

EN BANC

G.R. No. 264661 – CLARYLYN A. LEGAPSI, ROMEO R. DOMONDON, JR., BARTOLOME F. DULATRE, ALEJANDRO J. SISON, NESTOR M. JOVELLANOS, JERRYSON T. ICO, ROEL P. DINONG, FERNANDO D. BAUTISTA, BABYLAINÉ C. AQUÍ, GRACE U. DULATRE, OMAR G. VALDEZ, REYNALDO A. SOQUILA, CRESENCIO I. BELAMIDE, CARLO M. CABAObAO, CRISTY R. REYNADO, JHON PAUL E. CAYABYAB, RUPERTO P. BOTON, THELMA P. VELANO, ADELAIDA V. BOTON, MARIE CYNARA PANAY, ONEIL C. JOVERO, SHEKINAH TOLENTINO, MARIO JIMENEZ, VERGEL T. PEREZ, RACHELLE ANNE PEREZ, CHRISTOPHER R. MILANES, LAUDEMÉR I. FABIA, IRISH CHERRY T. BUSTO, JANLEE REY F. SABADO, KENNETH B. GOTOC, IMELDA A. CUEVA, and MARICEL B. GOTOC, Petitioners, v. COMMISSION ON ELECTIONS, Respondent.

X-----X

Promulgated: July 30, 2024

SEPARATE CONCURRING OPINION

LEONEN, J.:

I concur in the *ponencia* that there was no violation of petitioners' constitutional rights to suffrage, to Petition, the government, and information on matters of public concern, despite the absence of a manual recount of the Pangasinan votes during the May 9, 2022 elections. Nevertheless, I write this brief opinion to explain my vote.

In a republican system of government such as ours,<sup>1</sup> governmental powers emanate from the people. These powers, in turn, are delegated to representatives chosen by them in their sovereign capacity during periodic elections.<sup>2</sup> For this reason, the right of suffrage is considered an important and sacred political right, to be vigilantly guarded to ensure that those who actually run the government are those whom the sovereign voted for.<sup>3</sup>

Consequent to a republican institution is the right of the sovereign to petition their government when it acts contrary to their will.<sup>4</sup> The right to

<sup>1</sup> CONST., art. II, sec. 1 provides:

SECTION 1. The Philippines is a democratic and republican State. Sovereignty resides in the people and all government authority emanates from them.

<sup>2</sup> CONST., art. V.

<sup>3</sup> *In re Geronimo v. Ramos*, 221 Phil. 130, 141 (1985) [Per J. Gutierrez, Jr., *En Banc*].

<sup>4</sup> *In re Gonzales v. Commission on Elections*, 137 Phil. 471, 497 (1969) [Per J. Fernando, *En Banc*], citing *United States v. Cruikshank*, 92 U.S. 542 (1876). “[T]he very idea of a government, republican in form, implies a right on the part of its citizens to meet peaceably for consultation in respect to public affairs and to petition for redress of grievances.”

petition for redress of grievances is provided in Article III, Section 4 of the Constitution:

SECTION 4. No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

Furthermore, for the people to effectively and intelligently direct the workings of government, they must first be informed of matters of public concern.<sup>5</sup> This right to information is guaranteed in Article III, Section 7 of the Constitution:

SECTION 7. The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

The *ponencia* exhaustively discussed why petitioners are not entitled to the relief they pray for. There is no showing that they were ever prevented from voting, so they cannot argue that their right to suffrage was violated. More importantly, the manual recount they insist on having is a

---

<sup>5</sup> *Valmonte v. Belmonte, Jr.* 252 Phil. 264, 270-271 (1989) [Per J. Cortes, *En Banc*], where this Court said:

An informed citizenry with access to the diverse currents in political, moral and artistic thought and data relative to them, and the free exchange of ideas and discussion of issues thereon, is vital to the democratic government envisioned under our Constitution. The cornerstone of this republican system of government is delegation of power by the people to the State. In this system, governmental agencies and institutions operate within the limits of the authority conferred by the people. Denied access to information on the inner workings of government, the citizenry can become prey to the whims and caprices of those to whom the power had been delegated. The postulate of public office as a public trust, institutionalized in the Constitution (in Art. XI, Sec. 1) to protect the people from abuse of governmental power, would certainly be mere empty words if access to such information of public concern is denied, except under limitations prescribed by implementing legislation adopted pursuant to the Constitution.

... [T]he right of access to information ensures that these freedoms are not rendered nugatory by the government's monopolizing pertinent information. For an essential element of these freedoms is to keep open a continuing dialogue or process of communication between the government and the people. It is in the interest of the State that the channels for free political discussion be maintained to the end that the government may perceive and be responsive to the people's will. Yet, this open dialogue can be effective only to the extent that the citizenry is informed and thus able to formulate its will intelligently. Only when the participants in the discussion are aware of the issues and have access to information relating thereto can such bear fruit.

The right to information is an essential premise of a meaningful right to speech and expression. But this is not to say that the right to information is merely an adjunct of and therefore restricted in application by the exercise of the freedoms of speech and of the press. Far from it. The right to information goes hand-in-hand with the constitutional policies of *full public disclosure* and *honesty in the public service*. It is meant to enhance the widening role of the citizenry in governmental decision-making as well in checking abuse in government. (Emphasis in the original, citations omitted)

remedy not provided for by law or jurisprudence.<sup>6</sup> The case they cite, *Loong v. Commission on Elections*,<sup>7</sup> is not applicable because, unlike here, where the vote-counting machines functioned and the votes actually counted, the vote-counting machines in *Loong* failed to read the ballots. Thus, the election officers in *Loong* correctly resorted to a manual count to determine the votes.

There was also no violation of petitioners' right to petition the government as they could file the *APELA*, and the Commission on Elections actually acted on it. As to their claim of denial of their right to information, I agree that there was no such denial because, reading the *APELA*, there was no demand for access to any official record, document, or paper in the first place.

Kami, bilang mamamayan at botante ng Pangasinan, ay humihiling na muling bilangin ang aming mga boto nitong nakaraang eleksyon (May 9, 2022), sa lalawigan ng Pangasinan dahil sa malawakang dayaan na nangyari. Bilang mga mamamayan at botante na nabigyan ng kapangyarihan na malayang pumili ng mga taong mamumuno sa aming bayan, alinsunod sa Saligang-Batas, naniniwala kami na nilabag [ang] [aming] karapatan sapagkat ang lumabas na resulta sa eleksyon ay taliwas sa binoto ng karamihan sa amin.

Kami ngayon ay umaapela na muling bilangin ang mga ito ng wasto, tapat, malinis at alinsunod sa batas upang lumabas ang katotohanan at mahalal ang mga karapat-dapat na maupo sa pwesto. Nakalakup dito ang mga pangalan at lagda na sumusuporta sa pananawagang ito. Ang lahat ng ito ay nagmumula sa karapatang bumoto na isa sa mga pinakasagrado at pinakamahalagang salingan ng demokrasya.<sup>8</sup> (Citation omitted)

The *APELA* cannot even be considered an initiative, for no amendments to the Constitution or legislation were proposed.<sup>9</sup>

I join the majority in commending the petitioners for zealously guarding their political right of suffrage, which they emphatically characterized as the most sacred and important pillar of democracy. Still, in a democratic and republican State such as ours, civilians and government officials are subject to and governed by the rule of law. Fighting for our freedoms comes with the concomitant duty to assert them in the manner provided by law.

<sup>6</sup> *Ponencia*, p. 24.

<sup>7</sup> 365 Phil. 386 (1999) [Per J. Puno, *En Banc*].

<sup>8</sup> *Ponencia*, pp. 3–4.

<sup>9</sup> Republic Act No. 6735 (1989), sec. 3(a).

**ACCORDINGLY**, I vote to **DISMISS** the Petition for *Certiorari* and *Mandamus*.



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice