

Summary of the Constitutional Court Ruling No. 58/2545

Dated 21st November 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 Lance Corporal Pinit Mueangkot intentionally failed to submit an account showing particulars of assets and liabilities and supporting documents.

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1. Background and summarized facts

Police Lance Corporal Pini Muangkot, the respondent, was elected to the office of member of the Mukdahan Municipal Assembly on 31st May B.E. 2541 (1998) for a term of four years. In the fiscal year B.E. 2544 (2001), Mukdahan Municipality had a total revenue of Baht 268,029,854.03, which was within the range specified under the Notification of the National Counter Corruption Commission (NCCC) Re: Prescribing the income range of local administrative organisations, dated 18th October B.E. 2543 (2000). The Notification prescribed a duty on the local administrators and members of the local assembly of the Municipality having an income of not less than two hundred million Baht to submit accounts showing assets and liabilities and supporting documents to the applicant, pursuant to section 291 and section 292 of the Constitution and section 32 of the Organic Act on Counter Corruption, B.E. 2542 (1999) in conjunction with the Notification of the National Counter Corruption Commission, Re: Prescribing the income range of local administrative organisations, dated 30th December B.E. 2542 (1999) as amended by the Notification of the National Counter Corruption Commission, Re: Prescribing the income range of local administrative organizations (No. 2), dated 18th October B.E. 2543 (2000).

As a result, the respondent was under a duty to submit an account within thirty days as from 1st October B.E. 2544 (2001) in the case of taking office. However, an examination of the NCCC revealed that the respondent did not submit an account within the prescribed time limit and did not notify the applicant of any obstacles in not doing so. The applicant considered the matter in meeting No. 51/2545 on 27th June B.E. 2545 (2003) and concluded that the respondent held the position of member of the Mukdahan Municipal Assembly, which was a political position, and was therefore under a duty to submit an account to the applicant.

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The respondent, however, did not submit an account in the case of taking office pursuant to the provisions of the Constitution and the Organic Act on Counter Corruption, B.E. 2542 (1999).

2. Preliminary issue

By the unanimous votes of Constitutional Court judges, the Constitutional Court accepted the application for consideration. An order was also issued to notify the NCCC and to forward a copy of the application to the respondent (Police Lance Corporal Pinij Muangkot) in order that the respondent be able to submit a statement in response to the allegations pursuant to the Rules of the Constitutional Court on Constitutional Court Procedures, B.E. 2541 (1998).

3. The issues considered by the Constitutional Court

3.1 The application was made for a ruling that Police Lance Corporal Pinij Muangkot intentionally failed to submit an account showing particulars of assets and liabilities and supporting documents in the case of taking office.

3.2 The application was also made for a ruling that Police Lance Corporal Pinij Muangkot vacated office as from the date of time limit for submission of accounts and that the respondent be prohibited from holding any political position for a period of five years as from the date of vacation of office.

The Constitutional Court held that the respondent was elected to the office of member of the Mukdahan Municipal Assembly on 31st May B.E. 2541 (1998). In the fiscal year B.E. 2544 (2001), Mukdahan Municipality had a revenue of Baht 268,029,854.03, which was within the range specified in the Notification of the NCCC which prescribed a duty on administrators and members of the Tambon Municipal or Town Municipal Assembly having a revenue of not less than two hundred million Baht to submit an account showing particulars of assets and liabilities and supporting documents for himself/herself, his/her wife and his/her children who had not yet become *sui juris* to the applicant under section 291 paragraph one sub-paragraph (6) of the Constitution. Such account had to be submitted by the respondent within the time limit in section 292 (1) of the Constitution. The respondent did not submit an account to the applicant in the case of taking office within thirty days as from 1st October B.E. 2544 (2001) despite having been issued two letters from the Office of the NCCC notifying the respondent and requesting for reasons for the non-submission of account. The respondent also did not submit a statement in defence of the allegations to the Constitutional Court within the time limit pursuant to the opportunity given to the respondent to submit a defence. After a consideration of the evidence in the application, it could be inferred that the respondent intentionally failed to submit an account showing particulars of assets and liabilities and supporting documents

under section 291 and section 292 of the Constitution and section 32 of the Organic Act on Counter Corruption, B.E. 2542 (1999) in conjunction with the Notification of the NCCC Re: Prescribing the income range of local administrative organisations, dated 30th December B.E. 2542 (1999), as amended by the Notification of the NCCC, Re: Prescribing the income range of local administrative organisations (No. 2), dated 18th October B.E. 2543 (2000). Under section 295 of the Constitution, any person who held a political position and intentionally failed to submit an account showing particulars of assets and liabilities and supporting documents prescribed by the Constitution should be prohibited from holding any political position for a period of five years as from the date of vacation of office.

4. Ruling of the Constitutional Court

The Constitutional Court held that Police Lance Corporal Pinij Muangkot, the respondent, intentionally failed to submit an account showing particulars of assets and liabilities and supporting documents in the case of taking office and was prohibited from holding any political position for a period of five years as from the date of vacation of office under section 295 of the Constitution.
