

The Dispute relating to the Grievance or Injury arising from
the Replied Consultation Letter^{*}

Supreme Administrative Court Order No. C.P.A. 54/2562, dated 30th August B.E. 2560 (2017)

Mr. P. (P)

v.

National Office of Buddhism (D)

When the official replied the consultation in writing, it was merely giving an opinion as it was consulted. There were not any requirements for the inquiry official to comply therewith. The inquiry official had the discretion to take or not take the result of the consultation for supplementing his consideration so as to issue an order or take any actions. The reply in writing for the mentioned consultation was a general performance of duties, not being the exercise of powers under the law by the official which affected the status of rights or duties of the person. Hence, the replied consultation letter was not an administrative order and was further not the performance of duties for carrying out administrative acts. Therefore, the dispute relating to the grievance or injury arising from the replied consultation letter concerning the provisions of the Sangha Act B.E. 2505 (1962) or the regulations relating to the Sangha's duties performance was not the case involving a dispute in relation to a wrongful act of an administrative agency or a State official arising from the exercise of power under the law or from a by-law, an administrative order or any other order. This case did not fall within the competences of the Administrative Courts to try and adjudicate.

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Legal Principles : *Administrative Court Competence, Administrative Order*

Administrative Court Procedure : *Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999) : Section 9 paragraph one (3), Section 3*

Legal Provisions : *Liability for Wrongful Acts of Officials Act, B.E. 2539 (1996) : Section 4*
Administrative Procedure Act B.E. 2539 (1996) : Section 5

Judgment (Summary)

The Plaintiff claimed that while the Plaintiff was a Buddhist monk, he complained to the Provincial Damrongdham for suppression Phra K. pursuant to the Tripitaka (Buddhist Discipline). The Provincial Damrongdham then submitted this matter to the Provincial Office of Buddhism for a fact-finding inquiry. The Provincial Office of Buddhism therefore informed the Ecclesiastical District Officer, the Ecclesiastic in charge, to further proceed therein. The Ecclesiastical District Officer and other monks, totally 6 monks, decided that Phra K. had not committed the gravest transgression of the Buddhist Discipline. The Plaintiff thus alleged to an inquiry official that The Ecclesiastical District Officer and his group jointly made the false documents and wrongfully executed or omitted to execute their duties or dishonestly executed or omitted execute thereto. Afterward, the inquiry official consulted the Provincial Office of Buddhism in writing that according to the Sangha Act B.E. 2505 (1962) or any regulations relating to the Sangha's duties performance, whether or not there were any provisions, regulations, or rules prescribing that when the Ecclesiastical District Officer and his group considered the suppression punishment for a monk was deemed the performance of duties as an official under the Criminal Code. The National Office of Buddhism (Defendant) replied such consultation in writing that the mentioned act of the Ecclesiastical District Officer and his group was not considered as the Official's performance of duties as prescribed by Section 45 of the Sangha Act B.E. 2505 (1962) and Clause 19 of Rule of Sangha Supreme Council No.23 (B.E. 2541). It could be seen that such replied consultation letter caused the inquiry official and the provincial public prosecutor to issue an order of non-prosecution. After that, Phrakru S., one of the 6 monks, prosecuted the Plaintiff as the accused person in the Municipal Court, alleging that the Plaintiff had committed perjury; the said Court held the judgment that the Plaintiff was found guilty accordingly. The Plaintiff argued that when the Defendant's official replied the consultation in writing, it was deemed unlawful and caused the Plaintiff grievance or injury for being arrested and defrocked. The Plaintiff therefore filed a case with Administrative Court to adjudicate or order the Defendant paying the compensation arising from such wrongfully act.

The Supreme Administrative Court held that the Defendant was the government agency called by other name and ascribed the status as a department; the Defendant was thus a State agency pursuant to Section 4 of Liability for Wrongful Acts of Officials Act, B.E. 2539 (1996) and was an administrative agency pursuant to Section 3 of Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999). However, even if the act of the Defendant's official was the assignment to perform his duties, such act was merely the reply in writing for the consultation concerning the provisions of the Sangha Act B.E. 2505 (1962) or the regulations relating to the Sangha's duties performance. There were not any requirements for the inquiry official to comply with such replied consultation letter; the inquiry official had the discretion to take or not take the result of the consultation for supplementing his consideration so as to issue an order or take any actions, in accordance with the powers and duties prescribed by the law. The reply in writing for the mentioned consultation was neither the exercise of powers under the law by the official which affected the status of rights or duties of the Plaintiff nor other acts specified in ministerial rules. Hence, the replied consultation letter was not an administrative order according to Section 5 of Administrative Procedure Act B.E. 2539 (1996) and was further not the performance of duties for carrying out administrative acts. This case was not the case involving a dispute in relation to a wrongful act of an administrative agency or a State official arising from the exercise of power under the law or from a by-law, an administrative order or any other order, which fell within the competences of the Administrative Courts to try and adjudicate pursuant to Section 9 paragraph one (3) of Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999). The Court therefore issued the order refusing to accept the plaint for trial and striking the case out of the Case-List.