

Summary of Constitutional Court Ruling* No. 48/2554 (2011)

Dated 28th December B.E. 2554 (2011)

Re: The Labour Party requested for a Constitutional Court ruling on whether or not the Notification of the Political Party Registrar Re: Termination of Labour Party's Political Party Status was consistent with section 91 of the Organic Act on Political Parties B.E. 2550 (2007).

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1. Summary of background and facts

The Labour Party, the applicant, submitted an application to the Constitutional Court for an order to annul the Notification of the Political Party Registrar on the termination of its political party status as well as a ruling on whether or not the disapproval of the establishment of Labour Party's 2nd and 3rd branches were consistent with section 19 paragraph two, section 20 paragraph two, section 35 and section 137 of the Organic Act on Political Parties B.E. 2550 (2007).

The facts could be summarised as follows. The applicant party was registered as a political party on 18th April B.E. 2549 (2006). A meeting to establish the 2nd party branch in Pichit Province was held on 15th September B.E. 2551 (2008) and a meeting to establish the 3rd party branch in Roi Et Province was held on 21st September B.E. 2551 (2008). The Political Party Registrar, the respondent denied approval for the branch establishments because on the meeting day for establishment of the 2nd party branch, Mr. Kamporn Tongkonghan, the elected party branch speaker, and Mr. Chusilp Sayarak, the elected party branch committee member, were members of Mahachon Party, and on the meeting day for the establishment of the 3rd party branch, Mrs. Supapis Pantachai, the elected party branch secretary, and Mr. Suriya Prasitsant, the elected party branch treasurer, were members of the Democrat Party. All four elected party branch committee members were therefore disqualified from memberships of the applicant political party. As a consequence, the remaining applicant party branch committee members failed to constitute the composition required by law. The Political Party Registrar, the respondent, thus issued a notification to terminate the applicant party's political party status due to the applicant party's failure to establish at least one branch in each region within one year as from the effective date of the Organic Act on Political Parties B.E. 2550 (2007) (within 7th October B.E. 2551 (2008)) pursuant to section 135 paragraph three in conjunction with section 91 paragraph one (1) and

* Published in the Government Gazette Vol. 129, Part 68a, dated 26th July B.E. 2555 (2012)

paragraph two of the said Organic Act. The respondent issued a notification on the termination of the Labour Party's political party status.

2. Preliminary issue

The preliminary issue was whether or not the Constitutional Court had the competence to admit this application for a ruling under section 91 paragraph three of the Organic Act on Political Parties B.E. 2550 (2007).

The Constitutional Court found as follows. The applicant was a political party under a duty to proceed as stated under section 26 of the Organic Act on Political Parties B.E. 2550 (2007). Upon a notification of the respondent terminating the applicant party's political party status due to the failure to establish at least one political party branch in each region within one year of the coming into force of the Organic Act on Political Parties B.E. 2550 (2007) and the submission of an application by the applicant for the annulment of such notification, the case was within section 91 paragraph three of the Organic Act on Political Parties B.E. 2550 (2007) and article 17(20) of the Rules of the Constitutional Court on Procedures and Rulings B.E. 2550 (2007). An order was therefore given to admit the application for consideration.

3. The issues considered by the Constitutional Court

The issue considered was whether or not the notification of the Political Party Registrar on the termination of Labour Party's political party status was consistent with section 91 of the Organic Act on Political Parties B.E. 2550 (2007).

The facts were conclusively found as follows. The applicant was registered as a political party on 18th April B.E. 2549 (2006). On 15th September B.E. 2551 (2008), the applicant held a meeting to establish the 2nd party branch in Pichit Province. On 21st September B.E. 2551 (2008), the applicant held a meeting to establish the 3rd party branch in Roi Et Province. The respondent declined approval for the establishment of both party branches for the reason that four elected party branch committee members, as aforementioned, lacked the qualifications of party members. As a consequence, the offices of political party branch committee members were not fully constituted as required by law. The respondent also found that the applicant was unable to establish at least one political party branch in each region within one year as from the coming into force of the Organic Act on Political Parties B.E. 2550 (2007). The respondent therefore issued a notification to terminate the applicant's political party status.

The issues which had to be determined were whether or not on the meeting days for establishment of both party branches, the four party branch committee members lacked the qualifications of party members and party branch committee members.

The Constitutional Court found as follows. Mr. Kamporn tendered his resignation from membership to the Mahachon Party Registrar as evidenced by a copy of the resignation letter dated 14th September B.E. 2551 (2008). Mrs. Supapis and Mr. Suriya tendered their resignations from membership to the Democrat Party Registrar as evidenced by resignation letters dated 15th September B.E. 2551 (2008). The Mahachon Party Registrar, however, received Mr. Kamporn's resignation on 2nd October B.E. 2551 (2008) and the Democrat Party Registrar received the resignations of Mrs. Supapis and Mr. Suriya on 26th September B.E. 2551 (2008). It was therefore deemed that Mr. Kamporn tendered his resignation to Mahachon Party Registrar on 2nd October B.E. 2551 (2008), while Mrs. Supapis and Mr. Suriya, on the other hand, tendered their resignations to the Democrat Party Registrar on 26th September B.E. 2551 (2008), being the days when the respective members registrar received the resignations of those three persons. As Mr. Kamporn applied for membership of the applicant party on 10th September B.E. 2551 (2008) and Mrs. Supapis and Mr. Suriya applied for membership of the applicant party on 13th August B.E. 2551 (2008), this was thus a case where the three persons applied for memberships of the applicant party whilst remaining members of Mahachon Party and Democrat Party. Therefore, the memberships in the applicant party of Mr. Kamporn, Mrs. Supapis and Mr. Suriya terminated under section 20 paragraph one (6) of the Organic Act on Political Parties B.E. 2550 (2007) and they were disqualified from election as the applicant party's branch committee members. As a consequence, the composition of the 2nd and 3rd branch committees failed to be constituted as required by law. There was no need to determine Mr. Chusilp's membership status in the applicant party as there would be no effect on the determination of the applicant's establishment of party branches.

The subsequent issue to be decided was whether or not the respondent's notification of the termination of the applicant's political party status was consistent with section 91 of the Organic Act on Political Parties B.E. 2550 (2007).

The Constitutional Court found as follows. The applicant was a political party established under the Organic Act on Political Parties B.E. 2541 (1998). Thereafter, upon the enactment of the Organic Act on Political Parties B.E. 2550 (2007), the transitory provisions in section 135 paragraph two of such Organic Act provided that a political party registered under the previous Organic Act and that had not yet obtained at least five thousand members or established political party branches in the number stated in section 26 to fulfill these requirements within one year as from the coming into force of this Organic Act. In the case where a political party failed to fulfill the requirements, such political party's status as a political party would terminate under section 135 paragraph three. The applicant's failure to establish at least one political party branch in each region within 7th October B.E. 2551 (2008), being the completion of one year of the coming into force of the Organic Act on Political Parties B.E. 2550 (2007), therefore constituted a cause for the termination of political party status under section 135 paragraph three in conjunction with section 91 paragraph one (1) of the Organic Act on Political Parties B.E. 2550 (2007). Hence, Notification

of the Political Party Registrar Re: Labour Party's Termination of Political Party Status was consistent with section 91 of the Organic Act on Political Parties B.E. 2550 (2007).

4. Ruling of the Constitutional Court

For the foregoing reasons, the Constitutional Court dismissed the application.
