

Constitutional Court Ruling No. 26-27/2567 (2024)

Nakhon Nayok Provincial Court Applicant

- Respondent

Constitution, section 26, section 40, and section 98(10)

Election of Members of Local Assemblies or Local Administrators Act, B.E. 2562 (2019), section 50(10)

Section 50(10) of the Election of Members of Local Assemblies or Local Administrators Act, B.E. 2562 (2019), prohibited individuals who had been convicted by a final judgement of an offence of malfeasance in governmental office as disqualified persons from standing for election as members of local assemblies or as local administrators. This was because malfeasance in governmental office was deemed a serious offence that caused harm to the bureaucratic system. Permitting individuals who had committed such conduct to hold positions as local assembly members or local administrators could undermine public trust, adversely affect the public interest, and compromise the ethical standards of local assembly members and local administrators.

This provision aligned with the spirit of section 98(10) of the Constitution, aiming to definitively prevent individuals who lacked credibility in terms of integrity, or who had committed offences against the public interest, from holding political positions. It constituted a legal measure that complied with the principle of proportionality, did not violate the rule of law, and did not impose undue burdens or excessive restrictions on individual rights or liberties. It did not infringe upon human dignity and applied generally without being intended to apply to any particular case or person. Therefore, it was not contrary to or inconsistent with section 26 of the Constitution.

Moreover, the provision merely restricted the right of individuals who had been convicted by a final judgement of an offence of malfeasance in governmental office from standing for election members of local assemblies or as local administrators. It did not constitute an absolute restriction on their liberties to engage in an occupation. Such individuals remained free to pursue other professions. This was a necessary regulatory measure concerning occupation for the sake of the public interest, particularly in the context of local government administration. It intended to prevent and suppress corruption and to ensure that such person possessed appropriate qualifications, backgrounds, and conduct. It did not therefore violate the protection of liberty to engage in an occupation under section 40 of the Constitution.
