

Investigation Report No. 75/2562 (2019)

Community rights in relation to rights to housing in the case of alleged effects caused by the operation of an agricultural produce drying factory

Complaint issue

The National Human Rights Commission of Thailand (NHRCT) has received a complaint in which the complainant *et al* in a subdistrict in Phayao Province claim that they have suffered from the operation of a private agricultural products drying factory which causes air pollution with soot and bad smells, and water pollution with bad smells. Wastewater is discharged from the factory into the Pha Ha Creek, a public water source.

Actions taken

The National Human Rights Commission of Thailand (NHRCT) considers that the wastewater discharged from the operation of the factory does not meet the standard criteria, polluting the Van River and causing bad smell. As a result, people cannot use the river for consumption as usual. There also makes noise pollution. All these affect the right to livelihood of the people, which is a violation of human rights. In accordance with Section 247 (1) of the Constitution of the Kingdom of Thailand B.E. 2560 and Section 26 (1) in conjunction with Section 36 of the Organic Act on the National Human Rights Commission B.E. 2560, the NHRCT makes the following recommendations on appropriate measures or guidelines for the prevention or solution of human rights violations to the Subdistrict Administrative Organization of Chiang Ban, Phayao Province, and the Pollution Control Department to be carried out within 60 days:

Recommendations on appropriate measures or guidelines for the prevention or solution of violations of human rights

(1) The Chiang Ban Subdistrict Administrative Organization, as a local official, should consider exercising the authority under the Public Health Act B.E. 2535 to order The factory of the private company to improve its agricultural products drying factory in order not to cause trouble to people living nearby; to check whether the factory has operated its business in accordance with the type/category specified in the license to operate a business that is harmful to health; and to order to stop the nuisance immediately if it is found that the operation affects public health;

(2) The Phayao Province, as a competent official, should exercise the authority under the Factory Act B.E. 2535 to order the agricultural products drying factory to solve the problem of dust and noise; and to have its wastewater treatment system up to the standards. In the event that it is found that the operation may cause danger, damage or severe annoyance to people who live nearby, the Province should consider to order the cease of operation of the whole or part of the factory immediately. Improvements have to be made before the factory is permitted to resume its operation; and

(3) The Pollution Control Department, as the pollution control official under the Enhancement and Conservation of National Environmental Quality Act B.E. 2535, should inspect the agricultural produce drying factory, which is a source of pollution that must be controlled its emission into the ambient air and the discharge of wastewater into the environment, and ensure compliance with the law.

Accomplishments/progress in the protection of human rights

(1) The Chiang Ban Subdistrict Administrative Organization reported that by virtue of the Public Health Act B.E. 2535, it had investigated the facts and ordered the factory to improve the wastewater treatment system to be sufficiently efficient and to make an action plan to solve the problem of foul odors and polluted water, to ensure it does not affect or cause danger, damage or trouble to persons or property in the factory or nearby. The Chiang Ban SAO will pay a visit to monitor the factory improvements. It has issued to that private factory a license for the operation of a business which is harmful to health in the category of production, accumulation or packaging of fermented, pickled, immersed food from vegetables, fruits, or other plants;

(2) The Phayao Province informed that the Phayao Provincial Industry Office had inspected and acted in accordance with the Factory Act B.E. 2535, and concluded that untreated wastewater had been discharged from the factory, causing foul odors. The Phayao Provincial Industry Office then ordered the private factory to stop operating in the part of the production of dried mangoes, and to improve the factory. Later, the Phayao Provincial Industry Office followed up on the orders and found that in the area of the wastewater treatment pond there were still smells, but not harsh, and the factory was in the process of preparing an action plan to solve the problem of foul odors from the factory. The Phayao Provincial Industry Office will closely follow up on the compliance.

(3) The Pollution Control Department informed that by virtue of the Enhancement and Conservation of National Environmental Quality Act B.E. 2535, it had investigated the facts together with local relevant agencies and the complainant's representatives. It had submitted the report to the Governor of Phayao Province as a competent officer under the law on factories, and the President of the Chiang Ban Subdistrict Administrative Organization as a competent officer under the law on public health, to oversee the operation of that private factory to ensure compliance with the law.