

Summary of the Constitutional Court Ruling No. 57/2543

Dated 28th November B.E. 2543 (2000) *

Re : A member of the House of Representatives (Mr. Newin Chitchob) submitted an application to the Constitutional Court for a ruling on whether the resolution of Ekkapap Party was under section 47 paragraph three of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

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1. Background and summarized facts

The Executive Committee and members of the House of Representatives of Ekkapap Party (the respondent) held the meeting on 10th October B.E. 2543 (2000) considering the case where Mr. Newin Chitchob, a member of the House of Representatives of Buri Rum Province (the applicant), did not comply with the resolution of the Party. Thereafter, the meeting passed the resolution removing the applicant from the membership of Ekkapap Party. The applicant's membership of the House of Representatives thereby was terminated under section 118 paragraph one subparagraph (8) of the Constitution. The applicant was of the opinion that such resolution was contrary to the status and performance of duties of a member of the House of Representatives under section 47 paragraph three of the Constitution and therefore submitted an application to the Constitutional Court for consideration.

2. Preliminary issue

The Constitutional Court held that the case was under section 118 paragraph one subparagraph (8) and section 47 paragraph three of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) and therefore accepted the application for consideration pursuant to rule 10 of the Rule of the Constitutional Court on the Constitutional Court Procedure, B.E. 2541 (1998).

3. The issue considered by the Constitutional Court

Was the resolution of Ekkapap Party passed on 10th October B.E. 2543 (2000) removing the applicant from the membership of Ekkapap Party under section 47 paragraph three of the Constitution?

* Published in the Government Gazette, Vol. 118, Part 72a, dated 1st September B.E. 2544 (2001).

In the consideration of the Constitutional Court, it was appeared that Ekkapap Party through Mr. Chaiyod Sasomsub, its Leader, delivered a letter informing that the resolution in question has not been formally completed. The Party knew well that the resolution was only the starting point of the process. The respondent admitted the incompleteness of its resolution made on 10th October B.E. 2543 (2000) without referring to the resolution made on 16th October B.E. 2543 (2000) whatsoever. Hence, only the resolution on 10th October B.E. 2543 (2000) could not be deemed that the applicant was removed from the membership of Ekkapap Party as being a cause for the termination of membership of the House of Representatives under section 118 paragraph one subparagraph (8) of the Constitution. In addition, as the Royal Decree Dissolving the House of Representatives, B.E. 2543 (2000) was already published in the Government Gazette on 9th November B.E. 2543 (2000), the applicant's membership of the House of Representatives was terminated under section 118 paragraph one subparagraph (1) of the Constitution. As a result, the applicant had to no longer perform his duties as the representative of the Thai people under section 149 of the Constitution. The Constitutional Court therefore held that the issue needed not be considered as whether the resolution of Ekkapap Party on 10th October B.E. 2543 (2000) was contrary to the status and performance of duties of a member of the House of Representatives or was contrary to or inconsistent with fundamental principles of the democratic regime of government with the King as Head of the State under section 47 paragraph three and section 47 paragraph four of the Constitution respectively.

4. Ruling of the Constitutional Court

The Constitutional Court held that the application was dismissed.
