

Report of Investigation Results No. 773/2560 concerning community right in case of a claim that a community waste power plant affected communities in the area

Issue of Complaint

The National Human Rights Commission of Thailand received a complaint from a group of people asking for an investigation on a community waste power plant construction project. This 9.5 mega Watt power plant which would need 400-600 tons of waste as its fuel per day is going to be constructed at None Nong Hai Village in Samran Tai Sub-District, Sam Chai District, Kalasin Province. The respondent of this complaint is the company that proposed this project and held a public meeting. However, the public meeting organizing process had been done briefly, not all-round. The people did not receive information about various impacts of the project. In addition, the site of the plant would be too close to water sources and communities by only 500 meters from None Nong Hai Temple. People in the villages located near to the project site are concerned and worried about possible impacts that may occur in long term which would affect living of people in the area, such as air pollution, noise pollution, water pollution, transport problems, accident and others. They also have doubt about donation of land to the project with conditions and how the list of project supporters was obtained.

Actions taken

The National Human Rights Commission of Thailand took this case into consideration and see that the respondent's community waste power plant construction project falls into the scope of being a private joint investment in public enterprise and thus has to proceed according to an announcement of the Committee on Policy of Private Joint Investment in Public Enterprise about criteria and methods for private enterprise to invest in project with finance less than the limit set in Section 23 of the Private Joint Investment in Public Enterprise B.E. 2556 (2013) and B.E. 2559 (2016), and to act according to the required stages for consideration of projects with private joint investment in public enterprise in case of local administrative organization's waste elimination project worth less than 1,000 million Baht according to a Most Urgent Letter Mor Thor 0891.4/ Wor 7578 dated 21st December B.E. 2558 (2015). However, from examination, facts are found that the public relations meeting organized by the respondent was just an initial public hearing in order to provide information to the respondent for consideration, not a public hearing meeting or community meeting in order to use for giving approval or permission to the community waste power plant according to related laws or regulations at all. A fact was also established that Sam Chai District Chief and the respondent called a meeting to explain to people in the area where Sam Chai District Chief confirmed that a letter would be sent to government agencies in the area in order to stop implementing the project. Up until now, no permission has been sought for construction and operation of waste power plant.

Recommendations for Samran Tai Tambon Administrative Organization according to Section 247 (3) of the Constitution of the Kingdom of Thailand B.E. 2560 (2017)

(1) In case that the community waste power plant project is going to be implemented together with a private partner which would fall into the scope of being a private

joint investment in public enterprise, the respondent should act according to an announcement of the Committee on Policy of Private Joint Investment in Public Enterprise about criteria and methods for private enterprise to invest in project with finance less than the limit set in Section 23 of the Private Joint Investment in Public Enterprise B.E. 2556 (2013) and B.E. 2559 (2016), and act according to the required stages for consideration of projects with private joint investment in public enterprise in case of local administrative organization's waste elimination project worth less than 1,000 million Baht according to a Most Urgent Letter Mor Thor 0891.4/Wor 7578 dated 21st December B.E. 2558 (2015).

(2) Before giving permission for operation of the project or community waste power plant enterprise, government agencies that have authorities and duties to give permission to implement the project in various stages must organize public hearing to receive views from affected people, aiming to give them the correct knowledge and understanding and to gather views of the people about this project and information about possible sufferings or damages that may occur with the people. The concerned government agencies would then use these views and information in their consideration whether or not various permits should be issued and how by adhering strictly to related regulations. However, the respondent could not claim results of public relations and answers to doubts raised by the people about the community waste power plant project to conclude that a community meeting has already taken place because it has not followed the Regulation of the Energy Enterprise Supervising Committee on Hearing and Making the People and Stakeholders Understand for Consideration to Issue a Permit for Operation of Electricity Generation Enterprise B.E. 2559 (2016).

(3) If there is going to be a community waste power plant project, appropriateness of the site of this project must be considered to ensure that it is located away from community and sources of water because the plant may affect the ways people in the area live their lives and also natural resources and environment. Section 58 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017) should be implemented on studying and assessing impacts on environmental quality and health of the people or communities as a right of the people or communities to receive information, explanations or reasons from a state agency prior to the implementation or granting of permission, and undertaking to remedy the grievance or damage for the affected people or community in a fair manner without delay.