

The Legality of the Ministerial Regulation Prescribing Inappropriate Hairstyles and Attire for Students^{*}

Supreme Administrative Court Judgment No. D.PA. 1/2568, dated 5th March B.E. 2568 (2025)

Ms. W., as a Legal Representative of Miss B., et al., total of 13 persons (P1 – P13)

v.

Ministry of Education (D1)

Minister of Education (D2)

The Plaintiffs were students of public schools aggrieved by the Defendant No. 2's Regulation, which prescribed some hairstyles and the use of cosmetics as 'inappropriate for students.' They filed the case with the Supreme Administrative Court, requesting the revocation of the said rule. The Court held that even though the disputed Regulation was intended to foster good behavior, it did not take any changes in the social context and the development of children's identities and personalities into consideration. Accordingly, it did not give primary importance to the best interests of the child, and thus contradicted the Child Protection Act, B.E. 2546 (2003). Furthermore, the Defendant No. 2 had issued a ministerial regulation pursuant to the Act, which empowered schools to set out their own rules on students' behavior, including attire and hairstyles. Therefore, the disputed clause, issued under the Announcement of the Revolutionary Council, could not remain enforceable by virtue of the transitional provision of the said Act and was deemed to be revoked by the Child Protection Act, B.E. 2546 (2003). Ultimately, the aforementioned Regulation constituted an unreasonable restriction of the liberty over a person's body, which was prohibited by the Constitution, and therefore was unenforceable.

Legal Principles: *Unlawful Ministerial Regulation*

Administrative Court Procedure: *Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999): Section 11 (2)*

Legal Provisions: *Constitution of the Kingdom of Thailand, B.E. 2560 (2017): Section 4 paragraph one, Section 5 paragraph one, and Section 26 paragraph one*
Child Protection Act, B.E. 2546 (2003): Section 22 paragraph one, Section 26 paragraph one (1), and Section 88

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Announcement of the Revolutionary Council No. 132, B.E. 2515 (1972): Clause 4

Ministerial Regulation No. 1, B.E. 2515 (1972), issued under the Announcement of the Revolutionary Council No. 132, B.E. 2515 (1972), as amended by Ministerial Regulation No. 2, B.E. 2518 (1975): Clause 1 (1)

Ministerial Regulation No. 2, B.E. 2518 (1975), issued under the Announcement of the Revolutionary Council No. 132, B.E. 2515 (1972)

Ministerial Regulation Stipulating Guidelines in Determining If Any Act Is for the Best Interests of or Constitutes Unfair Discrimination to the Child, B.E. 2549 (2006): Clause 1

Judgment (Summary)

The Plaintiffs were students of public schools subordinate to the authority of the Defendant No. 1. They were aggrieved by the Defendant No. 2's Ministerial Regulation No. 2, B.E. 2518 (1975), which amended Clause 1 (1) of the Ministerial Regulation No. 1, B.E. 2515 (1972), issued under the Announcement of the Revolutionary Council No. 132, B.E. 2515 (1972) (The Announcement No. 132). This Regulation prescribed attire and behaviors deemed 'inappropriate for students' by virtue of Clause 4 of the Announcement No. 132, namely: (1) for male students — having permed hair, hair extending below the level of the hairline on the nape, and a beard or a moustache; for female students — having permed hair, hair extending below the nape, or long hair (if allowed) without tying up, and the use of any cosmetics. The plaintiffs alleged that such prescription infringed upon their human dignity, constituted discrimination between genders, affected the liberties over their bodies, restricted their thought and expression of social identities, and contravened the Principle of Proportionality. The Plaintiffs then filed a case with the Supreme Administrative Court, requesting the Court to deliver a judgment or order to revoke the Ministerial Regulation No. 2, B.E. 2518 (1975).

The Supreme Administrative Court held that both the Announcement No. 132 and the disputed Regulation were intended to foster good behavior of children, principally by ensuring obedience to the adults' admonitions and customs without any consideration of changes in the social context and the development of identities and personalities of children. Accordingly, these legal provisions were not the ones that gave primary importance to the best interests of the child, and the strict enforcement thereof could mentally affect the children with diverse gender identities. Therefore, they contradicted Section 22 paragraph one and Section 26 paragraph one (1) of the Child Protection Act, B.E. 2546 (2003), in conjunction with Clause 1 of the Ministerial Regulation Stipulating Guidelines in Determining if Any Act Is for the Best Interests of or Constitutes Unfair Discrimination to the Child, B.E. 2549 (2006). Furthermore, the Defendant No. 2 had issued a new ministerial regulation pursuant to the Child Protection Act, B.E. 2546 (2003),

which empowered schools to set out their own rules regarding students' behavior, including attire and hairstyles. Consequently, the disputed Regulation could not remain enforceable by virtue of the transitional provision in Section 88 of the said Act. On the contrary, Clause 4 of the Announcement No. 132 and Clause 1 (1) of the Ministerial Regulation No. 1, B.E. 2515 (1972), as amended by the Ministerial Regulation No. 2, B.E. 2518 (1975), were deemed to be revoked by Section 3 of the Child Protection Act, B.E. 2546 (2003), because the Announcement No. 132, as a legal basis for the disputed Regulation, had an intention that contradicted the Act. Ultimately, the disputed Regulation did not take into consideration the development of children's personalities and the diversity of sexual identities. Therefore, it constituted an unreasonable restriction of the liberty over a person's body, which was prohibited by Section 26 paragraph one of the Constitution, and thus unenforceable, according to Section 5 paragraph one thereof.

Accordingly, the Supreme Administrative Court revoked the Ministerial Regulation No. 2, B.E. 2518 (1975), issued under the Announcement of the Revolutionary Council No. 132, B.E. 2515 (1972). The revocation shall take effect from the date of judgment.

Keywords: Legality of the Ministerial Regulation, Revocation of the rule, Child Protection, Liberty over a Person's Body, Student Hairstyles

คำสำคัญ: ความชอบด้วยกฎหมายของกฎกระทรวง การเพิกถอนกฎ การคุ้มครองเด็ก เสรีภาพในร่างกายของบุคคล ทรงผมนักเรียน

(แบบสำรวจความคิดเห็นต่อเอกสารวิชาการ ที่จัดทำโดยบุคลากรสำนักวิจัยและวิชาการ)



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