

Quinto vs. Commission on Elections (COMELEC)
G.R. No. 189698; 1 December 2009

Facts: In this Petition for Certiorari and Prohibition, petitioners, who held appointive positions in government and who intended to run in the 2010 elections, assailed **Section 4(a) of COMELEC's Resolution No. 8678,*** which deemed appointed officials automatically (*ipso facto*) resigned from office upon the filing of their Certificate of Candidacy (CoC). Section 4(a) of COMELEC Resolution No. 8678 is a reproduction of the **second proviso in the third paragraph of Section 13 of Republic Act No. 9369.**** The proviso was lifted from **Section 66 of Batas Pambansa Blg. 881.*****

Petitioners averred that they should not be deemed *ipso facto* resigned from their government offices when they file their CoCs, because at such time they are not yet treated by law as candidates. They should be considered resigned from their respective offices only at the start of the campaign period when they are, by law, already considered as candidates. (Section 11 of R.A. No. 8436, as amended by Section 13 of R.A. No. 9369 provides that any person filing his certificate of candidacy within the period set by COMELEC shall only be considered as a candidate at the start of the campaign period for which he filed his certificate of candidacy.) Petitioners further averred that the assailed provision is discriminatory and violates the equal protection clause in the Constitution.

Representing the COMELEC, the Office of the Solicitor General (OSG) argued that the petition was premature and petitioners had no legal standing since they were not yet affected by the assailed provision, not having as yet filed their CoCs. The OSG also argued that petitioners could not avail the remedy of certiorari since what they were questioning was an issuance of the COMELEC made in the exercise of its rule-making power. The OSG further averred that the COMELEC did not gravely abuse its discretion in phrasing Section 4(a) of its Resolution No. 8678 since it merely copied what was in the law. The OSG, however, agreed that there is no basis to consider appointive officials as *ipso facto* resigned upon filing their CoCs because they are not yet considered as candidates at that time.

Issues:

Main Issue:

1. Whether or not **Section 4(a) of COMELEC's Resolution No. 8678** and the laws upon which it was based (**second proviso in the third paragraph of Section 13 of Republic Act No. 9369** and **Section 66 of Batas Pambansa Blg. 881**) are unconstitutional.

Other Issues:

2. Whether or not certiorari is petitioners' proper remedy.
3. Whether or not petitioners have legal standing (*locus standi*) to file the case, and whether or not there is an actual controversy.

Ruling:

1. On the Constitutionality of the Assailed Provisions

The second provision in the third paragraph of Section 13 of Republic Act No. 9369, Section 66 of Batas Pambansa Blg. 881 and Section 4(a) of COMELEC Resolution No. 8678 were declared as **UNCONSTITUTIONAL** for being violative of the equal protection clause and for being overbroad.

“In considering persons holding appointive positions as *ipso facto* resigned from their posts upon the filing of their CoCs, but not considering as resigned all other civil servants, specifically the elective ones, the law unduly discriminates against the first class. The fact alone that there is substantial distinction between those who hold appointive positions and those occupying elective posts, does not justify such differential treatment.”

There are 4 requisites for a valid classification that will justify differential treatment between classes: (a) It must be based upon substantial distinctions; (b) It must be germane to the purposes of the law; (c) It must not be limited to existing conditions only; and (d) It must apply equally to all members of the class. The differential treatment of persons holding appointive offices as opposed to those holding elective ones is not germane to the purposes of the law. “(W)hether one holds an appointive office or an elective one, the evils sought to be prevented by the measure remain.” An appointive official could wield the same dangerous and coercive influence on the electorate as the elective official. Both may be motivated by political considerations rather than the public’s welfare, use their governmental positions to promote their candidacies, or neglect their duties to attend to their campaign. There is thus no valid justification to treat appointive officials differently from the elective ones.

The challenged provision is also overbroad because: (a) It pertains to all civil servants holding appointive posts without distinction as to whether they occupy high positions in government or not (It would be absurd to consider a utility worker in the government as *ipso facto* resigned once he files his CoC; it is unimaginable how he can use his position in the government to wield influence in the political world.); and (b) It is directed to the activity of seeking any and all public offices, whether they be partisan or nonpartisan in character, whether they be in the national, municipal or *barangay* level. Congress has not shown a compelling state interest to restrict the fundamental right involved on such a sweeping scale.

2. On the Propriety of Certiorari as a Remedy

Certiorari under Rule 65 cannot be availed of because what petitioners assailed in their petition was a resolution issued by the COMELEC in the exercise of its quasi-legislative power. Certiorari is a remedy to question decisions, resolutions and issuances made in the exercise of a judicial or quasi-judicial function.

Prohibition is also an improper remedy, because what petitioners actually sought was the proper construction of a statute and a declaration of their rights thereunder. What they filed was a petition for declaratory relief, over which the Supreme Court does not exercise original jurisdiction.

However, the Supreme Court decided to resolve the petition considering that: (a) it challenged the constitutionality of the questioned provisions of the COMELEC Resolution and the law; (b) the transcendental nature and paramount importance of the issues raised; (c) the compelling state interest involved in the early resolution of the issues (considering that the period for filing of CoCs for the 2010 elections had started and hundreds of civil servants intending to run for elective offices were to lose their employment and the government's manpower might be crippled); and (d) the Court has ample authority to set aside errors of practice or technicalities of procedure and resolve the merits of a case, otherwise, the courts would be consigned to being mere slaves to technical rules, deprived of their judicial discretion.

3. On the Legal Standing of Petitioners to File the Case and the Existence of an Actual Controversy

While petitioners are not yet candidates, they have the legal standing to raise the constitutional challenge, simply because they are qualified voters. A restriction on candidacy, such as the challenged provisions, affects the rights of voters to choose their public officials. Both candidates and voters may question challenge, on grounds of equal protection, the assailed provisions, on grounds of equal protection, because of its impact on voting rights. At any rate, the Supreme Court "has relaxed the stringent direct injury test and has observed a liberal policy allowing ordinary citizens, members of Congress, and civil organizations to prosecute actions involving the constitutionality or validity of laws, regulations and rulings."

There is an actual case or controversy between petitioners and the COMELEC. Petitioners have alleged in a precise manner that they would file their CoCs for the 2010 elections. Given that the assailed provisions provide for automatic resignation upon filing the CoC, it cannot be said that it presents only a speculative or hypothetical obstacle to petitioners' candidacy.

* Guidelines on the Filing of Certificates of Candidacy and Nomination of Official Candidates of Registered Political Parties in Connection with the May 10, 2010 National and Local Elections

** An Act Amending Republic Act No. 8436, entitled "An Act Authorizing the Commission on Elections to Use an Automated Election System in the May 11, 1998 National or Local Elections and in Subsequent National and Local Electoral Exercises, to Encourage Transparency, Credibility, Fairness and Accuracy of Elections, Amending for the Purpose Batas Pambansa Blg. 881, as amended, Republic Act No. 7166 and Other Related Election Laws, Providing Funds Therefore and for Other Purposes"

*** The Omnibus Election Code of the Philippines

Ponente: J. Antonio Eduardo B. Nachura

Vote: 8-6