

# **Summary of Constitutional Court Ruling\* No. 12/2556 (2013)**

**Dated 4<sup>th</sup> September B.E. 2556 (2013)**

**Re: Mr. Sarit Pradabsri and members of Pheu Thai Party, a total of 108 persons, requested a Constitutional Court ruling on whether or not the resolution of Pheu Thai Party which allowed Mr. Satiraporn Naksuk's withdrawal from candidacy in the election of party-list Members of the House of Representatives was inconsistent with the status and functions of Members of the House of Representatives, or contrary to or inconsistent with the fundamental principles of the democratic form of government with the King as Head of State pursuant to section 65 paragraph three of the Constitution.**

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## **1. Summary of background and facts**

In the general election of Members of the House of Representatives on 3<sup>rd</sup> July B.E. 2554 (2011), Pheu Thai Party, first respondent, adopted a resolution to nominate Mr. Satiraporn Naksuk as candidate number 82 in the election of party-list Members of the House of Representatives, pursuant to a notification of the Election Commission, second respondent on 2nd June B.E. 2554 (2011). After the announcement of election results, Mr. Satiraporn Naksuk sent a letter dated 16<sup>th</sup> May B.E. 2555 (2012) to the first respondent, tendering his withdrawal from candidacy in the election of party-list Members of the House of Representatives in order to apply for candidacy in the election of Chief Executive for the Yasothon Provincial Administrative Organisation. The first respondent authorized the withdrawal.

The applicants were of the opinion that the first respondent's resolution which authorized Mr. Satiraporn Naksuk's withdrawal from candidacy in the election of party-list Members of the House of Representatives in order to apply for candidacy in the election of Chief Executive for the Yasothon Provincial Administrative Organisation was inconsistent with the status and functions of Members of the House of Representatives as provided by the Constitution, or contrary to or inconsistent with the fundamental principles of the democratic form of government with the King as Head of State pursuant to section 65 paragraph three, section 102(9), section 103, section 109 paragraph one (2) and section 265.

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## **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 65 paragraph three of the Constitution in conjunction with section 33 paragraph one of the Organic Act on Political Parties B.E. 2550 (2007). The Constitutional Court found as follows. The applicants, all of whom comprised 108 members of Pheu Thai Party, which was a number not less than one hundred persons, submitted an application to the Constitutional Court for a ruling. The case was in accordance with section 65 paragraph three of the Constitution in conjunction with section 33 paragraph one of the Organic Act on Political Parties B.E. 2550 (2007). The Constitutional Court therefore ordered the admittance of this application for consideration.

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

The issue considered by the Constitutional Court was whether or not the first respondent's resolution which authorised Mr. Satiraporn Naksuk's withdrawal from candidacy in the election of party-list Members of the House of Representatives in order to apply for candidacy in the election of the Chief Executive of the Yasothon Provincial Administrative Organisation was inconsistent with the status and functions of Members of the House of Representatives as provided by the Constitution or contrary to or inconsistent with the fundamental principle of the democratic form of government with the King as Head of State pursuant to section 65 paragraph three of the Constitution.

The Constitutional Court found as follows. After the announcement of results for the election of Members of the House of Representatives on 3<sup>rd</sup> July B.E. 2554 (2011), Mr. Satiraporn Naksuk's name did not appear on the list of elected party-list Members of the House of Representatives from Pheu Thai Party. His status as a candidate in the election of party-list Members of the House of Representatives thereby terminated. Mr. Satiraporn Naksuk was no longer subject to the provisions of section 45(13) of the Elections of Members of Local Assemblies or Local Administrators Act B.E. 2545 (2002). Such provisions had the same purpose as section 102(9) of the Constitution. Section 103 paragraph one and paragraph two of the Constitution provided rules governing candidates in elections of constituency of Members of the House of Representatives. Section 103 paragraph three would only apply in the period prior to the announcement of election results. A withdrawal from candidacy subsequent to the conclusion of an election was not prohibited. Furthermore, it did not appear from the facts that the first respondent had adopted a resolution to authorise Mr. Satiraporn Naksuk's withdrawal from candidacy in the election of party-list Members of the House of Representatives in order to apply for candidacy in the election of the Chief Executive for the Yasothon Provincial Administrative Organisation, since the withdrawal letter of Mr. Satiraporn Naksuk was never received. The applicants were also unable to show the relevant resolution of the first respondent stated in their claim. Hence, it was not found that the first respondent adopted a resolution to permit Mr. Satiraporn Naksuk to withdraw from candidacy in the election of party-list Members of the House of

Representatives in order to apply for candidacy in the election of the Chief Executive for the Yasothon Provincial Administrative Organisation. Therefore, there was no substance for a finding of an action that was inconsistent with the status and functions of Members of the House of Representatives as provided by the Constitution, or that was contrary to or inconsistent with the fundamental principles of the democratic form of government with the King as Head of State pursuant to section 65 paragraph three of the Constitution.

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

By virtue of the foregoing reasons, the Constitutional Court dismissed the application.

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