

# **Summary of the Constitutional Court Ruling No. 35/2545**

**Dated 6<sup>th</sup> June 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, B.E. 2540 (1997) in the case where Police Lieutenant Colonel Sanit Surangsi intentionally failed to submit accounts 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 a request that the Constitutional Court make a ruling in the case where Police Lieutenant Colonel Sanit Surangsi, the respondent, intentionally failed to submit accounts showing particulars of assets and liabilities and supporting documents. In summary, the respondent was appointed as a political official holding the position of assistant secretary to the Minister of Transport (Mr. Suthep Teuksuban) from 1<sup>st</sup> January B.E. 2542 (1999) pursuant to section 4(18) of the Rules of Political Officials Act, B.E. 2535 (1992) and vacated office on 12<sup>th</sup> July B.E. 2542 (1999). The respondent was under a duty, pursuant to section 291 paragraph one subparagraph (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 within the time limit prescribed by section 292. However, the respondent failed to submit accounts of assets and liabilities of himself, his spouse and his children who have not yet become sui juris on the occasions of taking office, vacation of office and upon the expiration of one year after the vacation of office. The NCCC carried out its procedures to determine the intention of the respondent in this case of failure to submit accounts of assets and liabilities and supporting documents. A total of two letters were sent to the respondent as notifications and demands that the respondent give a statement of facts. However, the respondent did not give any reason for his failure to submit accounts of assets and liabilities and supporting documents or his failure to proceed to submit complete accounts of assets and liabilities and supporting documents. The applicant considered that the respondent intentionally failed to submit accounts of assets and liabilities and supporting documents as prescribed by the Constitution and referred the matter to the Constitutional Court for a ruling under section 295 of the Constitution.

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## **2. Preliminary issue.**

A preliminary issue which had to be considered was whether or not the Constitutional Court had the power to consider the matter stated in the application.

The Constitutional Court held that, as the applicant had reached a resolution that the respondent intentionally failed to submit accounts of assets and liabilities and supporting documents and referred the matter for a ruling in accordance with section 295 of the Constitution, the matter would be accepted for consideration.

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

The issue which had to be considered was whether or not the respondent intentionally failed to submit accounts showing particulars of assets and liabilities and supporting documents under section 295 of the Constitution.

The Constitutional Court considered the facts stated in the applicant's application and the respondent's statement and resolved that the respondent was a political official holding a political position with a duty to submit to the applicant accounts showing particulars of assets and liabilities of himself, his spouse and his children who had not yet become sui juris as prescribed by section 291 paragraph one sub-paragraph (5) of the Constitution. However, the respondent failed to submit accounts showing particulars of assets and liabilities and supporting documents within the time limit prescribed by section 292 of the Constitution.

The respondent stated in a statement to the Constitutional Court that he had never read or learnt the present Constitution, and that no official of the Ministry of Transport or any person had ever informed him of his status as a political official and that he had to submit accounts of assets and liabilities. Therefore, as a result, he did not submit accounts of assets and liabilities to the applicant.

Nevertheless, the Constitutional Court held that such excuses claimed by the respondent could not constitute a cause for the exoneration of his offence. Therefore, it was considered that the respondent intentionally failed to submit accounts showing particulars of assets and liabilities and supporting documents to the applicant as prescribed by the Constitution.

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

By virtue of the reasons above, the Constitutional Court ruled that Police Lieutenant Colonel Sanit Surangsi, the respondent, intentionally failed to submit accounts showing particulars of assets and liabilities and supporting documents under section 295 of the Constitution.

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