

# Summary of the Constitutional Court Ruling No. 88/2547

Dated 16<sup>th</sup> December B.E. 2547 (2004)\*

**Re: An applicant for establishing a political party requested the Constitutional Court for a ruling on an order of the Political Party Registrar in the case of a refusal to register the establishment of Mahachon Party.**

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## 1. Background and summarized facts

Mr. Prapansak Kamolphet, the elected leader for Mahachon Party (the applicant), filed an application to establish Mahachon Party with the Political Party Registrar (the respondent) under section 13 of the Organic Act on Political Parties, B.E. 2541 (1998). The application was made on 12<sup>th</sup> July B.E. 2547 (2004), which was the same day that Rasadorn Party filed a letter notifying amendments to the Party Regulations by changing the party name to “Mahachon Party” as well as other changes under section 33 of the Organic Act on Political Parties. Upon examination of both applications under section 14 of the Organic Act on Political Parties, B.E. 2541 (1998), on 19<sup>th</sup> July B.E. 2547 (2004), the respondent accepted the amendments to the party regulations and other filings made by Rasadorn Party. However, as regards the application for establishing Mahachon Party filed by the applicant, the respondent relied on powers under section 15 paragraph one of the Organic Act on Political Parties, B.E. 2541 (1998), and notified the applicant to send additional as well as amend several evidences submitted in support of the application to establish a political party. The respondent also notified the applicant that the respondent had already accepted the amendments to Rasadorn Party’s regulations whereby the party name was changed to Mahachon Party. Subsequently, the applicant amended the documentary evidence, which were submitted to the respondent on 28<sup>th</sup> July B.E. 2547 (2004), but without any change in the name of the political party to be established from “Mahachon Party” to some other name. Thus, there was a repetition with the name of Mahachon Party which was in the political party register. Therefore, the Political Party Registrar refused to register the establishment of Mahachon Party under section 15 paragraph three of the same law. A letter dated 19<sup>th</sup> August B.E. 2547 (2004) notified the applicant of the decision. The applicant disagreed with such decision made by the respondent and therefore filed an application dated 17<sup>th</sup> September B.E. 2547 (2004) requesting for a Constitutional Court ruling by virtue of section 29, section 30, section 47 of the Constitution and section 13, section 14, section 15, section 16,

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section 17, section 18 and section 33 of the Organic Act on Political Parties, B.E. 2541 (1998), as follows:

1) that the respondent should revoke its acceptance of changes to the establishment of Mahachon Party that was granted to a group notifying its amendments to Rasadorn Party Regulations which changed the name of “Rasadorn Party” to “Mahachon Party”?

2) that the respondent should confirm its registration of the establishment of a political party under the name “Mahachon Party” in accordance with the application filed by the applicant as well as publish the establishment of “Mahachon Party” in the Government Gazette in accordance with section 18 of the Organic Act on Political Parties, B.E. 2541 (1998), to be effective as an application to establish a political party as from 12<sup>th</sup> July B.E. 2547 (2004).

## **2. Preliminary issue**

The preliminary issue considered by the Constitutional Court was whether or not the Constitutional Court had the power to accept this application for consideration.

The Constitutional Court held as follows. Section 17 of the Organic Act on Political parties, B.E. 2541 (1998), conferred on an applicant for establishing a political party who disagreed with a refusal to register the establishment of a political party by the respondent Political Party Registrar under section 15 of the same law to have the right to file an application to the Constitutional Court for a ruling within 30 days as from the receipt of the letter notifying the refusal to register the establishment of the political party in the Political Party Registrar. Since the respondent relied on powers under section 15 paragraph three in refusing to register the establishment of Mahachon Party and the applicant disagreed with such decision, an application was filed at the Constitutional Court on 17<sup>th</sup> September B.E. 2547 (2004), which was within the 30-day limit from the receipt of a letter notifying the refusal to register the establishment of the applicant’s Mahachon Party, for a ruling that the respondent should register the establishment of Mahachon party. This case was therefore in accordance with section 17 in conjunction with section 15 of the Organic Act on Political Parties, B.E. 2541 (1998). The Constitutional Court therefore held that the application should be accepted for consideration.

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

The issue which had to be considered by the Constitutional Court was whether or not the refusal to register the establishment of Mahachon Party by the Political Party Registrar was in accordance with section 14 and section 15 of the Organic Act on Political Parties, B.E. 2541 (1998).

The Constitutional Court held as follows. In refusing to register the establishment of Mahachon Party, which was filed by the applicant on the same day as Rasadorn Party's filing of amendments to its regulations to change its name to Mahachon Party, the respondent had examined the applicant's documents in support of the application to establish Mahachon Party as well as examined the documents notifying the amendments to Rasadorn Party Regulations which requested a change of name from Rasadorn Party to Mahachon Party. Such a proceeding was in accordance with section 14 paragraph one of the Organic Act on Political Parties, B.E. 2541 (1998). Once it was found that documentary evidence supporting the notification to amend Rasadorn Party Regulations was complete and accurate as required by law and the general assembly of Rasadorn Party to amend the party's regulation was in accordance with Rasadorn Party Regulations, the respondent therefore accepted the amendments to the party regulation whereby the name of Rasadorn Party was changed under section 33 of the Organic Act on Political Parties, B.E. 2541 (1998). On the other hand, after examination under section 14 paragraph one subparagraph (3) of the documents supporting the application for establishing a political party filed by the applicant, the respondent found that they were incomplete under several requirements provided by law. The respondent sent a letter dated 19<sup>th</sup> July B.E. 2547 (2004) to notify the applicant to rectify the documents in the application to establish the political party within 7 days, which was a proceedings in accordance with section 15 paragraph one of the Organic Act on Political Parties, B.E. 2541 (1998). Subsequently, after the applicant had rectified its documents, the respondent examined the amended documents and found that the applicant had not changed the political party name from Mahachon Party to some other name. The result was a repetition with Mahachon Party which appeared in the political party register, changed from Rasadorn Party. The registration for the establishment of Mahachon Party was thus refused, which was in accordance with section 15 paragraph three in conjunction with section 14 paragraph one subparagraph (5) of the Organic Act on Political Parties, B.E. 2541 (1998). Therefore, the refusal to register the establishment of Mahachon Party by the Political Party Registrar was already in accordance with section 14 and section 15 of the Organic Act on Political Parties, B.E. 2541 (1998). Other issues did not have to be considered.

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

The Constitutional Court, by a unanimous resolution of 13 judges, dismissed the application of the applicant to establish Mahachon Party.

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