

# **Summary of Constitutional Tribunal Ruling No. 6/2550**

**Dated 26<sup>th</sup> July B.E. 2550 (2007)\***

**Re: The National Counter Corruption Commission requested for a Constitutional Tribunal ruling in the case of Mr. Surapol Pulkes's intentional failure to submit an account of assets and liabilities and supporting documents.**

.....

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

The National Counter Corruption Commission (NCCC) filed an application requesting for a Constitutional Tribunal ruling under section 34 of the Organic Act on Counter Corruption B.E. 2542 (1999) in conjunction with clause 3 of the Announcement of the Council for Democratic Reform No. 31, dated 30<sup>th</sup> September B.E. 2549 (2006), and section 35 of the Constitution of the Kingdom of Thailand (Interim) B.E. 2549 (2006), that Mr. Surapol Pulkes intentionally failed to submit an account of assets and liabilities and supporting documents on the occasion of vacating office and the expiration of one year after vacating office.

The facts could be summarized as follows. Mr. Surapol Pulkes, the respondent, assumed the political office of member of Bang Plee Yai Tambon Administrative Organization Council on 18<sup>th</sup> July B.E. 2542 (1999) and vacated office on 17<sup>th</sup> July B.E. 2546 (2003). In the budget year of B.E. 2542 (1999), Bang Plee Yai Tambon Administrative Organization raised a total revenue of 79,798,511.39 baht. Under section 4(9), section 32 and section 33 of the Organic Act on Counter Corruption B.E. 2542 (1999) in conjunction with Notification of National Counter Corruption Commission Re: Prescription of Revenue Criteria for Local Administrative Organizations for the Purpose of Determining Local Administrators and Members of Local Administrative Organization Councils as Political Position Holders, dated 30<sup>th</sup> December B.E. 2542 (1999), the respondent was under a duty to submit an account of assets and liabilities and supporting documents to the NCCC, the applicant, on every occasion of taking office, vacating office and the expiration of at least one year after vacating office. It appeared that the respondent submitted an account once on the occasion of taking office, such submission made on 29<sup>th</sup> February B.E. 2543 (2000), and did not file accounts on the occasions of vacating office and the expiration of one year after vacating office to the applicant.

---

\* Published in the Government Gazette Vol.124, Part 58a, 24<sup>th</sup> September B.E. 2550 (2007).

In meeting no. 13/2549, held on 16<sup>th</sup> November B.E. 2550 (2007), the applicant passed a unanimous ruling by 8 votes that the respondent intentionally failed to submit accounts of assets and liabilities and supporting documents on the occasions of vacating office and the expiration of one year after the vacation of office. The matter was referred to the Constitutional Tribunal for ruling.

During trial in the Constitutional Tribunal, the respondent filed a statement in reply to the allegations and an account of assets and liabilities and supporting documents to the Constitutional Tribunal for consideration. The respondent's reply could be summarized as stating that the respondent did not intend to withhold the accounts. However, as the respondent did not have an understanding of the law and believed that there was no need to submit an account of assets and liabilities where there were no assets in the form of cash deposits.

## **2. Issues considered by the Constitutional Tribunal**

The issue which required ruling by the Constitutional Tribunal was whether or not the respondent intentionally failed to submit accounts of assets and liabilities and supporting documents on the occasions of vacating office and the expiration of one year after the vacation of office as required under section 34 of the Organic Act on Counter Corruption B.E. 2542 (1999) in conjunction with clause 3 of the Announcement of the Council for Democratic Reform No. 31, dated 30<sup>th</sup> September B.E. 2549 (2006).

After consideration, the Constitutional Tribunal made the following decision. The respondent held office as a member of Bang Phli Tambon Administrative Organization Council from 18<sup>th</sup> July B.E. 2542 (1999) and vacated office at the expiration of term on 17<sup>th</sup> July B.E. 2546 (2003). Thus, the respondent was a political position holder under section 4(9), section 32 and section 33 of the Organic Act on Counter Corruption B.E. 2542 (1999), who was under a duty to submit an account of assets and liabilities and supporting documents on the occasion of taking office, vacating office and the expiration of one year after the vacation of office. It was found on the facts that the respondent had satisfactorily submitted an account on the occasion of taking office. However, the respondent did not submit accounts on the occasions of vacating office and the expiration of one year after the vacation of office. During trial in the Constitutional Tribunal, the respondent claimed that the reason for failing to submit accounts was that the respondent did not understand the law and believed that there was no need to submit accounts if there were no assets in the form of cash deposits.

The Constitutional Tribunal found that the respondent's argument on ignorance of the law was raised as an excuse to exonerate himself from legal liability. The respondent was aware of his duties to submit accounts as already notified by competent officials of the NCCC or officials of the Tambon Administrative Organization. The respondent's failure to submit the accounts within the period prescribed by law could be deemed as the respondent's intentional failure to disclose assets and liabilities and supporting documents.

### **3. Ruling of the Constitutional Tribunal**

The Constitutional Tribunal passed a unanimous ruling by 5 votes that the respondent intentionally failed to submit an account of assets and liabilities and supporting documents as required under section 34 of the Organic Act on Counter Corruption B.E. 2542 (1999) in conjunction with clause 3 of the Announcement of the Council for Democratic Reform No. 31, dated 30<sup>th</sup> September B.E. 2549 (2006).

---