

# Summary of the Constitutional Court Ruling No. 83/2547

Dated 11<sup>th</sup> November B.E. 2547 (2004)\*

**Re: Political Party Registrar's application for an order to dissolve Seree Prachathipatai Party**

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## 1. Background and summarized facts

The political party registrar submitted an application dated 11<sup>th</sup> June B.E. 2547 (2004) and an additional application dated 22<sup>nd</sup> September B.E. 2547 (2004) to the Constitutional Court for an order to dissolve Seree Prachathipatai Party under section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998), because Seree Prachathipatai Party inaccurately spent the subsidy, in the sum of 718,200 Baht, for postage stamp and public facility costs for the year of B.E. 2546 (2003). To be added, Seree Prachathipatai Party did not transfer subsidy or transferred it incompletely to its branches. The Party also spent the subsidy in the sum of 141,600 Baht for postage stamp and public facility costs borne by its 118 branches, which were acknowledged their establishment after applying for such subsidy, not in accordance with the provision of law. Instead of transferring subsidy to its branches for their postage stamp and public facility costs, Seree Prachathipatai Party spent such subsidy for its operation plans and projects of the year B.E. 2547 (2004). This was non-compliance with section 62 of the Organic Act on Political Parties, B.E. 2541 (1998) and 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).

Seree Prachathipatai Party submitted a response statement summarized as follows. The Party spent the subsidy received from the Fund for Development of Political Parties for postage stamp and public facility costs for the year B.E. 2546 (2003) in the sum of 718,200 baht according to the Notification of the Election Commission issued by virtue of section 61 of the Organic Act on Political Parties, B.E. 2541 (1998). Seree Prachathipatai Party reported to the political party registrar the transfer of such subsidy to its branches pursuant to the Notification of the Election Commission on rules and procedure to support a political party in postage stamp and public facility costs. The report on expending the subsidy in each installment was only a preliminary report that the Party truly paid the subsidy to its branches. It was not the report under section 62 of the Organic Act on Political Parties, B.E. 2541 (1998), which the Party had to submit within the date of 31<sup>st</sup> March of next year. Regarding the subsidy of postage stamp and public facility costs in the sum of 141,600 Baht, the

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Executive Committee in its meeting (No. 2/2547) on 20<sup>th</sup> January B.E. 2547 (2004) resolved to return it to the political party registrar. However, the Party requested the political party registrar to allow the extension of such return for the reason that “the Party was necessary to operate political activities according to the plans and projects of the year B.E. 2547 (2004). Therefore, the said sum of money was needed to be paid for such plans and projects of the B.E. 2547 (2004) as to relieve difficulties and damages which might occurred to the Party due to delay payment of the subsidy from the Fund for Development of Political Parties”. Accordingly, the subsidy was spent after Seree Prachathipatai Party notified to the political party registrar the return of it on 21<sup>st</sup> January B.E. 2547 (2004) according to the resolution passed by the meeting of the Executive Committee (No. 2/2547) on 20<sup>th</sup> January B.E. 2547 (2004) and the political party registrar had no dispute or objection whatsoever.

## **2. The issue considered by the Constitutional Court**

Did the case constitute a cause for an order to dissolve Seree Prachathipatai Party according to the application of the political party registrar?

The Constitutional Court held that Seree Prachathipatai Party spent the subsidy for the postage stamp and public facility costs for the year B.E. 2546 (2003) in the sum of 718,200 Baht not in accordance with section 62 of the Organic Act on Political Parties, B.E. 2541 (1998). In addition, Seree Prachathipatai Party did not spend the subsidy in the sum of 141,600 Baht for the postage stamp and public facility costs borne by its 118 branches which were acknowledged the establishment after applying for the subsidy to be in accordance with its application. On the other hand, the Party paid that money for its operational plans and projects of the year B.E. 2547 (2004) and did not return it to the Fund for Development of Political Parties. This deemed as not complying with the provision of section 62 of the Organic Act on Political Parties, B.E. 2541 (1998). The case therefore constituted a cause for the dissolution of Seree Prachathipatai Party pursuant to section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties, B.E. 2541 (1998).

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

Upon the above reasons, the majority of 13 judges of the Constitutional Court held that Seree Prachathipatai Party be dissolved under section 65 paragraph one subparagraph (5) and section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998).

A judge of the Constitutional Court, Mr. Manit Wityatem, held that the application of the political party registrar be dismissed. As for the reason, the combination of people to establish a political party for expression of their political will was the fundamental political right under the Constitution. That the Organic Act on Political Parties, B.E. 2541 (1998) provided a political party with financial subsidy should be under control and examination. If inaccurate payment of such subsidy was found, the subsidy should be suspended and required to be returned. Additionally, a civil or criminal proceeding should be brought about

according to the nature and circumstances of an offence. The dissolution of the political party by that reason deemed as immoderate enforcement and could result in damages and difficulties to the irrelevant executive and members of the political party. This kind of provision of law was accordingly contrary to the intention of the Constitution, and it should not be enforced by the Constitutional Court.

The Constitutional Court ordered the dissolution of Seree Prachathipatai Party.

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