

Complaint No.39/2553: Rights in the judicial process - A case of police officers not taking out an alleged offender for proceeding

The complainant complained to the NHRCT that inquiry officials at Bang Pli Police Station in Samut Prakarn Province had not taken an alleged offender for proceeding and asked the NHRCT to investigate.

After considering facts obtained from investigation and checked relevant laws, the NHRCT sees that as inquiry officials at Bang Pli Police Station did not take out an alleged offender even if they had been notified by the Drug Addicts Rehabilitation Sub-Committee resulted in the alleged offender being detained at the checking place for 174 days which was longer than punishment in a criminal case of which the alleged offender was being prosecuted in court. The alleged offender then petitioned the court, asking for a court order to release him because he had been illegally detained according to the Criminal Procedure Act.

In this case, it can be seen that the inquiry officials at Bang Pli Police Station did not act in accordance with the court order to take out the alleged offender to inquiry officials for prosecution even if Samut Prakarn Province Probation Office had notified them to take the alleged offender out according to the court order. They therefore did not take actions in accordance with Section 20 of the Narcotic Drug Addicts Rehabilitation Act B.E. 2545 (2002).

In case that an alleged offender has no right to receive rehabilitation, the Royal Thai Police has a clear guideline that inquiry officials hurry to take the alleged offender back and proceed with criminal prosecution according to the charges made against the person. Therefore it can be considered that inquiry officials at Bang Pli Police Station who were responsible for the case neglected to follow an order of Samut Prakarn Magistrates Court and the guideline in the Royal Thai Police's Most Urgent Letter no. 0004.6/2152 dated 3rd March 2003 as well.

Negligence of the inquiry officials at Bang Pli Police Station to take out the alleged offender in this case is thus an act that was not for protection of the alleged offender's rights in judicial process. Any alleged offender has a right to have his/her case being considered quickly, correctly and fairly as recognized by the Constitution. This right is considered to be human rights according to its meaning as stated in the National Human Rights Commission Act B.E. 2542. It can be seen in this case of complaint that inquiry officials at Bang Pli Police Station in Samut Prakarn Province had neglected to take required action and this non-action is violation of the alleged offender's human rights.

Also in this same case, it appears that involved officials of Department of Probation did not follow up to see whether inquiry officials take out the alleged offender or not. If the alleged offender was not taken out within three days after the Sub-Committee had sent a letter to inform

the head of inquiry officials, a report must be sent to the Provincial Probation Office to take necessary actions. And after that, the inquiry officials still did not take out the alleged offender, another report must be sent to Department of Probation for consideration. These guidelines are in Department of Probation's Letter No. Yor Thor 0304/Wor 389 dated 15th May 2006. It can be seen then that Department of Probation's officials involved in this case did not follow Department of Probation's letter of order as well.

Therefore measures to correct the problems were recommended to the National Police Office, Ministry of Justice and Department of Probation as follows:

- 1) The Royal Thai Police reiterates to its inquiry officials to follow the Narcotic Drug Addicts Rehabilitation Act B.E.2545 and related regulations, and takes into consideration actions against persons involved with these guidelines, using problems occurred in this case as information for consideration.
- 2) Department of Probation reiterates to officials responsible for taking actions according to the Narcotic Drug Addicts Rehabilitation Act B.E.2002 to strictly follow this Act and Department of Probation's Letter No. Yor Thor 0304/Wor 389 dated 15th May 2006 along guidelines that had been rehearsed.
- 3) Ministry of Justice acknowledges and monitor and supervise Department of Probation's operation related to the Narcotic Drug Addicts Rehabilitation Act B.E.2545.
- 4) The Royal Thai Police and Department of Probation discuss with each other to prevent similar problems to happen again.

Office of the NHRCT is also required to follow up actions taken by the above mentioned agencies within 90 days after receiving this report.

Later Department of Probation sent a letter reporting results of its actions that it had already implemented the problem-solving measures as determined by the NHRCT; Department of Probation and Royal Thai Police held a discussion on 23rd August 2013. Results of the discussion can be summarised as follows:

- 1) Orders and guidelines for implementing the Narcotic Drug Addicts Rehabilitation Act B.E.2545 are to be considered.
- 2) Agencies under authority of the Probation Department and the Police Office are to be reiterated to rehearse and understand guidelines for actions in case that they have to take actions according to Section 24 of the Narcotic Drug Addicts Rehabilitation Act B.E.2545.

- 3) A letter is to be sent to inquiry officials, reiterating that they have to strictly act according to the Narcotic Drug Addicts Rehabilitation Act B.E.2545.
- 4) In order to be able to implement the Narcotic Drug Addicts Rehabilitation Act B.E.2545 without any hitch, Department of Probation and Royal Thai Police should come up with an agreement on cooperation for implementation of the Narcotic Drug Addicts Rehabilitation Act B.E.2545.

As for actions according to the problem-solving measures recommended by the NHRCT by other agencies, Office of the NHRCT is in the process of following up their results and would later report their progress.