

Complaint No. 501/2554: Right in the judicial process – A request to investigate a case of which a person was consigned to custody and legal proceedings were delayed

The complainant complained that he was a detainee in Klong Prem Central Prison for being guilty of taking by stealth in several cases and at present the complainant was also consigned to custody for legal proceedings in several other cases. However, inquiry officials had not summarized the file of investigation and come up with their comments to be sent to public prosecutors to order legal proceedings. The complainant had a view that the process was delayed and thus asked the NHRCT to investigate.

The NHRCT considered facts obtained from checking related laws and had a view that an issue needed to be investigated was whether or not inquiry officials of Suthisarn Metropolitan Police Station, Bangkok Yai Metropolitan Police Station, Ratburana Metropolitan Police Station, Bang Khun Thian Metropolitan Police Station and Koo Kod Provincial Police Station did not carry out investigation in the cases that the complainant was an alleged offender and whether or not this action or non-action was violation of human rights. When facts were established that only Koo Kod Provincial Police Station had not sent its file of investigation to public prosecutors because the complainant was detained in a prison that was not under jurisdiction of Thanyaburi Provincial Court which is the Court with trial authority. From the facts showing actions taken by inquiry officials in cases involving the complainant, it can be considered that the inquiry officials had already done their duties according to law.

As for the quotation that actions taken by the inquiry officials that caused delay in submitting the complainant into court trial process, resulting in the complainant being deprived of his rights, it was viewed that this happened because the complainant had committed wrongdoings in several places and the complainant was a detainee in a jail or prison that was not under jurisdiction of the Court that conducted trial of the complainant's cases while to submit the complainant to court trial process, inquiry officials involved must bring the complainant together with a file of investigation to public prosecutors as well in

order that the public prosecutors could sue the complainant – steps that need time. Therefore it is seen that the delay which happened in the process of which inquiry officials submitted the complainant to court trial was necessary to a proper extent that is acceptable.

However, it was found from investigation that Suthisarn Metropolitan Police Station had reprimanded inquiry officials who were responsible for the file of investigation for not rushing to complete proceeding of the complainant without delay according to a written Order issued by the Royal Thai Police which constituted non-action according to the Order or bureaucratic Regulations. This fact indicates that the inquiry officials at Suthisarn Metropolitan Police Station had delayed in their investigation that the complainant was alleged offender after being consigned to custody which was an act that was inconsistent with provisions of Constitution of the Kingdom of Thailand B.E. 2550 (2007) which recognizes a person's right in the judicial process by providing that any person who is an alleged offender has the right to receive speedy investigation and thus constituted violation of human rights.

It was noted that actions by Koo Kod Provincial Police Station which requested the National Human Rights Commission to coordinate with the prison where the complainant was detained to send copies of judgment to imprison the complainant to the inquiry officials so that they could in turn send the file to public prosecutors in fact indicated that the inquiry officials had erroneous understanding about the guidelines provided by the Royal Thai Police. If any shortcomings or damages to the government service happened, not only head of inquiry officials and inquiry officials must be disciplinarily responsible as regulated by the Royal Thai Police, but a person's rights and liberties as an alleged offender could also be affected as well because alleged offenders have a right to receive speedy investigation according to provisions in the Constitution. The fact that Koo Kod Provincial Police Station had that view reveals that some inquiry officials in Koo Kod Provincial Police Station did not understand their own roles in consigning an alleged offender to custody, the

Royal Thai Police should therefore makes inquiry officials and their commanders correctly understand, so that they could do their duties correctly.

The NHRCT then came up with measures to solve human rights violation problem concerning delayed investigation by Suthisarn Metropolitan Police Station and lack of understanding about consignment of an alleged offender to custody by Koo Kod Provincial Police Station, informing the Royal Thai Police to supervise, order repeatedly and create correct understanding among inquiry officials and commanders about guidelines for consigning an alleged offender to custody and about speed, correctness and fairness in criminal investigation according to the Royal Thai Police Letter No. 0004.6/9610 dated 16th September 2003. Office of the NHRCT shall monitor results of these actions within 60 days after receiving this report of investigation.