

# Summary of the Constitutional Court Ruling No. 49/2547

Dated 29<sup>th</sup> July B.E. 2547 (2004)\*

**Re: Political Party Registrar's application for an order to dissolve Kasert  
Kaona Party**

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## 1. Background and summarized facts

The political party registrar (the applicant) submitted an application dated 28<sup>th</sup> November B.E. 2546 (2003) to the Constitutional Court for an order to dissolve Kasert Kaona Party (the respondent) under section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998), because it examined and found that Kasert Kaona Party prepared an inaccurate report on expending the fund subsidizing political parties for the year B.E. 2544 (2001) in the case of the document printing project. Moreover, the Party prepared untrue report on expending the fund subsidizing political parties for the year B.E. 2545 (2002) in the case of the employment of a deputy director of the Party under the project enhancing the effectiveness of strength Party. These deemed as not complying with section 62 of the Organic Act on Political Parties, B.E. 2541 (1998) which constituted a cause for the dissolution of Kasert Kaona Party under section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties, B.E. 2541 (1998).

The Leader of Kasert Kaona Party submitted a response statement against the allegation which could be summarized as follows. The Leader claimed that she was used by the director of the Party who was her husband in acknowledgement of employment and salary of the deputy director of the Party. She admitted the facts according to the allegation only to the extent of statement given to a factual investigation team. She was thoroughly aware of factual and legal issues under the allegation and had no further objection against it. Accordingly, she requested the Constitutional Court to order the dissolution of Kasert Kaona Party pursuant to the application of the political party registrar, including an order regarding a criminal offence and search of properties and debts of the Party to be returned to the Fund for Development of Political Parties.

## 2. The issue considered by the Constitutional Court

The issue under the application which the Constitutional Court had to consider was whether the case constituted a cause for an order to dissolve Kasert Kaona Party due to

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preparing untrue and inaccurate reports of expending the fund subsidizing political parties for the year B.E. 2544 (2001) and B.E. 2545 (2002) pursuant to section 62 of the Organic Act on Political Parties, B.E. 2541 (1998) according to the application of the political party registrar.

The Constitutional Court considered the facts in the application, documents attached thereto and the response statement and held the followings. Kasert Kaona Party received the subsidy from the Fund for Development of Political Parties for the year B.E. 2544 (2001) and B.E. 2545 (2002), so it had duties to spend such subsidy according to the provisions of law and prepare a true and accurate expenditure report of subsidy for the political party for the calendar year to be submitted to the Election Commission within March of next year under section 62 of the Organic Act on Political Parties, B.E. 2541 (1998). The respondent submitted the expenditure report of its subsidy to the Election Commission. In that report, the respondent reported its expenditure of subsidy for the year B.E. 2544 (2001) regarding the document printing project that the documental printing costs was already paid. In this connection, the Party also attached the evidence of receipt. However, the facts from evidences and documents, including statement given by the printing press owner whom Kasert Kaona Party hired to carry out the document printing revealed as follows. The respondent hired the printing press to carry out the document printing according to the project of the year B.E. 2544 (2001) by payment in installments. The respondent did not completely pay the printing costs within the year B.E. 2544 (2001), and the printing costs of 10,000 Baht remained unpaid. The printing press thereby did not issue the receipt to the respondent. It issued a tax invoice/delivery order dated 12<sup>th</sup> March B.E. 2545 (2002) instead. This fact was consistent with statement given to the Election Commission by the respondent in the letter dated 3<sup>rd</sup> January B.E. 2546 (2003). The respondent did not require the receipt from the printing press in the year 2544 (2001) until the time to close the balance sheet was due. The respondent requested for such receipt on 12<sup>th</sup> March B.E. 2545 (2002). However, the printing press could not retroactively issue it, except a tax invoice/delivery order only. It appeared that the issuance of the receipt dated 13<sup>th</sup> March B.E. 2545 (2002) to the respondent was retroactively done after the complete payment in B.E. 2546 (2003). It could be deemed that the respondent inaccurately prepared the expenditure report of its subsidy for the year B.E. 2544 (2001).

For the year B.E. 2545 (2002), the respondent reported its expenditure of subsidy in the project enhancing the effectiveness of strength Party together with attaching the copies of receipts showing the payment of wages to two persons being deputy directors of the Party at the rate 15,000 Baht a month. The evidences contained the receipts of wages of the first deputy director from January to August B.E. 2545 (2002), eight months in total and those of the second director from September to December B.E. 2545 (2002), four months in total. The facts from such evidences and documents and statement given by the said two persons revealed that the first deputy director had not received his wages and did not signed in any payment certificate being the evidence of receipt. Moreover, the second deputy director received the wage at the rate only 1,000 Baht a month. He signed in only one payment

certificate being the evidence of receipt in which no rate of wage was stated. This was another case representing that Kasert Kaona Party prepared inaccurate expenditure report of its subsidy for the year B.E. 2545 (2002).

The fact that Kasert Kaona Party prepared the expenditure reports of its subsidy for the year B.E. 2544 (2001) and the year B.E. 2545 (2002) inaccurately presented the non-compliance with section 62 of the Organic Act on Political Parties, B.E. 2541 (1998). The respondent made no objection in this matter and requested the Constitutional Court to order the dissolution of Kasert Kaona Party according to the application of the political party registrar. The case therefore constituted a cause for the dissolution of a political party under section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties, B.E. 2541 (1998) according to the application of the political party registrar. The case where the respondent requested the Constitutional Court to make any order regarding the criminal offence and the search of its properties and debts was not within its power and duty. This issue therefore needed not to be heard.

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

The Constitutional Court, by the majority of 13 judges, held that the case constituted a cause to order the dissolution of Kasert Kaona Party under section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties, B.E. 2541 (1998) according to the application of the political party registrar, while a judge held that the application of the political party registrar be dismissed.

Upon the above reason and by virtue of section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998), the Constitutional Court ordered the dissolution of Kasert Kaona Party.

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