

Summary of the Constitutional Court Ruling No. 11/2543

Dated 9th March B.E. 2543 (2000)*

Re : The National Counter Corruption Commission requests for a Constitutional Court ruling under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) in the case where Mr. Chutchai Sumethachotimetha intentionally failed to submit his account showing assets and liabilities and supporting documents.

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1. Background and summarized facts

Mr. Chutchai Sumethachotimetha (the respondent) was appointed to hold the position of advisor to the Minister of Office of the Prime Minister (Mr.Veerakorn Kamprakob) from 1st October B.E. 2540 (1997) pursuant to the Order of Office of the Prime Minister No. 330/2540 dated 29th September B.E. 2540 (1997). Upon the vacation of office on 24th October B.E. 2540 (1997), the respondent had to submit an account showing particulars of assets and liabilities under section 291 and section 292 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

The Constitutional Court heard statements made by the applicant and the respondent in lawcourt. In summary, it was appeared to the Court that the applicant affirmed facts in the application and the respondent stated that he had not submitted his account showing particulars of assets and liabilities because it was the period of transition between the previous Constitution and the present one. In addition, at that period, the respondent encountered economic problems. The respondent did not in any way intentionally refuse to submit the account showing particulars of assets and liabilities.

2. Preliminary issue

The National Counter Corruption Commission (NCCC) submitted an application to the Constitutional Court for a ruling under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) and the Constitutional Court therefore accepted this application for consideration.

* Published in the Government Gazette, Vol. 117, Part 74a, dated 2nd August B.E. 2543 (2000).

3. The issues considered by the Constitutional Court

The NCCC resolved that the respondent intentionally failed to submit an account showing particulars of assets and liabilities and supporting documents to the NCCC and requested for a Constitutional Court ruling under section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

The Constitutional Court held the following opinion:

The respondent failed to submit an account showing particulars of assets and liabilities under section 291 and section 292 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). Accordingly, the NCCC by the letter dated 22nd April B.E. 2541 (1998) required the respondent to make a statement of fact. The respondent delivered the letter dated 4th May B.E. 2541 (1998) stating that he consulted an official of the Secretariat of the Prime Minister and was informed that he may or may not submit such the account because it was the period of transition between the previous Constitution and the present Constitution. However, if the submission of the account was required, he was willingly going to submit it within thirty days. Thereafter, the NCCC delivered the letter dated 26th October B.E. 2541 (1998) requiring the respondent to submit the account showing particulars of assets and liabilities without delay. In response, the respondent by the letter dated 2nd November B.E. 2541 (1998) informed that he was in the process of gathering all relevant documents and evidences and was going to submit them as soon as possible. After that, the NCCC delivered another two letters dated 2nd June B.E. 2542 (1999) and dated 12th November B.E. 2542 (1999) respectively informing the same that the respondent had to submit such the account without delay. Nevertheless, there was no contact of the respondent with the NCCC whatsoever. The NCCC in its meeting No. 47/2542 on 9th December B.E. 2542 (1999) passed the resolution by consensus that the respondent intentionally failed to submit the account showing particulars of assets and liabilities, and it therefore submitted the application for the Constitutional Court ruling. The Constitutional Court held that the respondent did not state any reason in this matter to the NCCC and the defense that it was the transitional period between the previous Constitution and the present one was unreasonable. The Constitutional Court therefore held that the respondent intentionally failed to submit the account showing particulars of assets and liabilities according to the application made by the applicant.

4. Ruling of the Constitutional Court

The Constitutional Court held that Mr. Chutchai Sumethachotimetha, the respondent, intentionally failed to submit an account showing particulars of assets and liabilities and supporting documents under section 291, section 292 and section 295 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).
