

# Summary of the Constitutional Court Ruling No. 33/2546

Dated 30<sup>th</sup> September B.E. 2546 (2003) \*

**Re : The National Counter Corruption Commission requested for a Constitutional Court ruling under section 266 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) in the case of the disclosure of the accounts showing particulars of assets and liabilities and supporting documents of National Commissioners on Broadcast and Television Affairs and National Commissioners on Communication Affairs.**

.....

## 1. Background and summarized facts

The National Counter Corruption Commission (NCCC) requested for a Constitutional Court ruling under section 266 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) on whether the NCCC had to disclose to the public the account showing particulars of assets and liabilities and supporting documents of National Commissioners on Broadcast and Television Affairs and of National Commissioners on Communication Affairs which were submitted to it under section 18 paragraph two of the Frequencies Allocation, Radio and Television Broadcasting and Telecommunication Business Supervision Agency, B.E. 2543 (2000). The fact appeared as follows. The NCCC was of the opinion that section 18 paragraph one and paragraph two of the Frequencies Allocation, Radio and Television Broadcasting and Telecommunication Business Supervision Agency, B.E. 2543 (2000) provided that National Commissioners on Broadcast and Television Affairs and National Commissioners on Communication Affairs held the high rank positions under the Organic Act on Counter Corruption, B.E. 2542 (1999) and their accounts showing particulars of assets and liabilities and supporting documents submitted to the NCCC had to be disclosed to public without delay may be contrary to section 293 paragraph two of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), which required that only the account showing assets and liabilities and supporting documents of the Prime Minister and Ministers had to be disclosed to public and that the account of the persons holding other positions had not to be disclosed to any person. Accordingly, if both kinds of Commissioners already submitted the accounts showing particulars of assets and liabilities and supporting documents to the NCCC, the problem would arise as whether the NCCC had to disclose such the accounts and supporting documents to the public. This problem related to the power and duty of the NCCC

---

\* Published in the Government Gazette, Vol.121, Part 36a, dated 15<sup>th</sup> June B.E. 2547 (2004)

which was an organ under the Constitution. The NCCC therefore resolved to submit the matter together with the opinion to the Constitutional Court for decision under section 266 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

## **2. Preliminary issue**

Could the Constitutional Court accept this application for decision under section 266 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997)?

The Constitutional Court held that the NCCC was an organ under the Constitution. It had the right to submit the matter together with the opinion to the Constitutional Court for decision under section 266 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). In addition, the Constitutional Court in its Ruling No. 54/2542 dated 28<sup>th</sup> December B.E. 2542 (1999) held that as regards the disputes relating to the powers and duties of various organs under the Constitution, the case might bear the characteristics of a dispute on the powers and duties of organs under the Constitution on whether or not a certain organ under the Constitution possessed the power to act on any matter and to what extent. The dispute on whether or not the certain organ under the Constitution possessed the power to act on any matter and to what extent meant the dispute relating to the powers and duties of such organ itself and the dispute that had already occurred. However, this application was the case where the NCCC had doubt about the power and duty to disclose the accounts and supporting documents of National Commissioners on Broadcast and Television Affairs and National Commissioners on Communication Affairs under section 18 paragraph two of the Frequencies Allocation, Radio and Television Broadcasting and Telecommunication Business Supervision Agency, B.E. 2543 (2000). As such the National Commissioners on Broadcast and Television Affairs and National Commissioners on Communication Affairs under the said Act had not been existed, the dispute could not really occur. The case was therefore not that of the dispute relating to the powers and duties of the NCCC which the Constitutional Court could accept for decision under section 266 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

## **3. Ruling of the Constitutional Court**

By virtue of the above reason, the Constitutional Court dismissed the application.

---