

Summary of the Constitutional Court Ruling No. 17/2544

Dated 10th May B.E. 2544 (2001)*

Re: The Phrae Provincial Court referred the objection of the fifteenth protester, Mr. Worayos Todilokvej, requesting that the Constitutional Court rule on whether or not section 57 and section 58 of the Election of Members of the Municipal Assembly Act, B.E. 2482 (1939) were contrary to or inconsistent with section 285 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

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1. Background and summarized facts

The Phrae Provincial Court referred the objection of the fifteenth protestor, Mr. Worayos Todilokvej, in Administrative Case No. 4/2543, requesting that the Constitutional Court rule on whether or not section 57 and section 58 of the Election of Members of the Municipal Assembly Act, B.E. 2482 (1939) were contrary to or inconsistent with section 285 of the Constitution.

The facts were accepted that the Ministry of the Interior, through the Governor of Phrae, determined that there would be an election of members of the Phrae Municipal Assembly on 25th December B.E. 2542 (1999) to perform the duties and administer the Municipal pursuant to the law in lieu of the outgoing members of the Municipal Assembly whose terms had expired.

Mr. Chokchai Phanomkwan and company, a total of 18 persons, were candidates in the election of the Phrae Municipal Assembly. The candidates ran for the elections under one unified group, called the “Phrae Gao Na Group,” who filed a lawsuit at the Phrae Provincial Court in Administrative Case No. 4/2543 that Mr. Worayos Todilokvej and other candidates under the name of “Mueang Phrae Group” had jointly committed an offence under section 64 (1) of the Election of Members of the Municipal Assembly Act, B.E. 2482 (1939). A request was therefore submitted for the Phrae Provincial Court to issue an order that Mr. Worayos Todilokvej and company had been unlawfully elected under section 57 of the Election of Members of the Municipal Assembly Act, B.E. 2482 (1939) as well as order new elections for the Phrae Municipal Assembly under section 58 of such Act.

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On 31st January B.E. 2543 (2000), the protesters submitted an application to the Phrae Provincial Court objecting that section 57 and section 58 of the Election of Members of the Municipal Assembly Act, B.E. 2482 (1939), which were raised by the applicant in the administrative case, were inconsistent with section 16 and section 19 of the Municipal Act, B.E. 2496 (1953). Such provisions were also enacted subsequently to and inconsistent with section 285 of the Constitution and was therefore prohibited by section 6 of the Constitution. The Phrae Provincial Court therefore requested that the Constitutional Court make a prior ruling on such issue and referred the objection of Mr. Worayos, the protester, to the Constitutional Court for consideration.

2. Preliminary issue

The Constitutional Court held that this was a case where the Phrae Provincial Court referred a matter to the Constitutional Court for a ruling under section 264 of the Constitution on whether or not provisions of the law were contrary to or inconsistent with the Constitution. The Constitutional Court therefore accepted the application for consideration under clause 10 of the Rules of the Constitutional Court on Constitutional Court Procedure, B.E. 2541 (1998).

3. The issues considered by the Constitutional Court

In the preliminary, the Constitutional Court issued an order accepting the matter for consideration under clause 10 of the Rules of the Constitutional Court Re: Constitutional Court Procedure, B.E. 2541 (1998). Subsequently, while the case was being considered by the Constitutional Court, Mr. Chokchai Phanomkwan, the applicant, submitted a letter dated 14th February B.E. 2544 (2001) stating that Mr. Worayos Todilokvej died in an accident on 12th July B.E. 2543 (2000) pursuant to the death certificate of Mr. Worayos Todilokvej, which was also submitted to the Constitutional Court. The Constitutional Court requested that the Phrae Provincial Court proceed with a factual investigation on such matter. The Phrae Provincial Court sent a letter dated 26th April B.E. 2544 (2001) confirming that Mr. Worayos Todilokvej died according to the facts in the death certificate and the house register of Mr. Worayos Todilokvej.

The Constitutional Court held that, as the Constitutional Court had issued an order to proceed with the case under clause 10 of the Rules of the Constitutional Court on Constitutional Court Procedure, B.E. 2541 (1998), when Mr. Worayos Todilokvej, the applicant died, it could be deemed that there was no applicant under the Rules of the Constitutional Court on Constitutional Court Procedure, B.E. 2541 (1998). The application should therefore be disposed of.

4. Ruling of the Constitutional Court

The Constitutional Court held that in this application, Mr. Worayos Todilokvej was an applicant to the Constitutional Court, and when the applicant died, there was no longer any necessity to consider the case. The Constitutional Court therefore held by a majority of 11 votes to 1 vote to dispose of the application.
