

Summary of the Constitutional Court Ruling No. 2/2548

Dated 6th January B.E. 2548 (2005)*

Re: Political Party Registrar's application for an order to dissolve Chat Prachachon Party

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1. Background and summarized facts

The political party registrar submitted an application dated 29th November B.E. 2547 (2004) to the Constitutional Court for an order to dissolve Chat Prachachon Party under section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties, B.E. 2541 (1998) due to its failure to comply with section 29 of the Organic Act on Political Parties, B.E. 2541 (1998). The facts stated in the application and documents attached thereto were summarized as follows. Chat Prachachon Party notified of the establishment of 5 political branches consisting of the first branch in Rayong Province, the second branch in Ranong province, the third branch in Nan province, the fourth branch in Phetchabun province, and the fifth branch in Yasothon province. Thereafter, Chat Prachachon Party submitted the letter withdrawing the establishment of the third branch in Nan province. Chat Prachachon Party also notified that the meeting for the establishment of the fifth branch in Yasothon province held on 21st January B.E. 2547 (2004) contained 57 attendees. After that, Chat Prachachon Party held the general meeting No. 1/2547 on 1st February B.E. 2547 (2004) which passed the unanimous resolution amending its Bylaw. Article 45 of the Bylaw which previously required not less than fifty members attending the general meeting was amended to require not less than twenty five members attending such meeting. The amendment of the Bylaw was notified to the political party registrar on 9th February B.E. 2547 (2004). The relevant Provincial Election Office verified the facts and notified Chat Prachachon Party to submit a statement and additional documents. It was appeared that in the meeting for the establishment of the fifth branch in Yasothon province on 21st January B.E. 2547 (2004), less than fifty members attended such meeting. Some members did not actually attend the meeting. Some members signed their name in the list of attendees before the meeting taken place. Some members denied that their signatures in the list of attendees were not theirs. In addition, the head of the political branch informed that there were about fifteen members attending the said meeting. The meeting for the establishment of the political branch was not in compliance with the Bylaw of Chat Prachachon Party. Subsequently, the political party registrar notified Chat Prachachon Party of the refuse to acknowledge

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the establishment of the fifth branch due to its failure to comply with its own Bylaw. At the same time, the consideration as to accept or reject the amendment of Chat Prachachon Party's Bylaw was retarded.

The Leader of Chat Prachachon Party (Mr. Pornprathan Chairatch) gave the following statements. Chat Prachachon Party complied with its Bylaw. In the general meeting No. 1/2547 on 1st February B.E. 2547 (2004), the unanimous resolution amending the Bylaw was passed. The Bylaw which previously required that not less than fifty members must attend a meeting was amended to require that not less than twenty five members must attend a meeting. This amendment was notified to the political party registrar on 9th February B.E. 2547 (2004). Thereafter, Chat Prachachon Party was notified by the political party registrar that it refused to acknowledge the establishment of the fifth branch due to non-compliance with its Bylaw and retarded the consideration as to accept or reject the amendment of such Bylaw.

2. The issue considered by the Constitutional Court

Did the case constitute a cause for an order to dissolve Chat Prachachon Party due to its failure to comply with section 29 of the Organic Act on Political Parties, B.E. 2541 (1998) according to the application of the political party registrar?

The Constitutional Court by the majority votes of 14 judges held the followings. In the meeting for the establishment of the fifth branch in Yasothon province on 21st January B.E. 2547 (2004), there were less than fifty attendees that did not comply with article 45 of the Bylaw, B.E. 2546 (2003). Since the meeting establishing the fifth branch contained the number of attendees contrary to those specified in the Bylaw, the political party registrar did not acknowledge the establishment thereof. Consequently, Chat Prachachon Party failed to have at least a political branch in every region within the period of one hundred and eighty days as from the date the registrar had acknowledged its establishment, and it thereby did not complying with section 29 of the Organic Act on Political Parties, B.E. 2541 (1998). The case therefore constituted the cause for the dissolution of Chat Prachachon Party pursuant to section 65 paragraph one subparagraph (5) of the Organic Act on Political Parties, B.E. 2541 (1998). Furthermore, the statement given by Chat Prachachon Party that the Bylaw was amended to require not less than twenty five members to attend a meeting presented that the amendment was made after the meeting establishing the fifth branch was held. The political party registrar did not accept such the amendment. The statement of Chat Prachachon Party that the meeting establishing the fifth branch was held in accordance with its Bylaw therefore could not be heard.

However, the minority vote of one judge, Mr. Manit Witayatem, was of the following opinions. Chat Prachachon Party had prepared to have members in greater number than the minimum requirement of the law. The Party could also establish the political branches in every region, having problem of only a branch in Yasothon province that was not

acknowledged by the political party registrar. Chat Prachachon Party had the intention to continue its political operation, and it may have competent to do so if not be dissolved. The minority judge therefore held that the application was dismissed.

The Constitutional Court thereby held that Chat Prachachon Party be dissolved pursuant to section 65 paragraph one subparagraph (5) in conjunction with section 65 paragraph two of the Organic Act on Political Parties, B.E. 2541 (1998).

3. Ruling of the Constitutional Court

By the foregoing reasons, the Constitutional Court ordered the dissolution of Chat Prachachon Party.
