

Summary of the Constitutional Court Ruling No. 18/2545

Dated 16th May B.E. 2545 (2002)*

Re : The National Counter Corruption Commission requests for a Constitutional Court ruling under section 295 of the Constitution of the Kingdom of Thailand in the case where Mr. Wittaya Siripong intentionally failed to submit his account showing assets and liabilities and supporting documents

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1. Background and summarized facts

The National Counter Corruption Commission (NCCC), the applicant, submitted an application to the Constitutional Court to consider the case of Mr. Wittaya Siripong, who was appointed as a political official holding the position of advisor to the Deputy Minister of Agriculture and Cooperatives (Mr. Somchai Suntornwat) as from 1st June B.E. 2541 (1998) and vacated office on 1st January B.E. 2542 (1999). The respondent was under a duty, pursuant to section 291(5) of the Constitution, to submit accounts showing particulars of assets and liabilities of himself, his spouse and his children who have not yet become sui juris together with supporting documents to the NCCC. This duty had to be satisfied within the time limit prescribed by section 292, viz in the case of the taking of office, an account of assets and liabilities had to be submitted by 30th June B.E. 2541 (1998); in the case of the vacation of office, by 30th January B.E. 2542 (1999); and in the case of the expiration of one year after the vacation of office, by 30th January B.E. 2543 (2000). Yet the respondent did not submit accounts on all three occasions. The respondent sent a statement in writing to the applicant, who, in brief, stated that he thought that he did not have to submit an account of assets and liabilities and accepted fault for all matters at issue. The applicant, after consideration, unanimously resolved by 8 votes that the respondent intentionally failed to submit accounts showing particulars of assets and liabilities and referred the matter to the Constitutional Court for a ruling under section 295 of the Constitution.

The respondent pleaded to the Constitutional Court in defense of the allegations, summarily stated, that the reason for not submitting accounts showing particulars of assets and liabilities and supporting documents to the applicant was due to a misunderstanding. It was thought that the accounts need not be re-submitted because they were once submitted upon taking office as Deputy Secretary-General of the National Economic and Social

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Development Council. Such information was opened for examination. The misunderstanding arose from a lack of understanding in the Constitution. As a result, the provisions of the Constitution had not been complied with. Therefore, the respondent pleaded in defense that he did not in any way intentionally withheld compliance of the Constitution.

2. Preliminary issue.

Was the case in accordance with section 295 of the Constitution?

The Constitutional Court held that this case was in accordance with section 295 of the Constitution. The application was therefore accepted for consideration.

3. The issues considered by the Constitutional Court

Did the respondent intentionally fail to submit accounts showing particulars of assets and liabilities and supporting documents under the Constitution ?

The Constitutional Court held that the respondent's statement to the Constitutional Court that there was no intention to withhold compliance with the Constitution because there was a misunderstanding due to lack of knowledge on the Constitution could not be accepted as indicating that the respondent did not intentionally fail to submit account of assets and liabilities and supporting documents. This was owed to the fact that the respondent was once a civil servant holding the position of Deputy Secretary-General of the National Economic and Social Development Council and subsequently became a political official appointed to the office of advisor to the Minister of Agriculture and Cooperatives which necessarily required knowledge of and compliance with the law. When the respondent failed to submit accounts showing particulars of assets and liabilities within the time limit prescribed by the Constitution, the case could be accepted as indicating that the respondent intentionally failed to submit accounts showing particular of assets and liabilities and supporting documents to the NCCC, the applicant, as provided for by the Constitution.

4. Ruling of the Constitutional Court

The Constitutional Court unanimously held that Mr. Wittaya Siripong, the respondent, intentionally failed to submit accounts showing particulars of assets and liabilities and supporting documents under section 295 of the Constitution.
