

Summary of Constitutional Court Ruling* No. 7-9/2556 (2013)

Dated 13th June B.E. 2556 (2013)

Re: The Political Party Registrar requested for a Constitutional Court order to dissolve Palang Pandin Thai Party (Asamatubhum Party)

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1. Summary of background and facts

The Political Party Registrar, applicant, submitted an application to the Constitutional Court, requesting for an order to dissolve Palang Pandin Thai Party (Asamatubhum Party), respondent, pursuant to section 93 in conjunction with section 42 paragraph two and section 82 of the Organic Act on Political Parties B.E. 2550 (2007), as well as a Constitutional Court order to prohibit the former executives of the dissolved respondent party from filing registration of a new political party or becoming a political party's executive, or participating in the filing of registration of a new political party, for a period of five years as from the date of dissolution of the respondent party, pursuant to section 97 of the Organic Act on Political Parties B.E. 2550 (2007). The applicant further requested for an order to revoke the election rights of the party's leader and executives of the respondent party holding office at the time of the commission of offence for a period of five years as from the date of Constitutional Court order to dissolve the respondent party pursuant to section 98 of the Organic Act on Political Parties B.E. 2550 (2007).

2. Preliminary issue

The preliminary issue was whether or not the Constitutional Court had the competence to admit this application for a ruling under section 93 of the Organic Act on Political Parties B.E. 2550 (2007).

The Constitutional Court found that the respondent had failed to comply with section 42 paragraph two and section 82 of the Organic Act on Political Parties B.E. 2550 (2007), constituting a cause for dissolution of the respondent party pursuant to section 93 paragraph one. The applicant, by the approval of the Election Commission, submitted an application to the Constitutional Court to commence proceedings for the dissolution of the respondent party. The application was lodged to the Constitutional Court within fifteen days since the day when such circumstance appeared to the applicant pursuant to section 93 paragraph two. Hence, the case was in accordance with section 93 of the Organic Act on Political Parties B.E. 2550 (2007) in conjunction with clause 17(20) of the Rules of the Constitutional Court on Procedures and Rulings B.E. 2550 (2007). The Constitutional Court therefore admitted all three applications for consideration.

3. The issues considered by the Constitutional Court

The first issue was whether or not there was a cause for dissolution of the respondent party pursuant to section 93 of the Organic Act on Political Parties B.E. 2550 (2007) due to a failure to comply with section 42 paragraph two and section 82.

The question considered from the outset was whether or not the respondent had complied with section 42 paragraph two of the Organic Act on Political Parties B.E. 2550 (2007).

The applicant had notified the respondent to submitted the respondent party's annual report of the year B.E. 2554 (2011). The notice was received by an official of such respondent party, deemed as having been duly served on the respondent by law. Besides, the respondent had the duty to submit the party's annual report of the year B.E. 2554 (2011), within the timeframe set by law. The respondent, however, failed to prepare a true and accurate report of operations of the respondent party and make a submission to the applicant within the prescribed timeframe without due reason excuse. The respondent was therefore deemed to have failed to comply with section 42 paragraph two. There was thus a cause for dissolution of the respondent party under section 93.

The following question was whether or not the respondent had complied with section 82 of the Organic Act on Political Parties B.E. 2550 (2007).

The Constitutional Court found as follows. The applicant had served notice on the respondent to report spending of the respondent party's contributions for the annual periods of B.E. 2553 (2010) and B.E. 2554 (2011). In the annual period of B.E. 2554 (2011), an official of the respondent party accepted the notice. The respondent was thereby deemed to have been duly serviced with the applicant's notice by law. In addition, the respondent had a duty to provide true and accurate reports of the respondent party's contribution spending for the annual periods of B.E. 2553 (2010) and B.E. 2554 (2011), which should have been submitted to the Election Commission within the timeframe prescribed by law. The respondent had prepared a report of the respondent party's contribution spending for the annual period of B.E. 2553 (2010), which was not true and accurate, and failed to provide a report of the respondent party's contribution spending for the annual period of B.E. 2554 (2011), which must have been submitted to the Election Commission within the prescribed timeframe without due reasons. The case therefore showed a cause for dissolution of the respondent party pursuant to section 93.

The second issue was whether or not the former executives of the respondent party could file the registration of a new political party or become a political party's executive or took part in filing of a new political party over a period of five years as from the date of Constitutional Court order to dissolve the respondent party pursuant to section 97 of the Organic Act on Political Parties B.E. 2550 (2007), and whether or not the party's leader or executives of the respondent party who participated, connived at, neglected, or failed to restrain or remedy such actions , shall be subject to a revocation of election rights for a period

of five years as from the date of Constitutional Court order to dissolve the respondent party pursuant to section 98 of the Organic Act on Political Parties B.E. 2550 (2007).

The first question which had to be determined was whether or not the former executives of the respondent party was prohibited from filing registration of a new political party, becoming a political party's executive, or taking part in the filing of registration of a new political party within a five-year period as from the date of Constitutional Court order to dissolve the respondent party pursuant to section 97 of the Organic Act on Political Parties B.E. 2550 (2007).

The Constitutional Court found as follows. Section 97 of the Organic Act on Political Parties B.E. 2550 (2007) was a provision on the consequences of violating a provision of law. Such provision did not grant the Constitutional Court with a discretion to order otherwise. Upon a finding of a cause for dissolution of the respondent party due to causes of violations of section 42 paragraph two and section 82, the Constitutional Court shall order the prohibition of former executives of the respondent party from filing registration of a new political party, becoming a political party executive, or taking part in the filing of registration of a new political party for a period of five years as from the dissolution of such political party.

The second question which had to be determined was whether or not the party's leader or executives of the respondent party who participated, connived at, neglected, or failed to prevent or remedy the action, shall be subject to a revocation of election rights for a period of five years as from the Constitutional Court order to dissolve the respondent party pursuant to section 98 of the Organic Act on Political Parties B.E. 2550 (2007).

The Constitutional Court found as follows. The respondent had a duty to provide a report of political party contribution spending for the calendar year period as provided under section 82. The report of expenditures had to be prepared by the party's leader and the party's executives as persons in charge with undertaking party operations in accordance with section 17 paragraph one as a provision stated that the political party's executive committee shall have the powers and duties of undertaking political party's activities in accordance with the Constitution, laws, political party policies, political party articles and resolutions of the political party general assembly, with prudence, care and integrity in the interests of the country and the people, as well as to promote democracy in the political party. Upon a finding of facts that the respondent submitted an incomplete report of the respondent party's contribution spending for the annual period of B.E. 2553 (2010), which was an inaccurate report, and failed to report the respondent party's contribution spending for the annual period of B.E. 2554 (2011) without due reasons pursuant to section 82 in conjunction with section 42 paragraph two, this could be deemed as a case where the party's leader and executives of the respondent party conspired with connived at, neglected, or failed to restrain or remedy the action relating to the failure to report. The Constitutional Court therefore ordered the revocation of election rights of the party leader and executives of the respondent party for a period of five years as from the order to dissolve the respondent party.

4. Ruling of the Constitutional Court

The Constitutional Court ordered the dissolution of Palang Pandin Thai Party (Asamatubhum Party), respondent, pursuant to section 93 in conjunction with section 42 paragraph two and section 82 of the Organic Act on Political Parties B.E. 2550 (2007). The Constitutional Court further ordered the prohibition of former executives of the respondent party pursuant to Notification of the Political Party Registrar Re: Acceptance of Changes to the Party Articles and Executives of Asamatubhum Party, dated 25th May B.E. 2553 (2010), and Notification of the Political Parties Registrar Re: Acceptance of Changes to the Executives of Asamatubhum Party, dated 14th October B.E. 2554 (2011), from filing registration of the establishment of a new political party, becoming a political party's executive, or taking part in the filing of registration of a new political party for a period of five years as from the date of Constitutional Court order to dissolve the respondent party pursuant to section 97 of the Organic Act on Political Parties B.E. 2550 (2007), and to revoke the election rights of the party's leader and executives of the respondent party pursuant to such Notifications of the Political Party Registrar for a period of five years as from the date of Constitutional Court order to dissolve the respondent party pursuant to section 98 of the Organic Act on Political Parties B.E. 2550 (2007).
