

Rights of Aliens under the Official Information Act

This article shall publicize an appeal against an order prohibiting the disclosure of information relating to an order denying the restoration of civil registration records of a person who previously held Thai nationality. Let's see whether such information shall be disclosed and how it shall be disclosed.

Mr. Sitthisak, an attorney authorized by Mr. Muhammad, filed a document to Bang Rue Si District Office requesting information regarding an order denying the restoration of Mr. Muhammad's civil registration records as follows: 1. interview record for civil registration documentation, 2. Form No. 89, 3. interview record of the reference person, 4. interview record regarding the request for the restoration of removed civil registration records, 5. Bang Rue Si District Office's request for inspection of relevant agencies, and 6. all witness interview records. Mr. Muhammad could obtain items 4-5 as they are his own documents. However, Bang Rue Si District Office refused to disclose items 1-3 since they were not in the Office's possession due to the document loss, according to the record of Bang Rue Si Police Station's report. Item 6, besides, could not be disclosed as it included personal information that could not be disclosed as it may endanger the life or safety of a person, in accordance with Section 15, Paragraph 1(4) of the Official Information Act B.E. 2540 (1997). Consequently, Mr. Sitthisak filed an appeal to the Information Disclosure Commissioner.

The Information Disclosure Commissioner relating to Society, Public Administration, and Law Enforcement considered that Mr. Muhammad, as informed by Mr. Sitthisak, currently holds displaced person status with another nationality, and in accordance with Section 4 of the Official Information Act B.E. 2540 (1997) stating that an "alien" is defined as "a natural person who is not of Thai nationality and does not have a residence in Thailand...". Moreover, Mr. Muhammad has no evidence for residence permission under Section 41 of the Immigration Act B.E. 2522 (1979), which states that "an alien shall not be allowed to take up residency in the Kingdom unless authorized by the Immigration Commission and by the approval of the Minister, within the immigration quota limitation as prescribed by the Minister following Section 40, and the alien concerned has received a Residence Certificate in accordance with Section 47." In addition, Section 9, Paragraph 3 of the Official Information Act B.E. 2540 (1997) states that "the extent to which an alien shall have the right to inspect, request copies, or request certified true copies of information shall be as provided by *Ministerial Regulations*," which has not yet been issued. Therefore, Mr. Sitthisak, an attorney authorized by an alien, does not have the right to appeal under the Official Information Act B.E. 2540 (1997). For this reason, the Commissioner concluded that they could not accept the appeal for consideration and eventually agreed to dismiss the appeal.

Should there be any inquiries on practices regarding the Official Information Act, B.E. 2540 (1997), please contact the Office of the Official Information Commission, the Office of Permanent Secretary, the Prime Minister's Office via telephone at 0 2283 4678-79.

"To disclose is the key, to conceal is the exemption"

Translated by

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