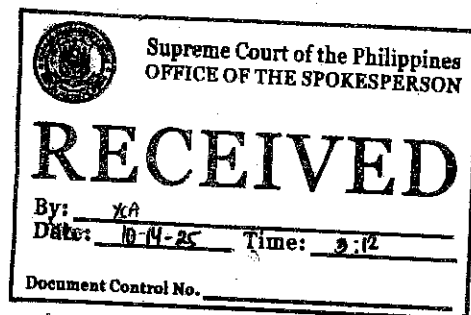




Republic of the Philippines
Supreme Court
Manila



EN BANC

EDGAR R. ERICE,

Petitioner,

G.R. No. 277608

Present:

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

- versus -

COMMISSION ON
ELECTIONS and RAYMOND
D.C. SALIPOT,

Respondents.

Promulgated:

July 8, 2025

X-----X

DECISION

INTING, J.:

Before the Court is a Petition for *Certiorari* (with Application for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction)¹ filed by petitioner Edgar R. Erice (Erice) assailing

* On wellness leave.

** On leave.

¹ Rollo, pp. 3-23.

M

the Resolution² dated December 27, 2024, of the Commission on Elections (COMELEC) *En Banc* in SPA Case No. 24-210 (DC). The COMELEC *En Banc* affirmed the Resolution³ dated November 26, 2024, of the COMELEC Second Division which disqualified Erice as a candidate for the position of Member of the House of Representatives for the Second District of Caloocan City in the May 12, 2025 National and Local Elections (2025 NLE).⁴

The Antecedents

On August 15, 2024, respondent Raymond D.C. Salipot (Salipot) and Benjamin B. Balatbat (Balatbat) filed a Joint Complaint-Affidavit⁵ against Erice for violation of Section 261(z)(11) of Batas Pambansa Blg. 881 or the Omnibus Election Code. The complaint is based on the statements made by Erice in various interviews that the contract of the COMELEC with Miru Systems (Miru) is highly anomalous and that the bidding process which preceded it was rigged. For example, in his interview with DWPM Radyo 630 on April 15, 2024, Erice said: “*May propaganda kase ang COMELEC eh, na mi-mislead yung mga taong bayan na maganda yung [S]istema. Pero po yung itong [s]istema na ito masasabi ko ng tapat na ito ay isang P18B, one time big time scam.*” In addition, Erice asserted that the automated counting machines (ACM) to be provided by Miru have never been used in any previous election in other countries; thus, the Philippines will serve as its guinea pig in the 2025 NLE. Salipot and Balatbat argued that Erice’s statements lacked verification and supporting evidence.⁶

On October 7, 2024, Erice filed his Certificate of Candidacy⁷ (COC) for the position of Member of the House of Representatives for the Second District of Caloocan City for the 2025 NLE.⁸

On October 28, 2024, Salipot filed a Petition for Disqualification⁹ against Erice for violation of Section 261(z)(11) of the Omnibus Election Code in relation to Section 1(c)(3)(viii) of COMELEC Resolution No.

² *Id.* at 37–66. Approved by Chairman George Erwin M. Garcia (but took no part), Commissioners Socorro B. Inting, Marlon S. Casquejo, Aimee P. Ferolino, Rey E. Bulay, Ernesto Ferdinand P. Maceda, Jr., and Nelson J. Celis.

³ *Id.* at 24–34. Approved by Presiding Commissioner Marlon S. Casquejo and Commissioners Rey E. Bulay and Nelson J. Celis.

⁴ *Id.* at 33.

⁵ *Id.* at 93–111.

⁶ *Id.* at 25–26, 38–39.

⁷ *Id.* at 90–91.

⁸ *Id.* at 38.

⁹ *Id.* at 71–88.

11046.¹⁰ The COMELEC Second Division issued summons ordering Erice to file his Answer *cum* Memorandum within a nonextendible period of five days from receipt of the summons. Erice did not file the required pleading.¹¹

The COMELEC Second Division Ruling

The COMELEC Second Division granted the Petition in its Resolution¹² dated November 26, 2024, the *fallo* of which provides:

WHEREFORE, premises considered, the Petition is GRANTED. Respondent EDGAR R. ERICE is DISQUALIFIED as a candidate for the position of Member, House of Representatives in the Second (2nd) District of Caloocan City for the 12 May 2025 National and Local Elections ["2025 NLE"].

Let the records of the case be forwarded to the Law Department of this Commission relative to the election offense aspect of this case.

SO ORDERED.¹³

The COMELEC Second Division found that the evidence submitted by Salipot substantially proved that Erice violated Section 261(z)(11) of the Omnibus Election Code. Erice repeatedly made the following statements: *first*, the Philippines will serve as a guinea pig in the 2025 NLE. The ACMs and systems procured from Miru have never been utilized in any election worldwide; *second*, the PHP 18 billion contract with Miru was highly anomalous, the bidding process was rigged, and the custom-made specifications were used to justify price inflation; and *finally*, he received evidence of offshore accounts of COMELEC officials, particularly COMELEC Chairperson George Erwin M. Garcia (Chairperson Garcia), suggesting suspicious transactions with Miru.¹⁴

The COMELEC Second Division ruled that the statements, which relate to the general conduct of elections, are unverified and unsupported by evidence and, therefore, false. It held that Erice's act of propagating false

¹⁰ Titled, "RULES OF PROCEDURE ON THE FILING OF: (1) PETITION TO DENY DUE COURSE TO OR CANCEL CERTIFICATE OF CANDIDACY; (2) PETITION TO DECLARE A NUISANCE CANDIDATE; AND (3) PETITION FOR DISQUALIFICATION IN CONNECTION WITH THE 2025 NATIONAL AND LOCAL ELECTIONS INCLUDING THE BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO PARLIAMENTARY ELECTIONS." Approved on August 28, 2024.

¹¹ *Rollo*, pp. 39–40.

¹² *Id.* at 24–34.

¹³ *Id.* at 33–34.

¹⁴ *Id.* at 32–33.

information across multiple platforms shows his deliberate intent to disrupt elections rather than offer legitimate criticism. It also found that his statements may cause public alarm and voter confusion as well as damage the integrity of the electoral system of the Philippines. In accordance with COMELEC Resolution No. 11046, the COMELEC Second Division disqualified Erice.¹⁵

On November 27, 2024, Chairperson Garcia inhibited himself from handling or participating in any case involving Erice to “*preserve the principles of fairness and impartiality, ensuring the integrity of the proceedings under my jurisdiction and avoiding any potential perception of bias or conflict of interest.*”¹⁶

On December 2, 2024, Erice filed a Motion for Reconsideration¹⁷ wherein he alleged that Salipot did not send a copy of the petition to him but only its annexes. He also asserted that he was not guilty of violation of Section 261(z)(11) of the Omnibus Election Code.¹⁸

The COMELEC En Banc Ruling

In its Resolution¹⁹ dated December 27, 2024, the COMELEC *En Banc* affirmed the ruling of the COMELEC Second Division, thus:

WHEREFORE, premises considered, the Commission (*En Banc*) **AFFIRMS** the Commission (*Second Division*)’s *Resolution* dated 26 November 2024 insofar as it declared Respondent **EDGAR R. ERICE** as **DISQUALIFIED** as a candidate for the position of Member, House of Representatives in the 2nd District of Caloocan City for the 12 May 2025 National and Local Elections.

Let the records of the case be forwarded to the Law Department of this Commission relative to the election offense aspect of this case.

SO ORDERED.²⁰ (Emphasis in the original)

The COMELEC *En Banc* held that Erice was served a copy of the petition via the email address that he provided in his COC. This is supported by the Affidavit of Electronic Service²¹ executed by Paquito Eleazar Joaquin

¹⁵ *Id.*

¹⁶ *Id.* at 159.

¹⁷ *Id.* at 160–173.

¹⁸ *Id.* at 40–41, 163–164.

¹⁹ *Id.* at 37–66.

²⁰ *Id.* at 65–66.

²¹ *Id.* at 156.

(Joaquin). The COMELEC Second Division also served him summons together with a copy of the petition. Hence, the COMELEC *En Banc* ruled that Erice was given the opportunity to be heard but did not file an answer. In any event, Erice presented his arguments through his motion for reconsideration which failed to invoke the required grounds of insufficient evidence or contrariness to law.²²

The COMELEC *En Banc* clarified that Erice is mistaken in asserting that for Section 261(z)(11) of the Omnibus Election Code to apply, the statements must be made around voting centers based on *ABS-CBN v. COMELEC*,²³ as said case did not discuss the elements of Section 261(z)(11). The COMELEC *En Banc* also ruled that contrary to Erice's contention, Section 261(z)(11) does not require the conduct of an actual election.²⁴

The COMELEC *En Banc* upheld the ruling of the COMELEC Second Division that Erice violated Section 261(z)(11) of the Omnibus Election Code. The COMELEC *En Banc* held that Erice's statements refer to the general conduct of the elections because they involve the very machines to be used for the elections. The COMELEC *En Banc* found Erice's statements to be beyond the bounds of propriety and protected free speech; and his accusations of corruption were baseless, unsubstantiated, and coupled with calls to revert to the usage of unserviceable machines. According to the COMELEC *En Banc*, these statements were intended to cause confusion among the voters, disrupt the orderly conduct of elections, and undermine the framework for the protection of our electoral processes. Hence, the COMELEC *En Banc* found that Erice's disqualification is called for under COMELEC Resolution No. 11046.²⁵

On January 14, 2025, the Court issued a temporary restraining order (TRO) prohibiting the COMELEC from implementing its resolutions disqualifying Erice as candidate for representative of the 2nd District of Caloocan in the 2025 NLE.²⁶

²² *Id.* at 46–48.

²³ 380 Phil. 780 (2000) [Per J. Panagniban, *En Banc*].

²⁴ *Rollo*, pp. 50–56.

²⁵ *Id.* at 57–65.

²⁶ *Id.* at 277–278, 279–280.

The Issue

The issue for the resolution of the Court is whether the COMELEC *En Banc* erred in affirming that Erice should be disqualified for violation of Section 261(z)(11) of the Omnibus Election Code.

Petitioner's Arguments

First, respondent COMELEC should have dismissed respondent Salipot's petition for disqualification for failure to comply with jurisdictional requirements, specifically, to furnish petitioner Erice with a copy of said petition and its annexes. Respondent Salipot only sent a copy of the annexes through email but not the petition itself, in violation of petitioner Erice's right to due process. Respondent Salipot is not even a registered voter of Caloocan but of Rizal and has a deactivated status.²⁷

Second, respondent Salipot failed to prove that petitioner Erice violated Section 261(z)(11) of the Omnibus Election Code. Petitioner Erice stresses that the disruptive behavior penalized under that provision must have been done around the voting centers. However, petitioner Erice made his statements in restaurants and media stations. In addition, the statements should have been made during the conduct of an election, which is not the case here. More, petitioner Erice's statements do not pertain to the printing of official ballots, postponement of election, transfer of polling place, or general conduct of election but to respondent COMELEC's violation of Republic Act No. 9369, which is currently the subject of his pending Petition before the Court docketed as G.R. No. 272887, and Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act, which is the subject of his complaint-affidavit pending before the Office of the Ombudsman. The statements were consistent with petitioner Erice's right to free speech and in line with his duty as a citizen of this country.²⁸

Third, petitioner Erice's statements are covered by his right to freedom of expression. The statements do not present a clear and present danger to warrant the suppression of his right and cause his disqualification.²⁹

²⁷ *Id.* at 8–10.

²⁸ *Id.* at 10–16.

²⁹ *Id.* at 16.



Respondent COMELEC's Arguments

First, respondent Salipot was able to prove that he sent a copy of his petition to petitioner Erice through the Affidavit of Electronic Service of Joaquin. In any event, respondent COMELEC has the discretion to summarily dismiss the petition under Section 4, paragraph 7 of COMELEC Resolution No. 11046 for failure to submit proof of service of the petition and its annexes to respondent. Notably, petitioner Erice did not deny receiving the notice of summons, summons, and a copy of the petition sent to his email by the COMELEC Second Division. As for respondent Salipot's standing, COMELEC Resolution No. 11046 only requires that the one filing the complaint is a registered voter. It is silent as to the voter's status.³⁰

Second, Section 261(z)(11) of the Omnibus Election Code does not require that the act must be committed at voting centers and during the actual conduct of elections.³¹

Third, all the elements for violation of Section 261(z)(11) of the Omnibus Election Code were established in the case. Petitioner Erice repetitively proclaimed on different social media platforms and radio stations that the Philippines would become Miru's guinea pig for the technology to be used in the 2025 NLE. This claim refers to the integrity of the ACM; thus, the subject matter is the general conduct of the election. Petitioner Erice's intent to disrupt the election process was shown through his overt act of consistently making unfounded and libelous statements which caused confusion and disruption of the election process. His statements go beyond what is protected under the Constitution.³²

Fourth, there is no basis to grant the prayer for a writ of preliminary injunction. For one, petitioner Erice has no clear and unmistakable right to seek election to a public elective office. For another, he did not suffer any irreparable injury.³³

³⁰ *Id.* at 348-353.

³¹ *Id.* at 356.

³² *Id.* at 356-362.

³³ *Id.* at 362-366.

Salipot's Arguments

First, petitioner Erice was given the opportunity to be heard before the respondent COMELEC. He was served a copy of the petition through his official email address in his COC.³⁴

Second, petitioner Erice failed to show that the respondent COMELEC acted with grave abuse of discretion in disqualifying him. The findings of respondent COMELEC have factual and legal basis.³⁵

Third, the TRO should be lifted because petitioner Erice is not entitled to it. He did not establish that he has a clear and unmistakable right to injunctive relief.³⁶

The Ruling of the Court

The Petition is meritorious.

Petitioner Erice's right to due process was not violated.

Petitioner Erice avers that respondent COMELEC should have dismissed respondent Salipot's petition outright due to the latter's failure to give him a copy of the Petition. Respondent COMELEC correctly pointed out that the language of Section 4, paragraph 7(vii)³⁷ of COMELEC Resolution No. 11046 gives it the discretion to summarily dismiss a petition for failure to submit proof of service of the petition with complete annexes to the respondent or failure to execute an affidavit of service. The dismissal is not mandatory. Here, respondent COMELEC cannot be faulted for not dismissing the petition considering that respondent Salipot submitted the Affidavit of Electronic Service of Joaquin to attest that he served a copy of the petition and its annexes to petitioner Erice.

³⁴ *Id.* at 291–302.

³⁵ *Id.* at 303–312.

³⁶ *Id.* at 312–317.

³⁷ SECTION 4. *Procedures to be Observed.* — Both parties shall observe the following procedures:

....
7. The Commission may summarily dismiss the Petition on any of the following grounds:

....
vii. The petitioner failed to submit proof of service of the Petition with complete annexes to the respondent or failed to execute an affidavit of service[.]



Further, the Court is not convinced that petitioner Erice did not receive a copy of the petition. Petitioner Erice submitted the printed copy³⁸ of the email sent by the counsel of respondent Salipot to prove that he did not receive a copy of the petition. The printed copy of the email states that it contains 11 attachments but only the title of 10 attachments is shown, which incidentally does not include the petition. Thus, the printed copy of the email alone is insufficient proof that the Petition was not attached to the email sent to petitioner Erice. Moreover, respondent Salipot submitted a copy of the same email showing that the petition was attached thereto.³⁹ In any event, respondent COMELEC duly considered the merits of Erice's arguments, including his allegation of lack of due process, when he filed his motion for reconsideration.⁴⁰

The COMELEC gravely abused its discretion in disqualifying petitioner Erice for violation of Section 261(z)(11) of the Omnibus Election Code.

Section 1(c) of COMELEC Resolution No. 11046 provides in full:

SECTION 1. *Grounds.*

....

- c. *Disqualification of Candidates.* – A registered voter or a duly registered political party, organization or coalition of political parties may file a verified Petition for Disqualification against any candidate for any of the following grounds:
1. For lack of qualifications or possessing any of the grounds for disqualification provided by law or the Constitution;
 2. For failure to file Statement of Contributions and Expenditures (SOCE) for two elections pursuant to Section 14 of Republic Act No. 7166; and
 3. In an action or protest in which he or she is a party, for having been declared by final decision of a competent court, guilty of, or found by the Commission of, having:
 - i. Given money or material consideration to influence, induce to corrupt voters or public officials performing electoral functions;
 - ii. Committed acts of terrorism to enhance his or her candidacy;

³⁸ Rollo, p. 157.

³⁹ *Id.* at 206–207.

⁴⁰ *See Prescott v. Bureau of Immigration*, 949 Phil. 919 (2023) [Per J. Lazaro-Javier, *En Banc*].

- iii. Spent in his or her election campaign an amount in excess of that allowed by law;
- iv. Solicited, received, or made any contribution prohibited under Sections 89, 95, 96, 97, and 104 of the Omnibus Election Code;
- v. Violated any of Sections 80, 83, 85, 86, and 261, paragraphs d, e, k, v, and cc sub-paragraph 6 of the Omnibus Election Code;
- vi. Acquired permanent residency or immigrant status in a foreign country, unless waiver of status as permanent resident or immigrant of a foreign country is made in accordance with the residence requirement provided for in election laws;
- vii. Violated any of Section 40 (a), (b), and (c) of the Local Government Code (LGC) of 1991; or
- viii. Violated all other grounds under the LGC and the OEC.

The disqualification of petitioner Erice is based on Section 1(c)(3)(viii) of COMELEC Resolution No. 11046, or that he has “[v]iolated all other grounds under the [Local Government Code] and the [Omnibus Election Code].” He allegedly violated Section 261(z)(11) of the Omnibus Election Code which provides:

SECTION 261. *Prohibited Acts.* – The following shall be guilty of an election offense:

....

(z) *On voting:*

....

(11) Any person who, for the purpose of disrupting or obstructing the election process or causing confusion among the voters, propagates false and alarming reports or information or transmits or circulates false orders, directives or messages regarding any matter relating to the printing of official ballots, the postponement of the election, the transfer of polling place or the general conduct of the election[.]

Under Section 1(c)(3) of COMELEC Resolution No. 11046, the disqualification for violation of all other grounds under the Local Government Code and the Omnibus Election Code requires that the person subject of the disqualification was declared guilty of said violation by final decision of a competent court in an action or protest in which they are a party. Simply put, it is the final decision finding the party guilty of a violation of the Local Government Code or the Omnibus Election Code that shall serve as the basis for their disqualification. This means that the finding of guilt was done in a prior proceeding separate from the disqualification case itself. This is



consistent with Section 265⁴¹ of the Omnibus Election Code, as amended by Republic Act No. 9369,⁴² which vests respondent COMELEC with the duty to conduct the preliminary investigation for election offenses; and Section 268,⁴³ of the Omnibus Election Code which grants the Regional Trial Court the exclusive original jurisdiction to try and decide on whether an election offense was committed. Incidentally, Section 264⁴⁴ of the Omnibus Election Code imposes disqualification as a penalty for the commission of an election offense.

Instead of following the foregoing procedure, it appears that respondent COMELEC decided to directly rule on whether petitioner Erice is guilty of violation of Section 261(z)(11), an election offense, and after having done so, imposed the penalty of disqualification. This cannot be permitted. The COMELEC cannot skip the processes laid down in our laws, no matter how noble the cause of protecting the integrity of the elections may be.

More importantly, Section 261(z)(11) is not listed as a ground for disqualification under the Omnibus Election Code, specifically Section 68 thereof:

SECTION 68. *Disqualifications.* – Any candidate who, in an action or protest in which he is a party is declared by final decision of a competent court guilty of, or found by the Commission of having (a) given money or other material consideration to influence, induce or corrupt the voters or

⁴¹ SECTION 265. *Prosecution.* – The Commission shall, through its duly authorized legal officers, have the power, concurrent with the other prosecuting arms of the government, to conduct preliminary investigation of all election offenses punishable under this Code, and to prosecute the same.

⁴² Amendment to Republic Act No. 8436 (Election Modernization Act), Approved on January 23, 2007.

⁴³ SECTION 268. *Jurisdiction of courts.* – The regional trial court shall have the exclusive original jurisdiction to try and decide any criminal action or proceedings for violation of this Code, except those relating to the offense of failure to register or failure to vote which shall be under the jurisdiction of the metropolitan or municipal trial courts. From the decision of the courts, appeal will lie as in other criminal cases[.]

⁴⁴ SECTION 264. *Penalties.* – Any person found guilty of any election offense under this Code shall be punished with imprisonment of not less than one year but not more than six years and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage. If he is a foreigner, he shall be sentenced to deportation which shall be enforced after the prison term has been served. Any political party found guilty shall be sentenced to pay a fine of not less than ten thousand pesos, which shall be imposed upon such party after criminal action has been instituted in which their corresponding officials have been found guilty[.]

In case of prisoner or prisoners illegally released from any penitentiary or jail during the prohibited period as provided in Section 261, paragraph (n) of this Code, the director of prisons, provincial warden, keeper of the jail or prison, or persons who are required by law to keep said prisoner in their custody shall, if convicted by a competent court, be sentenced to suffer the penalty of *prisión mayor* in its maximum period if the prisoner or prisoners so illegally released commit any act of intimidation, terrorism or interference in the election[.]

Any person found guilty of the offense of failure to register or failure to vote shall, upon conviction, be fined one hundred pesos. In addition, he shall suffer disqualification to run for public office in the next succeeding election following his conviction or be appointed to a public office for a period of one year following his conviction[.]

public officials performing electoral functions; (b) committed acts of terrorism to enhance his candidacy; (c) spent in his election campaign an amount in excess of that allowed by this Code; (d) solicited, received or made any contribution prohibited under Sections 89, 95, 96, 97 and 104; or (e) violated any of Sections 80, 83, 85, 86 and 261, paragraphs d, e, k, v, and cc, sub-paragraph 6, shall be disqualified from continuing as a candidate, or if he has been elected, from holding the office. Any person who is a permanent resident of or an immigrant to a foreign country shall not be qualified to run for any elective office under this Code, unless said person has waived his status as permanent resident or immigrant of a foreign country in accordance with the residence requirement provided for in the election laws[.]

Aside from Section 68, the other grounds for disqualification can be found in Section 12⁴⁵ of the Omnibus Election Code, Sections 39⁴⁶ and 40⁴⁷ of the Local Government Code in relation to Section 65⁴⁸ of the Omnibus

⁴⁵ SECTION 12. *Disqualifications.* – Any person who has been declared by competent authority insane or incompetent, or has been sentenced by final judgment for subversion, insurrection, rebellion or for any offense for which he has been sentenced to a penalty of more than eighteen months or for a crime involving moral turpitude, shall be disqualified to be a candidate and to hold any office, unless he has been given plenary pardon or granted amnesty.

This disqualifications to be a candidate herein provided shall be deemed removed upon the declaration by competent authority that said insanity or incompetence had been removed or after the expiration of a period of five years from his service of sentence, unless within the same period he again becomes disqualified.

⁴⁶ SECTION 39. *Qualifications.* –

- (a) An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province or, in the case of a member of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.
- (b) Candidates for the position of governor, vice-governor, or member of the sangguniang panlalawigan, or mayor, vice-mayor or member of the sangguniang panlungsod of highly urbanized cities must be at least twenty-three (23) years of age on election day.
- (c) Candidates for the position of mayor or vice-mayor of independent component cities, component cities, or municipalities must be at least twenty-one (21) years of age on election day.
- (d) Candidates for the position of member of the sangguniang panlungsod or sangguniang bayan must be at least eighteen (18) years of age on election day.
- (e) Candidates for the position of punong barangay or member of the sangguniang barangay must be at least eighteen (18) years of age on election day.
- (f) Candidates for the sangguniang kabataan must be at least fifteen (15) years of age but not more than twenty-one (21) years of age on election day.

⁴⁷ SECTION 40. *Disqualifications.* – The following persons are disqualified from running for any elective local position:

- (a) Those sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;
- (b) Those removed from office as a result of an administrative case;
- (c) Those convicted by final judgment for violating the oath of allegiance to the Republic;
- (d) Those with dual citizenship;
- (e) Fugitives from justice in criminal or non-political cases here or abroad;
- (f) Permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of this Code; and
- (g) The insane or feeble-minded.

⁴⁸ SECTION 65. *Qualifications of elective local officials.* – The qualifications for elective provincial, city, municipal and barangay officials shall be those provided for in the Local Government Code.

Election Code, and Section 4⁴⁹ of Republic Act No. 8295.⁵⁰

In *Codilla, Sr. v. De Venecia*,⁵¹ the Court held that “the jurisdiction of the COMELEC to disqualify candidates is limited to those enumerated in Section 68 of the Omnibus Election Code. All other election offenses are beyond the ambit of COMELEC jurisdiction. They are criminal and not administrative in nature.”⁵² The Court reiterated this ruling in *Atty. Francisco v. Commission on Elections*,⁵³ *Gov. Javier v. Commission on Elections*,⁵⁴ and *Aratea v. Commission on Elections*.⁵⁵

Hence, respondent COMELEC cannot expand the grounds for disqualification under our laws using COMELEC Resolution No. 11046 as its basis. The powers of respondent COMELEC under the 1987 Constitution do not include the power to amend laws passed by the legislature.⁵⁶ Therefore,

⁴⁹ SECTION 4. *Disqualification.* – In addition to the disqualifications mentioned in Sections 12 and 68 of the Omnibus Election Code and Section 40 of Republic Act No. 7160, otherwise known as the Local Government Code, whenever the evidence of guilt is strong, the following persons are disqualified to run in a special election called to fill the vacancy in an elective office, to wit:

- a) Any elective official who has resigned from his office by accepting an appointive office or for whatever reason which he previously occupied but has caused to become vacant due to his resignation; and
- b) Any person who, directly or indirectly, coerces, bribes, threatens, harasses, intimidates or actually causes, inflicts or produces any violence, injury, punishment, torture, damage, loss or disadvantage to any person or persons aspiring to become a candidate or that of the immediate member of his family, his honor or property that is meant to eliminate all other potential candidate.

⁵⁰ “AN ACT PROVIDING FOR THE PROCLAMATION OF A LONE CANDIDATE FOR ANY ELECTIVE OFFICE IN A SPECIAL ELECTION, AND FOR OTHER PURPOSES.” Approved on June 6, 1997.

⁵¹ 442 Phil. 139 (2002) [Per J. Puno, *En Banc*].

⁵² *Rollo*, pp. 177–178.

⁵³ 831 Phil. 106, 125 (2018) [Per J. Velasco, Jr., *En Banc*].

⁵⁴ 777 Phil. 700, 728–729 (2016) [Per J. Brion, *En Banc*].

⁵⁵ 696 Phil. 700, 724–725 (2012) [Per J. Carpio, *En Banc*].

⁵⁶ ARTICLE IX. Constitutional Commission.

....
C. The Commission on Elections

....
SECTION 2. The Commission on Elections shall exercise the following powers and functions:

- (1) Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.
- (2) Exercise exclusive original jurisdiction over all contests relating to the elections, returns, and qualifications of all elective regional, provincial, and city officials, and appellate jurisdiction over all contests involving elective municipal officials decided by trial courts of general jurisdiction, or involving elective barangay officials decided by trial courts of limited jurisdiction.
Decisions, final orders, or rulings of the Commission on Elections contests involving elective municipal and barangay offices shall be final, executory, and not appealable.
- (3) Decide, except those involving the right to vote, all questions affecting elections, including determination of the number and location of polling places, appointment of election officials and inspectors, and registration of voters.
- (4) Deputize, with the concurrence of the President, law enforcement agencies and instrumentalities of the Government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest, peaceful, and credible elections.
- (5) Register, after sufficient publication, political parties, organizations, or coalitions which, in addition

respondent COMELEC went beyond its jurisdiction in disqualifying petitioner Erice for violation of Section 261(z)(11) of the Omnibus Election Code.

Considering that respondent COMELEC had no power in the first place to disqualify a candidate on the ground of violation of Section 261(z)(11) of the Omnibus Election Code, the Court shall refrain from determining whether petitioner Erice violated this provision. To reiterate, the determination of petitioner Erice's guilt for this election offense should be made in the proper forum through an appropriate action. Notably, respondent COMELEC already ordered that the records of the case be forwarded to its Law Department to study its election offense aspect.

Nonetheless, the Court deems it proper to clarify the elements of Section 261(z)(11) for the guidance of the bench and the bar. These are:

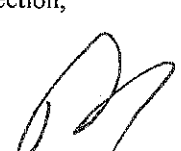
First, a person propagates false and alarming reports or information; or transmits or circulates false orders, directives or messages.

Second, the foregoing must be regarding any matter relating to the printing of official ballots, the postponement of the election, the transfer of polling place, or the general conduct of the election.

Finally, it must be done for the purpose of disrupting or obstructing the election process or causing confusion among the voters.

to other requirements, must present their platform or program of government; and accredit citizens' arms of the Commission on Elections. Religious denominations and sects shall not be registered. Those which seek to achieve their goals through violence or unlawful means, or refuse to uphold and adhere to this Constitution, or which are supported by any foreign government shall likewise be refused registration.

Financial contributions from foreign governments and their agencies to political parties, organizations, coalitions, or candidates related to elections constitute interference in national affairs, and, when accepted, shall be an additional ground for the cancellation of their registration with the Commission, in addition to other penalties that may be prescribed by law.

- (6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and, where appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.
 - (7) Recommend to the Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election frauds, offenses, malpractices, and nuisance candidacies.
 - (8) Recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.
 - (9) Submit to the President and the Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.
- 

Contrary to petitioner Erice's understanding, Section 261(z)(11) does not require that the act be done near the polling place. There is nothing in the text of Section 261(z)(11) that would suggest this. As to whether the violation must take place during the conduct of the election, Section 261(z) refers to acts "On voting." This would imply that the punishable acts all relate to voting, which of course would only take place during the conduct of an election. Even so, there being no clear statement in Section 261(z)(11) itself that it must take place during an election, the Court cannot agree with petitioner Erice that this is required.

In prosecuting violations of Section 261(z)(11), due consideration must be given to the right to freedom of speech under Article III, Section 4 of the 1987 Constitution. As eloquently put in *United States v. Bustos*:⁵⁷

[O]f course, criticism does not authorize defamation. Nevertheless, as the individual is less than the State, so must expected criticism be born for the common good. Rising superior to any official, or set of officials, to the Chief Executive, to the Legislature, to the Judiciary—to any or all the agencies of Government—public opinion should be the constant source of liberty and democracy[.]⁵⁸

All told, while the vigilance of respondent COMELEC in safeguarding the elections is laudable, it cannot excuse noncompliance with our laws.

ACCORDINGLY, the Petition for *Certiorari* is **GRANTED**. The Resolution dated December 27, 2024, of the Commission on Elections *En Banc* in SPA Case No. 24-210 (DC) is **REVERSED** and **SET ASIDE**. The Petition for Disqualification filed by respondent Raymond D.C. Salipot against petitioner Edgar R. Erice is **DISMISSED**.

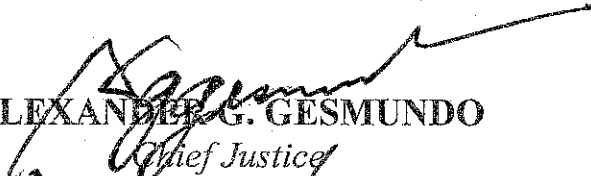
SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

⁵⁷ 37 Phil. 731 (1918) [Per J. Malcolm].

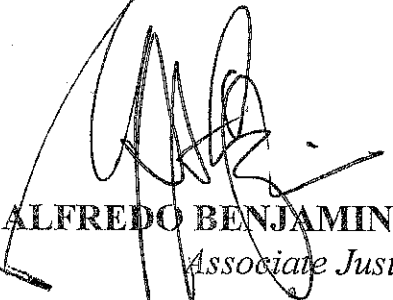
⁵⁸ *Rollo*, p. 741.

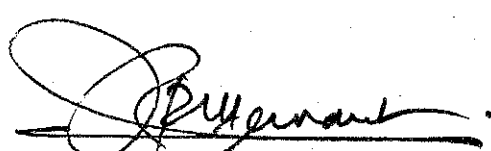
WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice

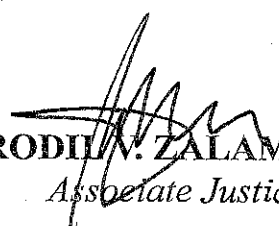
7 mem. & separate opinion


MARVIC M.V.F. LEONEN
Senior Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

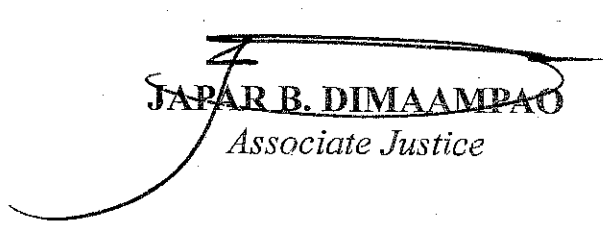

AMY C. LAZARO-JAVIER
Associate Justice

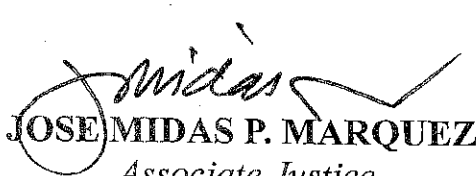

RODIL N. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

On wellness leave
RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

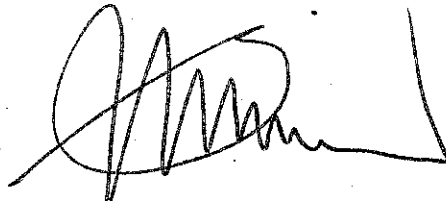

ANTONIO T. KHO, JR.

Associate Justice

On leave

MARIA FILOMENA D. SINGH

Associate Justice

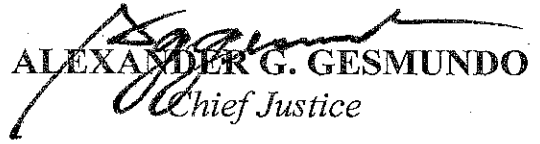


RAUL B. VILLANUEVA

Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO

Chief Justice