

VITUG J.: separate opinion

The COMELEC should have dismissed, outrightly, the Delfin Petition.

It does seem to me that there is no real exigency on the part of the Court to engross, let alone to commit, itself on all the issues raised and debated upon by the parties. What is essential at this time would only be to resolve whether or not the petition filed with the COMELEC, signed by Atty. Jesus S. Delfin in his capacity as a "founding member of the Movement for People's Initiative" and seeking through a people initiative certain modifications on the 1987 Constitution, can properly be regarded and given its due course. The Constitution, relative to any proposed amendment under this method, is explicit. Section 2, Article XVII, thereof provides:

"SEC. 2. Amendments to this Constitution may likewise be directly proposed by the people through initiative upon a petition of at least twelve *per centum* of the total number of registered voters, of which every legislative district must be presented by at least three *per centum* of the registered voters therein. No amendment under this section shall be authorized within five years following the ratification of this Constitution nor oftener than once every five years thereafter.

"The Congress shall provide for the implementation of the exercise of this right."

The Delfin petition is thus utterly deficient. Instead of complying with the constitutional imperatives, the petition would rather have much of its burden passed on, in effect, to the COMELEC. The petition would require COMMELEC to schedule "signature gathering all over the country.: to cause the necessary publication of the petition "in newspapers of general and local circulation." and to instruct "Municipal Election Registrars in all Regions of the Philippines to assist petitioners and volunteers in establishing signing stations at the time and on the dates designated for the purpose."

I submit, even then, that the TRO earlier issued by the Court which, consequentially, is made permanent under the *ponencia* should be held to cover only the Delfin petition and must not be so understood as having intended or contemplated to embrace the signature drive of the Pedrosas. The grant of such a right is clearly implicit in the constitutional mandate on people initiative.

The district greatness of a democratic society is that those who reign are the governed themselves. The postulate is no longer lightly taken as just a perceived myth but a veritable reality. The past has taught us that the vitality of government lies not so much in the strength of those who lead as in the consent of those who are led. The role of free speech is pivotal but it can only have its true meaning if it comes with the correlative end of being heard.

Pending a petition for a people's initiative that is sufficient in form and substance, it behooves the Court, I most respectfully submit, to yet refrain from resolving the question of whether or not Republic Act No. 6735 has effectively and sufficiently implemented the Constitutional provision on right of the people to directly propose constitutional amendments. Any opinion or view formulated by the Court at this point would at best be only a non-binding, albeit possibly persuasive, *obiter dictum*.

I vote for granting the instant petition before the Court and for clarifying that the TRO earlier issued by the Court did not proscribe the exercise by the Pedrosas of their right to campaign for constitutional amendments.