos Norte despite his legal and physical incapacity.



We cannot give credence to Respondent's contention that his detention in the provincial jail of Ilocos Norte did not temporarily incapacitate and divest him of his power and responsibilities since as Governor of said Province, he can perform his functions anywhere within the territory of the Province including the provincial jail, where he claims to hold office every first Monday of the month to preside over the Provincial Committee on Justice.

At the outset, we find Respondent's claim that his presence in the provincial jail for the period November 1, 1995 until February 1, 1996 was due to his position in the Provincial Committee on Justice untenable and ludicrous. Respondent was in the provincial jail pursuant to a valid and lawful warrant of arrest issued by a court. Such an arrest constitutes legal basis for his temporary incapacity which in turn gives rise to a temporary vacancy in the Office of the Provincial Governor. Thus –

3. Termination of Temporary Incapacity. x x x If the temporary vacancy is caused by legal reasons such as suspension or arrest, the local chief executive concerned has to submit documents to show that the legal causes no longer subsist.<sup>3</sup>

Moreover, his incarceration at the provincial jail has resulted in physical incapacity which prevented him from discharging his official powers and duties as governor. Being confined within the four corners of his detention cell, Respondent could not perform some of his duties which require his physical and personal presence, to wit:

**Section 465. The Chief Executive: Powers, Duties, Functions, and Compensation.**

x x x (b) For efficient, effective and economical governance the purpose of which is the general welfare of the province and its inhabitants pursuant to Section 16 of this Code, the provincial governor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the provincial government, and in this connection, shall:

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Aquillno Q. Pimentel, Jr., The Local Government Code of 1991, (1993), p. 152

**x x x (iii) present the program of government and propose policies and projects for the consideration of the sangguniang panlalawigan at the opening of the regular session of the sangguniang panlalawigan every calendar year and as often as may be necessary as the general welfare of the inhabitants and the needs of the provincial government may require;**

**x x x (vi) represent the province in all its business transactions and sign in its behalf all bonds, contracts, and obligations, and such other documents upon authority of the sangguniang panlalawigan or pursuant to law or ordinance;**

**(vii) carry out such emergency measures as may be necessary during and in the aftermath of man-made and natural disasters and calamities;**

**x x x (xiii) visit component cities and municipalities of the province at least once every six (6) months to deepen his understanding of problems and conditions, listen and give appropriate counsel to local officials and inhabitants, inform the officials and inhabitants of component cities and municipalities of general laws and ordinances which shall especially concern them, and otherwise conduct visits and inspections to ensure that the government of the province will improve the quality of life of the inhabitants;**

**x x x (xviii) represent the province in inter-provincial or regional sports councils or committees, and coordinate the efforts of component cities or municipalities in the regional or national palaro or sports development activities.<sup>4</sup>**

**Respondent's argument that the lack of notice regarding his temporary incapacity and the absence of the designation of the Vice Governor or any person to act as Governor proved that he was not temporarily stripped of his duty as Governor, does not hold water. The Local Government Code explicitly provides for the automatic assumption by the Vice Governor of Respondent's position in cases of temporary vacancy. And as aptly defined, "automatic" means that the person assuming the office need not be appointed by anyone.**

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Sec. 465. Local Government Code.

**"Section 46. Temporary Vacancy in the Office of the Local Chief Executive. (a) When the governor, city or municipal mayor, or punong barangay is temporarily incapacitated to perform his duties for physical or legal reasons such as, but not limited to, leave of absence, travel abroad, and suspension from office, the vice-governor x x x shall automatically exercise the powers and perform the duties and functions of the local chief executive concerned x x x.<sup>5</sup>**

**"x x x The automatic exercise of the powers of the temporary vacant office of the governor, mayor or punong barangay by the vice governor, vice mayor, or the highest ranking member of the Sangguniang Barangay respectively means that the latter need not be appointed."<sup>6</sup>**

Thus, no further act is required to effect the assumption to office by the Vice Governor. The lack of notice regarding his temporary incapacity or the absence of the designation of another person or even the failure of the Vice Governor to assume office does not cure his legal and physical incapacity to discharge his duties as Governor.

**RE: ADM. CASE NO. SC-ADM-002**

Section 4, Article X of the Constitution grants upon the President the power of general supervision over local government units. This power is restated in Section 25, Article I of Chapter III of the Local Government Code of 1991.

Supervision has been defined as the power or authority of an officer to see that the subordinate officers perform their duties.<sup>7</sup> The power of supervision of the President necessarily includes the authority to promulgate rules and regulations or issuances to ensure that local government executives perform the duties of the offices to which they have been elected. Supervision, as this is used in the Constitution and the Local Government Code, is not a meaningless term. It is an active power.<sup>8</sup> Thus, it is our considered view, that the President or the Secretary of the Department of Interior and Local Government, as his alter ego, can validly prescribe conditions for the travel abroad of local government executives.

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<sup>5</sup>  
Sec. 46, Id.

<sup>6</sup>  
Pimentel, Supra, p. 152.

<sup>7</sup>  
Martin, Revised Administrative Code, Vol. 1 p. 298.

<sup>8</sup>  
Planas vs. Gil, 67 Phil. 62.

Nonetheless, we find no cogent reason to rule on this issue in view of the finding that Respondent was legally and physically incapacitated to discharge his duties as Governor during the material dates of his travel abroad.

Wherefore, in view of the foregoing, we find the Respondent guilty of conduct prejudicial to the best interest of the service and recommend the penalty of suspension for a period of six (6) months effective upon receipt of the Decision."

After a careful review of the report submitted by the Special Committee, I agree with and adopt the findings and recommendations therein, supported as they are by the law and the evidence on record.

WHEREFORE, Governor Rodolfo C. Fariñas of the Province of Ilocos Norte is hereby suspended for six (6) months effective upon receipt of this Order.

Done in the City of Manila, this 26th day of February in the year of Our Lord, Nineteen Hundred and Ninety-seven.



By the President:



LUIS C. LIWANAG II  
Senior Deputy Executive Secretary

IN REPLYING, PLEASE CITE:

PFVR Letter # L970291



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