Republic of the Philippines
Supreme Court
Manila

EN BANC

GLEN QUINTOS ALBANO,
Petitioner,

G.R. No. 257610

— *versus* —

COMMISSION ON ELECTIONS,
Respondent.

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CATALINA G. LEONEN-PIZARRO,
Petitioner,

UDK No. 17230

Present:

GESMUNDO, *C.J.*,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,*
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR.** and
SINGH, *JJ.*

— *versus* —

COMMISSION ON ELECTIONS,
Respondent.

Promulgated:

January 24, 2023

x----------x

* On official leave.
** No part.

DECISION

LOPEZ, J., *J.*:

Consistent with the intent of the Constitution, Congress is empowered to craft legislation providing for the mechanics of the party-list system, and with it, the qualifications of those selected by the party-lists as its respective nominees. However, when such legislation proves to be an affront to the equal protection clause, it must nevertheless be struck down and declared unconstitutional.

Before this Court are two consolidated Petitions for *Certiorari* and Prohibition[1] assailing Section 8 of Republic Act No. 7941[2] (*R.A. No. 7941*) and Sections 5(d) and 10 of Commission on Elections (*COMELEC*) Resolution No. 10717[3] as unconstitutional for adding to the minimum qualifications set forth for party-list representatives and for being violative of the equal protection clause under the 1987 Constitution.

The Antecedents

Glenn Quintos Albano (*Albano*) was the second nominee of the sectoral party Talino at Galing ng Pinoy Party-List (*TGP*) for the May 9, 2022 national elections.[4] He alleged that he is a natural born Filipino citizen and a resident of the Philippines since birth. He further claimed to be a registered voter, above 25 years old, able to read and write, and has been a member in good standing of the Philippine Bar with 15 years of legal practice and experience. Prior to his nomination, Albano ran for city councilor for the City of Taguig during the 2019 elections and lost.[5] Thereafter, he continued to serve TGP as the Chief Political Affairs Officer and its Chief of Staff.[6]

In the 2022 elections, Albano's loss in the previous 2019 elections rendered him ineligible to participate therein as the second nominee of TGP, pursuant to the restrictions imposed by Section 8 of R.A. No. 7941 and, consequently, by Sections 5(d) and 10 of COMELEC Resolution No. 10717.

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1 *Rollo* (UDK No. 17230), pp. 3-29; *Rollo* (G.R. No. 257610), pp. 3–30.

2 Entitled "An Act Providing for the Election of Party-List Representatives Through the Party-List System, and Appropriating Funds Therefor," otherwise known as the "Party-List System Act."

3 Entitled "Rules and Regulations Governing: 1) Political Conventions; 2) Submission of Nominees of Groups or Organizations Participating Under the Party List System of Representation; and 3) Filing of Certificates of Candidacy and Nomination of and Acceptance by Official Candidates of Registered Political Parties or Coalitions of Political Parties in Connection with the May 9, 2022 National and Local Elections."

4 *See* Certificate of Nomination dated October 4, 2021; *rollo* (G.R. No. 257610), pp. 31–33; Certificate of Acceptance of Nomination dated October 4, 2021; *rollo* (G.R. No. 257610), 34–35.

5 *Rollo* (G.R. No. 257610), p. 9.

6 Id. at 10.

As a parallel development, Catalina G. Leonen-Pizarro (*Pizarro*) is the current president and the first nominee in the 2022 elections of the Arts Business and Science Professionals (*ABS*), a sectoral party she founded in 2007. Previously, she served as the representative of ABS in the House of Representatives (*House*) for three consecutive terms, from 2007 to 2016.[7] After completing her term, she ran for mayor in the Municipality of Sudipen, La Union in the 2016 and 2019 elections, but failed in her bid both times.[8]

Despite her selection as first nominee for the 2022 elections, Pizarro's bid was also hampered by the promulgation of COMELEC Resolution No. 10717 and the media pronouncement of the COMELEC, preventing defeated candidates in the 2019 elections from eyeing a political comeback through the party-list system in the House of Representatives.[9]

Seeking recourse with this Court, Pizarro and Albano separately filed Petitions for *Certiorari* and Prohibition, docketed as UDK No. 17230 and G.R. No. 257610, respectively, to declare Section 8 of R.A. No. 7941 and Sections 5(d) and 10 of COMELEC Resolution No. 10717 unconstitutional.

For context, the challenged provision under R.A. No. 7941 prevents a candidate for any elective office *or* a person who has lost in the immediately preceding elections from being included in the list of nominees for party-list representatives. Section 8 reads as follows:

> SECTION 8. *Nomination of Party-List Representatives.* – Each registered party, organization or coalition shall submit to the COMELEC not later than forty-five (45) days before the election a list of names, not less than five (5), from which party-list representatives shall be chosen in case it obtains the required number of votes.
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> A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate for any elective office or a person who has lost his bid for elective office in the immediately preceding election. No change of names or alteration of the order of nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominee dies, or withdraws in writing his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned.

Section 8 was eventually adopted in the also challenged Sections 5(d) and 10 of COMELEC Resolution No. 10717, which provides:

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7 *Rollo* (UDK No. 17230), p. 8.
8 Id. at 9.
9 Id.

SECTION 5. *Contents and Form of the Certificate of Nomination.* – The Certificate of Nomination of a PP, sectoral party, organization or Coalition shall contain the following:

a. Name of the PP, sectoral party, organization or Coalition;

b. Name of the Chairperson/President/Secretary-General of the nominating PP, sectoral party, organization or Coalition;

c. Name and Address of all the nominees;

d. A certification that the nominees have all the qualifications and none of the disqualifications provided by law and that they are not candidates for any elective office or have lost in their bid for an elective office in the May 13, 2019 National and Local Elections;

e. A documentary stamp in the amount of Thirty Pesos (Php30.00);

f. The signature and attestation under oath, either by the Chairperson, President, Secretary-General or any other duly authorized officer of the nominating PP, sectoral party, organization or coalition. x x x

x x x x

SECTION 10. *Nomination of Party-List Representatives.* – A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall not include any candidate for any elective office or a person who has lost his bid for an elective office in the May 13, 2019 National and Local Elections. No change of names or alterations of the order of nominees shall be allowed after the same shall have been submitted to the Commission except in cases where the nominee dies, becomes incapacitated, or there is valid withdrawal and substitution of nominees as provided in the succeeding sections, in which case, the name of the substitute nominee shall be placed last in the list.

Considering the identity of facts and issues, the instant petitions were consolidated *via* a Resolution[10] dated August 23, 2022.

Issues

The pivotal issues raised in the consolidated petitions are:

[10] *Rollo* (UDK No. 17230), p. 98.

I.

Whether Congress may prescribe additional qualifications other than what is provided in Section 6, Article VI of the 1987 Constitution; and

II.

Whether Section 8 of R.A. No. 7941 and Sections 5(d) and 10 of COMELEC Resolution No. 10717 are unconstitutional for violating the equal protection clause of the 1987 Constitution.[11]

This Court's Ruling

The petitions are partly meritorious.

Congress is empowered to determine, by law, who shall be elected through the party-list system and, therefore, determine the qualifications of the party-list representatives elected under this system.

In essence, petitioners insist that Section 8 of R.A. No. 7941 and Sections 5(d) and 10 of COMELEC Resolution No. 10717 illegally imposes an additional qualification on party-list aspirants. They maintain that a candidate for a member of the House of Representatives needs only to meet the qualifications set forth in Section 6,[12] Article VI of the 1987 Constitution. Beyond such qualifications, candidates need not possess any other qualification to be voted upon and elected.[13] Consequently, the act of Congress in adding another requirement by law effectively amends the 1987 Constitution, which Congress has no power to do, following the ruling in *Social Justice Society (SJS) v. Dangerous Drugs Board, et al.* (*Social Justice Society*).[14]

In its Comment[15] in G.R. No. 257610, the Office of the Solicitor General (*OSG*) asserts that Congress merely acted in compliance with and by authority of the express wording of Section 5(1) of the 1987 Constitution in imposing such additional qualifications under R.A. No. 7941.[16] Effectually, there was no grave abuse of discretion on the part of the respondent in the

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11 *Rollo* (G.R. No. 257610), pp. 11–12; *Rollo* (UDK No. 17230), p. 11.

12 SECTION 6. No person shall be a Member of the House of Representatives unless he is a natural-born citizen of the Philippines and, on the day of the election, is at least twenty-five years of age, able to read and write, and, except the party-list representatives, a registered voter in the district in which he shall be elected, and a resident thereof for a period of not less than one year immediately preceding the day of the election.

13 *Rollo* (UDK No. 17230), p. 12; *Rollo* (G.R. No. 257610), p. 14.

14 591 Phil. 393 (2008); *Rollo* (UDK No. 17230), pp. 12–16; *Rollo* (G.R. No. 257610), p. 20.

15 *Rollo* (G.R. No. 257610), pp. 177–202.

16 Id. at 187.

issuance of COMELEC Resolution No. 10717, having acted upon a valid statutory provision, pursuant to its constitutional mandate to enforce and administer all laws and regulations relative to the conduct of an election.[17] The OSG adds in its Comment in UDK No. 17230[18] that the inclusion of additional requirements for party-list representatives was a valid exercise of the plenary power of Congress, which includes the authority to prescribe qualifications for public office.[19]

This Court agrees with the respondent.

To begin with, the party-list system was innovated to serve as a tool for the attainment of social justice. The deliberations of the members of the Constitutional Commission reflect that the purpose of the party-list system was to give "genuine power to our people" and that the inclusion of such a mechanism in the Constitution symbolizes a "new chapter to our national history."[20] As elaborated in *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections (Bagong Bayani)*,[21] the party-list system, in its noblest sense, "intends to make the marginalized and the underrepresented not merely passive recipients of the State's benevolence, but active participants in the mainstream of representative democracy."[22]

The party-list system finds its mooring in the 1987 Constitution. Party-list organizations that garner a sufficient number of votes shall form part of the House through their chosen nominees. Section 5(1), Article VI reads:

> SECTION 5. (1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio, and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations.

Aside from distinctly defining the composition of the House, the last phrase of the provision simultaneously empowers the legislature to formulate the allocation of party-list seats for winning party-list organizations. This was the Court's interpretation in *Barangay Association for National Advancement and Transparency (BANAT) v. Commission on Elections*,[23] to wit:

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17 Id. at 184–185.
18 *Rollo* (UDK No. 17230), pp. 74–88.
19 Id. at 82.
20 Record of the Constitutional Commission, vol. II, p. 561.
21 412 Phil. 308 (2001).
22 Id. at 322.
23 609 Phil. 751 (2009).

> The allocation of seats under the party-list system is governed by the last phrase of Section 5(1), which states that the party-list representatives shall be "those who, as provided by law, shall be elected through a party-list system," giving the Legislature wide discretion in formulating the allocation of party-list seats.[24]

In *Abayon v. House of Representatives Electoral Tribunal*,[25] this Court clarified that while it is the party-list organization that is being voted upon by the electorate, it is not the organization, but the individual who eventually sits as and becomes a member of the House:[26]

> Clearly, the members of the House of Representatives are of two kinds: "members x x x who shall be elected from legislative districts" and "those who x x x shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations." This means that, from the Constitution's point of view, it is the party-list representatives who are "elected" into office, not their parties or organizations. These representatives are elected, however, through that peculiar party-list system that the Constitution authorized and that Congress by law established where the voters cast their votes for the organizations or parties to which such party-list representatives belong. [27]

Guided by the foregoing, Section 5(1), Article VI of the Constitution is more appropriately understood to mean that the allocation of party-list seats pertains to party-list representatives, who act for and on behalf of their respective organizations. Elsewise stated, the allocation of party-list seats to party-list representatives, specifically as to "who shall be elected" through a party-list system, pertains not only to the party-list organization but also to the party-list representative, who shall eventually sit as a member of the House.

Ultimately then, the issue as to "who shall be elected" as provided in the last phrase of Section 5(1), Article VI has been delegated to Congress—for in order to answer the question as to "who shall be elected," it is not only the number of party-list representatives who would occupy the house that must be considered; the qualifications of those who seek such positions are also embraced therein.

A review of the deliberations of Section 5(1), Article VI of the Constitutional Commission would reveal the clear intent of the framers to delegate to Congress, who is in the best position to draft, study, and enact all

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24 Id. at 768–769.
25 626 Phil. 346 (2010).
26 Id. at 354.
27 Id. at 353.

the details regarding the implementation of the party-list system, the determination of the qualifications of nominees of the party-list system, *viz.*:

> MR. RODRIGO. x x x In the light of the phrase "AS PROVIDED BY LAW," do I take it that this party list system and the sectoral representation provision will not take effect until an enabling act or an implementing legislation shall have been enacted by Congress?
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> MR. MONSOD. Madam President, the first Assembly will be in March or April. But **when we say, "AS PROVIDED BY LAW," it could really mean that it may be by ordinance appended to this [C]onstitution or an executive order by the incumbent President or, as the Gentlemen has said, by law provided by the incoming Congress.** So, it could be any of these ways.
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> MR. RODRIGO. Madam President, we are all witnesses to the difficulty in arriving at a consensus of these very novel ideas on the disputes that we have had. And up to now, there is no real consensus yet. Does the Commissioner believe that we should really try to go into the details by enacting an ordinance to the Constitution? x x x
>
> MR. MONSOD. We just want to establish the principle of the party list system with sectoral representation in the present Constitution. x x x
>
> MR. RODRIGO. Considering our time constraint and the many other provisions that we have not yet discussed, **does the Commissioner believe that we are in a position to draft, study, and enact a virtual piece of legislation, with all details, regarding the implementation of this party-list system and sectoral representation, so that it will be finished in time for the approval of this Constitution? Should we not abandon that idea and leave this matter to the legislature?**
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> MR. MONSOD. I believe that it is really not a very complicated system, and it is possible. But I will yield to the time problem, if there is really a time problem. Certainly, I do not think that this Commission would want to put an ordinance that is half-baked.[28] (Emphases supplied)

As aptly observed by Associate Justice Alfredo Benjamin S. Caguioa:

> x x x [T]he framers' penultimate goal is to have a system of party-list system. With respect, however, to the details as of its implementation, the same was envisioned to be appended to the Constitution or, *in the alternative,* to be enacted by the President or the legislature. This evinces the intent of the framers to delegate the broad power of formulating rules operationalizing the party-list system, in the event that the same could not be made part of the Constitution.[29]

In obeisance to Section 5(1), Article VI of the 1987 Constitution, particularly the phrase "as provided by law," Congress enacted R.A. No. 7941.

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28 II Record, Constitutional Commission, August 1, 1986, p. 572.

29 Concurring Opinion, 4.

This Court, in *Bagong Bayani*, explained that such phrase, in relation to the party-list system, is categorical in its terms: "the mechanics of the [party-list] system shall be provided by law. Pursuant thereto, Congress enacted [R.A.] No. 7941. In understanding and implementing party-list representation, [W]e should[,] therefore[,] look at the law first."[30]

The law has, for its end, the guarantee of a "full, free, and open party system in order to attain the broadest possible representation of party, sectoral, or group interests in the House by enhancing their chances to complete for and win seats in the legislature and shall provide the simplest scheme possible."[31]

Aside from the determination of the mechanics of the party-list system, R.A. No. 7941 streamlined the qualifications of party-list nominees. This was plainly articulated during the law's congressional deliberations, *viz.*:

> What does the Constitution say? The Constitution did not specifically direct that all registered political parties should be allowed to participate in the Party-List system from the outset. What the Constitution provides is, I quote – "Those who, as provided by law shall be elected through a party-list system of registered national, regional and sectoral parties or organizations."
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> Under the foregoing provision, Congress is given the plenary power to legislate on who shall be qualified to be elected under the party-list system and which national, regional, and sectoral parties or organizations are eligible for registration.[32]

In view of these disquisitions, nothing appears to be constitutionally repugnant with R.A. No. 7941, insofar as it embodies the objective of the Constitution to accord Congress *imprimatur* to sculpt legislation establishing the mechanics of the party-list system, and with it, the qualifications of party-list representatives and the conduct for their nominations. In line with this and to ensure genuine representation, R.A. No. 7941 even requires, as a qualification for party-list nominees, that [they] be bona fide members of the party or organization which [they] seek to represent for at least 90 days preceding the day of the election.[33] To be sure, this Court has since acknowledged R.A. No. 7941 as the "controlling law" in all matters pertaining to the elections of party-list representatives.[34] After all, the opportunity to run for public office is a privilege that may be subject to limitations as imposed by law.[35]

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30 *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections*, *supra* note 21, at 339.
31 R.A. No. 7941, Sec. 2.
32 Record of the Bicameral Conference Committee on Suffrage & Electoral Reforms on House Bill No. 3043 and Senate Bill No. 1913, February 28, 1995, p. 8.
33 R.A. No. 7941, Sec. 9.
34 *Ang Bagong Bayani-OFW Labor Party v. Commission on Elections*, 452 Phil. 899, 924 (2003).
35 See *Rev. Pamatong v. Commission on Elections*, 470 Phil. 711, 715–716 (2004).

Finally, the instant case must be distinguished from the ruling and factual circumstances under *Social Justice Society* which petitioners maintain as squarely applicable.

In *Social Justice Society*, then Senator Aquilino Q. Pimentel, Jr., who was also a candidate for re-election in the May 10, 2004 elections, filed a petition for *certiorari* and prohibition, praying that this Court strike down Section 36(g) of R.A. No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*, and COMELEC Resolution No. 6486 as unconstitutional for requiring *all candidates* for public office, both in the national or local government, to undergo a mandatory drug test. Effectively, this created an additional qualification that a candidate must undergo before being allowed to run as a Senator. In granting the petition, this Court ruled that such provisions violate the Constitution by adding a condition *sine qua non* to the already exclusive requirements enumerated in Article IV thereof. As ruled by this Court:

> Sec. 36(g) of RA 9165, as sought to be implemented by the assailed COMELEC resolution, effectively enlarges the qualification requirements enumerated in the Sec. 3, Art. VI of the Constitution. As couched, said Sec. 36(g) unmistakably requires a candidate for senator to be certified illegal-drug clean, obviously as a pre-condition to the validity of a certificate of candidacy for senator or, with like effect, a condition *sine qua non* to be voted upon and, if proper, be proclaimed as senator-elect. The COMELEC resolution completes the chain with the proviso that "[n]o person elected to any public office shall enter upon the duties of his office until he has undergone mandatory drug test." Viewed, therefore, in its proper context, Sec. 36 (g) of RA 9165 and the implementing COMELEC Resolution add another qualification layer to what the 1987 Constitution, at the minimum, requires for membership in the Senate. Whether or not the drug-free bar set up under the challenged provision is to be hurdled before or after election is really of no moment, as getting elected would be of little value if one cannot assume office for non-compliance with the drug-testing requirement.[36]

The linchpin distinction between this case and *Social Justice Society* lies in the qualifications of the members of Congress, which are dependent on the classifications of members of the Senate and the House.

To begin with, senators and senatorial candidates shall mandatorily comply with the qualifications laid down in Section 3, Article VI of the 1987 Constitution, which reads:

> SECTION 3. No person shall be a Senator unless he is a natural-born citizen of the Philippines, and, on the day of the election, is at least thirty-five years of age, able to read and write, a registered voter, and a resident of

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36 *Social Justice Society (SJS) v. Dangerous Drugs Board, et al., supra* note 14, at 406–407.

> the Philippines for not less than two years immediately preceding the day of the election.

It is noteworthy that such provision is silent with regard to any classification insofar as members of the Senate are concerned. Further, unlike Section 5(1) which stipulates the composition of the House, the provision that Congress may, by law, provide for additional qualifications for its members, is conspicuously absent. Accordingly, *all* members of the Senate and *all* senatorial candidates must meet *all* the qualifications set by the 1987 Constitution. To recall the ruling of this Court in *Social Justice Society*, these qualifications are exclusive, and neither Congress nor the COMELEC, may add to or supplant what the 1987 Constitution had already prescribed.

On the other hand, the House is classified into two kinds of members in light of Section 5(1), Article VI of the 1987 Constitution, namely, (1) *district* representatives, who are elected based on district boundaries and (2) *party-list* representatives, who are elected on a nationwide basis. In terms of party-list representatives, it has been painstakingly discussed that much room is accorded to Congress in determining *who* shall be elected as party-list representatives. To repeat, this draws authority from the phrase under Section 5(1): "x x x and those who, as provided by law, shall be elected through a party-list system of registered national, regional, and sectoral parties or organizations." Noteworthy is the absence of the phrase with regard to district representatives. Such gap points to the implication that Congress has not been given constitutional consent to add to their qualifications either.

Guided by the foregoing discussions, it is apparent that *Social Justice Society* is not on all fours with the instant case.

Markedly, the core issue in *Social Justice Society* pertained to the addition of constitutional qualifications, which all senatorial candidates must comply. In contrast, the issue in the instant case revolves around who shall be nominated as *party-list representatives*, to which Congress may expressly provide for via legislation. Going into the qualifications of nominees, not only did Congress reiterate the eligibility requirements under the constitution, it also provided the specific characteristics attributable to nominees that they must, and must not possess, in line with the objective of the party-list system.

It again bears emphasis that the phrase "as provided by law" under Section 5(1), Article VI of the 1987 Constitution enables Congress to develop legislation on how party-list representatives are elected. Hence, it would not be an overextension on its part to likewise provide for the selection of party-list nominees as reflected in Section 8 of R.A. No. 7941, and as later adopted and reproduced by the respondent in COMELEC Resolution No. 10717.

Given this stark distinction, this Court finds no reason to overturn, much more to disregard and invalidate, the ruling under *Social Justice Society.*

In sum, the constitutional prerogative of Congress to enact laws concerning the mechanics of the party-list system, or pertinently in this case, the qualifications of party-list representatives, is settled and should now be laid to rest.

Section 8 of R.A. No. 7941 and Sections 5(d) and 10 of COMELEC Resolution No. 10717 insofar as it bars losing candidates in the immediately preceding elections must be struck down as unconstitutional for being violative of the equal protection clause.

Petitioners theorize that Section 8 of R.A. No. 7941 and Sections 5(d) and 10 of COMELEC Resolution No. 10717 should be struck down as violative of the equal protection clause.[37] In the main, they argue that there are no substantial distinctions between candidates or nominees of party-lists who (a) have not participated in any election prior to his or her nomination; (b) have won in the elections for a party-list seat or for a different elective office in the immediately preceding elections, or (c) have lost their bid for an elective office in the immediately preceding elections.[38] Thus, there appears to be neither logic nor reason to bar nominees for party-list representatives who lost their bid for an elective office in the immediately preceding elections, while those who won in the same election are allowed to be included in the nomination. Connectedly, neither is there a reason to bar those who lost in the immediately preceding elections in the nomination for party-list representatives but allow them to be candidates for the position of district representatives.[39] Lastly, such arbitrary prohibitions do not appear to be germane to the purpose of the law in promoting proportional representation in the election of representatives through a party-list system.[40]

In contrast, the OSG, in its Comment[41] in G.R. No. 257610, avers that by virtue of the express wording of the Constitution, there is a clear distinction between the members of the House of Representatives who are elected from legislative districts *vis-à-vis* those who are elected through the party-list system. It further contends that such distinction constitutes as a valid classification that does not infringe on the equal protection clause.[42] In its

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37 *Rollo* (UDK No. 17230), p. 18; *Rollo* (G.R. No. 257610), p. 20.
38 *Rollo* (G.R. No. 257610), p. 20.
39 *Rollo* (UDK No. 17230), pp. 18–19; *Rollo* (G.R. No. 257610), p. 20.
40 *Rollo* (G.R. No. 257610), p. 21.
41 Id. at 177–202.
42 Id. at 191.

Comment[43] in UDK No. 17230, the OSG further contends that the challenged provisions under R.A. No. 7941 and COMELEC Resolution No. 10717 serve a legitimate purpose, as it prevents persons from merely using the party-list system as a mechanism to secure public office after having lost in the previous elections.[44]

This Court agrees with the petitioners.

As will be discussed below, jurisprudential standards for equal protection challenges indubitably show that the classification created by the questioned *provisos,* on its face and in its operation, bear constitutional infirmity. As a matter of course, Section 8 of R.A. No. 7941 and Sections 5(d) and 10 of COMELEC Resolution No. 10717 are struck down and hereby declared unconstitutional.

At the outset, this Court recognizes that regardless of the power of Congress to prescribe the mechanics of the party-list system and to provide for qualifications of party-list representatives by law, it must still yield to the general limitations on legislation and the specific limitations on party-list organizations under the Constitution, particularly the equal protection clause.

No less than the 1987 Constitution guarantees that no person shall be denied equal protection of the laws.[45] In a nutshell, the equal protection clause means that "no person or class of persons shall be deprived of the same protection of laws which is enjoyed by other persons or other classes in the same place and in like circumstances."[46] Famous is the saying of philosopher Aristotle that equality "consists in the same treatment of similar persons."[47] On this score, this Court finds apropos the discussion in *Victoriano v. Elizalde Rope Workers' Union*,[48] to wit:

> The guaranty of equal protection of the laws is not a guaranty of equality in the application of the laws upon all citizens of the state. It is not, therefore, a requirement, in order to avoid the constitutional prohibition against inequality, that every man, woman and child should be affected alike by a statute. Equality of operation of statutes does not mean indiscriminate operation on persons merely as such, but on persons according to the circumstances surrounding them. It guarantees equality, not identity of rights. The Constitution does not require that things which are different in fact be treated in law as though they were the same. The equal protection clause does not forbid discrimination as to things that are different. It does not prohibit legislation which is limited either in the object to which it is directed or by the territory within which it is to operate.

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43 *Rollo* (UDK No. 17230), pp. 74–88.
44 Id. at 82–83.
45 1987 Constitution, Art. III, Sec. 1.
46 *ABAKADA Guro Party List v. Executive Secretary*, 506 Phil. 1, 129 (2005).
47 *Ang Ladlad LGBT Party v. Commission on Elections*, 632 Phil. 32, 77 (2010).
48 158 Phil. 60 (1974).

> The equal protection of the laws clause of the Constitution allows classification. Classification in law, as in the other departments of knowledge or practice, is the grouping of things in speculation or practice because they agree with one another in certain particulars. A law is not invalid because of simple inequality. The very idea of classification is that of inequality, so that it goes without saying that the mere fact of inequality in no manner determines the matter of constitutionality. All that is required of a valid classification is that it be reasonable, which means that the classification should be based on substantial distinctions which make for real differences; that it must be germane to the purpose of the law; that it must not be limited to existing conditions only; and that it must apply equally to each member of the class. This Court has held that the standard is satisfied if the classification or distinction is based on a reasonable foundation or rational basis and is not palpably arbitrary.
>
> In the exercise of its power to make classifications for the purpose of enacting laws over matters within its jurisdiction, the state is recognized as enjoying a wide range of discretion. It is not necessary that the classification be based on scientific or marked differences of things or in their relation. Neither is it necessary that the classification be made with mathematical nicety. Hence legislative classification may in many cases properly rest on narrow distinctions, for the equal protection guaranty does not preclude the legislature from recognizing degrees of evil or harm, and legislation is addressed to evils as they may appear.[49]

Prescinding therefrom, the clause has never been interpreted as an absolute prohibition on any sort of classification. Better stated, the equal protection clause "does not preclude classification of individuals who may be accorded different treatment under the law, as long as such classification is reasonable and not arbitrary."[50] Clearly then, the legislature is not proscribed from enacting statutes that would ostensibly create specific classes of persons or objects or affect certain classes of persons or objects.[51] Thus, it stands to reason that a statute that treats one class differently from another does not run counter with the equal protection clause if such classification is valid.[52] The classification, to be reasonable, "(1) must rest on substantial distinctions; (2) must be germane to the purposes of the law; (3) must not be limited to existing conditions only; and (4) must apply equally to all members of the same class."[53]

Over time, jurisprudence developed three tests or levels of scrutiny to determine the propriety of the classification depending on the subject matter involved.[54] This Court, in *Samahan ng mga Progresibong Kabataan v.*

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49 Id. at 86–88.

50 *Ambros v. Commission on Audit*, 501 Phil. 255, 279 (2005).

51 *Zomer Development Company, Inc. v. Court of Appeals*, G.R. No. 194461, January 7, 2020, 928 SCRA 110, 133.

52 Id.

53 *People v. Cayat*, 68 Phil. 12, 18 (1939).

54 See *Ang Ladlad LGBT Party v. Commission on Elections*, *supra* note 47, citing *The 1987 Constitution of the Philippines: A Commentary*, Fr. Joaquin Bernas, S.J., pp. 139–140 (2009).

Quezon City,[55] succinctly laid down the three tests, which are typified by the dual consideration of the interest invoked by the government, along with the means employed to achieve that interest:[56]

> x x x The strict scrutiny test applies when a classification either (*i*) interferes with the exercise of fundamental rights, including the basic liberties guaranteed under the Constitution, or *(ii)* burdens suspect classes. The intermediate scrutiny test applies when a classification does not involve suspect classes or fundamental rights, but requires heightened scrutiny, such as in classifications based on gender and legitimacy. Lastly, the rational basis test applies to all other subjects not covered by the first two tests.[57] (Citations omitted)

In due process and equal protection challenges, this Court accords a deferential attitude to legislative classification and exercises judicial restraint in invalidating a law in light of the broad discretion bestowed to Congress in exercising its legislative power. As reiterated by this Court in *La Union Electric Cooperative, Inc. v. Judge Yaranon*,[58] "as long as there is some basis that can be used by the courts for its decision, the constitutionality of the challenged law will not be touched upon and the case will be decided on other available grounds."[59] At any rate, when there is a showing of a clear and unequivocal breach of the Constitution, this Court has usually resorted to the rational basis test.[60] However, if the challenge to the statute is premised on the denial of a fundamental right or the perpetuation of prejudice against persons favored by the Constitution with special protection, this Court may more appropriately employ the strict scrutiny test.[61]

Here, this Court finds the use of the rational basis test appropriate. Jurisprudence is clear that there is no fundamental right to run for public office that would invoke the application of the rigorous strict scrutiny test. Neither can an argument be made that the parties involved in this case belong to "quasi-suspect classes" such as gender and legitimacy, to trigger the application of the intermediate scrutiny test.[62]

Foremost is the ruling in *Quinto v. Commission on Elections*[63] which was overturned in a later resolution, wherein this Court established that "one's interest in seeking office, by itself, is not entitled to constitutional protection."[64] In the earlier decision, this Court initially linked the right to run

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55 815 Phil. 1067 (2017).
56 Id. at 1147, Separate Opinion of Associate Justice Marvic M.V.F. Leonen.
57 Id. at 1113–1114.
58 259 Phil. 457 (1989).
59 Id. at 466.
60 *Central Bank (now Bangko Sentral ng Pilipinas) Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, 487 Phil. 531, 583–584 (2004).
61 Id. at 600.
62 *Ang Ladlad LGBT Party v. Commission on Elections*, *supra* note 47, 107 (2010).
63 627 Phil. 193 (2010).
64 Id. at 253.

for public office to the fundamental rights of expression and association. However, on reconsideration, the Court recognized that such declaration is devoid of basis and "lies on barren ground."[65] In overturning the earlier decision, this Court invoked certain decisions of the US Supreme Court, which has persuasive influence in this jurisdiction:

> Accordingly, our assailed Decision's submission that the right to run for public office is "inextricably linked" with two fundamental freedoms — those of expression and association — lies on barren ground. American case law has in fact never recognized a fundamental right to express one's political views through candidacy, as to invoke a rigorous standard of review. *Bart v. Telford* pointedly stated that "[t]he First Amendment does not in terms confer a right to run for public office, and this court has held that it does not do so by implication either." Thus, one's interest in seeking office, by itself, is not entitled to constitutional protection. Moreover, one cannot bring one's action under the rubric of freedom of association, absent any allegation that, by running for an elective position, one is advancing the political ideas of a particular set of voters.[66] (Citations omitted)

This Court, in *Marquez v. Commission on Elections*,[67] echoed such earlier pronouncement, that "[w]hile Section 26, Article II of the 1987 Constitution provides that '[t]he State shall guarantee equal access to opportunities for public service,' *it is equally undisputed that there is no constitutional right to run for public office. It is, rather, a privilege subject to limitations imposed by law*."[68] Earlier, this Court, in *Pamatong v. Commission on Elections*,[69] espoused the same view by rejecting the postulations of petitioner Pamatong that a constitutional right exists to run for or hold public office. Rather, what is recognized is merely a privilege to run, subject to the limitations imposed by law.[70]

To reiterate, given the nonfundamental nature of the right to run or to seek public office, the rational basis test should be applied in analyzing the herein assailed provisions. As expressed by Associate Justice Amy C. Lazaro-Javier, the use of the rational basis test is apt, as "its premise of invalidating classifications that clearly and unequivocally breach the Constitution is a simple reiteration of the fundamental and straightforward legal doctrine that the Constitution is the supreme law and anything that violates it is void."[71]

Under the rational basis test, the constitutionally assailed law shall be upheld if the legislative classification is shown to rationally further a legitimate state interest.[72] In other words, to survive the rational basis test, all

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65 Id.
66 Id. at 253–254.
67 861 Phil. 667 (2019).
68 Id. at 686. (Emphasis supplied)
69 470 Phil. 711 (2004).
70 Id. at 715-716.
71 Dissenting Opinion, p. 4.
72 *British American Tobacco v. Camacho*, 584 Phil. 489, 525 (2008).

that is required is for there to be a legitimate government interest and a "reasonable connection between it" and the methods used to achieve it.[73]

Upon a judicious study of this case, this Court finds that the provisions fail to demonstrate any rational basis to support it. Therefore, it cannot pass constitutional muster.

There is no quibbling that the assailed provisions serve a legitimate government interest to protect the integrity of the party-list system. Section 2 of R.A. No. 7941 spelled out the policy behind the entire law, which reads:

> 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.

Discernibly, each provision in the law must embody this policy of inclusiveness in attaining its objective of challenging dominant ways in politics by giving an effective platform for all marginalized sectors of society to shape the laws of the land. As emphasized by this Court in *Angkla: Ang Partido ng mga Pilipinong Marino, Inc. v. Commission on Elections*:[74]

> [t]hough enabling sectoral representation, the party-list system is also open to national and regional parties or organizations. It facilitates representation by drawing the focus away from personalities, popularity, and patronage; to programs, principles, and policies. It does not do so by extending extraordinary benefits to select sectors. It challenges voters to see beyond what the dominant electoral system sustains, as well as candidates and political parties to consolidate on considerations other than what may suffice in personality-affirming races won by simple plurality. It allows the forging of organizations and coalitions, and facilitates representation on the basis of ideologies, causes, and ideals that go beyond strict sectoral lines[.][75]

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73 *See* Concurring Opinion of Senior Associate Justice Marvic Mario Victor F. Leonen in *Sobrejuanite-Flores v. Pilando*, G.R. No. 251816, November 23, 2021, citing *Zomer Development Company, Inc. v. Court of Appeals*, *supra* note 51.

74 G.R. No. 246816, September 15, 2020.

75 Id., *see* Concurring Opinion of Senior Associate Justice Marvic M.V.F. Leonen.

Given the legitimate governmental interest that must be upheld, this Court now turns to whether the classification found in the law would rationally further such interest.

This Court finds that it does not.

In the instant case, there appears to be two kinds of classifications or distinctions under Section 8 of R.A. No. 7941 and Sections 5(d) and 10 of COMELEC Resolution No. 10717—*first,* is the distinction between party-list representatives and district representatives, as the prohibition under the assailed provisions only apply to the former and not the latter; and *second,* the distinction made within the same class of party-list representatives, or more particularly, those who lost in the "immediately preceding election" *vis-à-vis* those who won or did not participate therein.

This Court has already taken pains in addressing the propriety of the first classification. To recapitulate, Congress is allowed to provide additional qualifications, or in this case, disqualifications, for party-list representatives, having been specifically empowered by Section 5 of the 1987 Constitution. In stark contrast, and in adherence to the ruling in *Social Justice Society*, Congress cannot add to the qualifications for the positions of senators and district representatives.

Au contraire, the second classification faces a different fate. In actual operation, the classification practically discriminates against candidates who, upon suffering a loss from the previous elections, is barred from attempting to once again express his right to run for an elective office as the law precipitately adjudges him or her as having the intention of taking advantage of the party-list system. Thus, the law haphazardly deprives losing candidates who have a genuine stake in a party-list organization and its causes from representing it as a nominee. Concomitantly, party-lists are effectually disenfranchised by the law for arbitrarily limiting its choices of nominees, regardless of their intention for running.

On the same plane, such classification also fails to achieve the purpose behind Section 8, which was supposedly included in the law to limit, discourage, and disallow the abuse of the party-list system as a fallback measure for traditional politicians to serve in an elective position. As propounded by Associate Justice Mario V. Lopez during the deliberations of this case, no clear connection appears to exist between the weakness of the candidate in the previous elections and the probability that their participation would frustrate the policy enshrined in R.A. No. 7941. Along the same lines, Justice Caguioa corroborates that "failure in the elections has been attributed to economic disadvantages and lack of strong political bases. It appears that these are precisely the influences that the party-list system seeks to diminish,

so that those who are traditionally disadvantaged in politics for being marginalized and underrepresented can have a real chance at becoming a legislator."[76]

Verily, no substantial distinction can be seen to exist between candidates who lost in the immediately preceding election on one hand, and those who won or did not participate therein, on the other. No unique circumstance exists that is attributable to losing candidates in the immediately preceding election which would result in subverting the objective of the party-list system should they be allowed to participate therein. The classification treating losing candidates in the immediately preceding election differently from other candidates does not find any rational basis.

Aside from violation of the equal protection clause, the prohibition placed on losing candidates likewise violates the constitutional guaranty of substantive due process.

As illumined by *City of Manila v. Laguio*,[77] substantive due process asks whether the government has an adequate reason for taking away a person's life, liberty, or property. More importantly, it examines whether there is sufficient justification for governmental action.[78] As a safeguard against oppressive and arbitrary laws, this Court, using American jurisprudence as a guidepost, instructs that such justification is inextricably linked on the level of scrutiny used. Thus,

> [i]f a law is in an area where only rational basis review is applied, substantive due process is met so long as the law is rationally related to a legitimate government purpose. But if it is an area where strict scrutiny is used, such as for protecting fundamental rights, then the government will meet substantive due process only if it can prove that the law is necessary to achieve a compelling government purpose.[79]

It bears repeating then that while plenary power is vested in Congress, it may not wield such power arbitrarily. As meticulously explained by this Court, the phrase in the assailed provisions fail to surmount the rational basis. The qualifiers "lost" and "immediately preceding election" do not have any rational basis that would bolster the objective of the party-list law. There is no showing that allowing those who lost as compared to those who won, or even those who did not participate in the immediately preceding election, will have a deleterious effect on the party-list system. Moreover, using as a reference the immediately preceding election, and separating it from the other previous elections does not in any way present a convincing basis that would promote the objective of the party-list system for a genuine representation. It would

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76 Id.
77 495 Phil. 289 (2005).
78 Id. at 311.
79 Id. at 311–312.

thus follow that the right to substantive due process was not afforded in the instant case. The prohibition is, in effect, an arbitrary and whimsical intrusion of the right of losing candidates in the immediately preceding elections, by needlessly restraining them from participating in the present elections.

Further, to sustain the prohibition would be inconsistent with, and instead fail to give life to the policy of R.A. No. 7941 in democratizing political power by developing a "full, free, and open party system 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."[80] Surely, the State cannot require eligibility for public office to be conditioned on the person's ill performance in the previous election. Neither may such performance be used as a rubric to gauge his or her ability to serve.

As an insight, and in keeping with the spirit and intent behind R.A. No. 7941, more particularly Section 8, this Court finds that the more consistent and sensible prohibition would be to disqualify candidates for an elective position to serve as a party-list representative in the same elections. To restate, the prohibition under Section 8 of R.A. No 7941 reads:

> SECTION 8. *Nomination of Party-List Representatives.* – x x x
>
> x x x The list shall not include any candidate for any elective office or a person who has lost his bid for elective office in the immediately preceding election.

It must be clarified that the phrase "in the immediately preceding election" pertains to those who lost their bid for elective office and not to any candidate for any elective office. Under the principle of *noscitur a sociis*, where a particular word or phrase is ambiguous in itself or is equally susceptible of various meanings, its correct construction may be made clear and specific by considering the company of words in which it is found with or with which it is associated.[81] The phrase "immediately preceding election," qualifies the phrase "a person who has lost his bid for elective office" not only because it is the immediate antecedent phrase but also because of the need to make a reference to the particular election year as to when a candidate lost. On the other hand, the phrase "any candidate for any elective office" does not require any reference to a particular election year, as it can easily be understood to refer to the current election year. This means that the prohibition under the first phrase of Section 8 disallows a candidate from simultaneously participating for two electoral positions in the same election: one, as a nominee in a party-list; and another, for a separate elective office.

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80 R.A. No. 7941, Sec. 2.

81 *Peralta v. Philippine Postal Corporation*, 844 Phil. 603, 638 (2018).

This conclusion is undergirded by the deliberations of then Senate Bill No. 1913, which would eventually merge with House Bill No. 3043, to become R.A. No. 7491. During the deliberations, the sponsor, former Senator Arturo Tolentino, was emphatic in placing an embargo to persons who may seek to simultaneously become a candidate for a district representative position and a party-list nominee:

> Senator Tatad. Is there no chance, Mr. President, that a politician who, in fact runs for a congressional seat and at the same time has his name included in the party listing so that even if he loses in the actual combat, if the party gets enough votes as a party under the party-list system, he still gets to sit as a party-list representative?
>
> Senator Tolentino. That is not going to be allowed, Mr. President. An individual has to be either in the party-list or running in a district. If a person is in the party-list, he is not allowed to run in the district as an individual candidate of that party in the district.
>
> Senator Tatad. Thank you very much for that answer.[82]

Unlike the prohibition pertaining to candidates who lost in the immediately preceding elections, the prohibition for candidates running in the same election to be included in the list of party-list nominees is supported by, and is consistent with, Section 73 of *Batas Pambansa Bilang* 881, otherwise known as the "*Omnibus Election Code.*" The provision bars the filing of certificates of candidacy for more than one position in the same elections, thus:

> SECTION 73. Certificate of candidacy. — No person shall be eligible for any elective public office unless he files a sworn certificate of candidacy within the period fixed herein.
>
> A person who has filed a certificate of candidacy may, prior to the election, withdraw the same by submitting to the office concerned a written declaration under oath.
>
> No person shall be eligible for more than one office to be filled in the same election, and if he files his certificate of candidacy for more than one office, he shall not be eligible for any of them. However, before the expiration of the period for the filing of certificates of candidacy, the person who was filed more than one certificate of candidacy may declare under oath the office for which he desires to be eligible and cancel the certificate of candidacy for the other office or offices.
>
> The filing or withdrawal of a certificate of candidacy shall not affect whatever civil, criminal or administrative liabilities which a candidate may have incurred. (Sec. 19, 1978 EC)

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82 Transcript of Senate Proceedings, November 19, 1994, p. 6.

While the provision may have not taken into consideration the unique manner by which party-list candidates are nominated and later elected, the wisdom behind the provision very much applies to the party-list system. Under the party-list system, in lieu of a certificate of candidacy, the names of nominees are included in a certificate of nomination, while such nominee is required to file a corresponding certificate of acceptance of nomination.[83] In any case, where a certificate of candidacy has already been filed by an individual for any elective office, his/her nomination for a party-list should no longer be allowed. This must be so for as already discussed, it is the nominee, should the party-list win, who will sit as a member of the House of Representatives. Such a person cannot be allowed to represent two different constituents. Thus, the prohibition on this part was properly covered by the phrase "The list shall not include any candidate for any elective office" under Section 8 of R.A. No. 7941.

A final word. It cannot be overemphasized that the party-list system, as a significant constitutional innovation, deserves full endorsement of the judiciary and must be protected at all costs. As a mechanism, it ensures the preservation of our democracy by giving voice to the people, making them lawmakers themselves. In this relation, Congress is empowered to enact legislation to provide for the qualifications of party-list nominees who would eventually sit as representatives and members of the House. Be that as it may, any provision introduced therein should not be arbitrary and oppressive to the point of contravening the due process and equal protection clause enshrined in the 1987 Constitution. Woefully, in the instant case, the assailed provisions fall short of what is constitutionally permissible and cannot be sustained.

WHEREFORE, the Petitions for *Certiorari* and Prohibition in G.R. No. 257610 and UDK No. 17230 are **GRANTED**. The following are hereby declared **INVALID** and **UNCONSTITUTIONAL:**

1. The phrase "*a person who has lost his bid for elective office in the immediately preceding election*" under Section 8 of Republic Act No. 7941;

2. The phrase *"have lost in their bid for an elective office in the May 13, 2019 National and Local Elections"* under Section 5(d) of COMELEC Resolution No. 10717; and

3. The phrase "*or a person who has lost his bid for an elective office in the May 13, 2019 National and Local Elections*" under Section 10 of COMELEC Resolution No. 10717.

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[83] COMELEC Resolution No. 10717, Secs. 4–6.

The provision under the third sentence, second paragraph of Section 8, Republic Act No. 7941 that is not repugnant to the Constitution reads: "The list shall not include any candidate for any elective office."

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:

See concurring opinion

ALEXANDER G. GESMUNDO
Chief Justice

I dissent. See separate opinion

MARVIC M.V.F. LEONEN
Senior Associate Justice

See Concurring Opinion

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

I/S. See Dissent

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

On official leave

RICARDO R. ROSARIO
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

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JOSE MIDAS P. MARQUEZ
Associate Justice

No part
ANTONIO T. KHO, JR.
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court.

ALEXANDER G. GESMUNDO
Chief Justice