

Constitutional Court Ruling No. 15/2562 (2019)

Khon Kaen

Applicant

Administrative Court

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Respondent

Constitution, section 41(3);

Public Procurement and Supplies Administration Act, B.E. 2560 (2017), section 67 paragraph two.

Section 67 paragraph two of the Public Procurement and Supplies Administration Act, B.E. 2560 (2017) provided that a state agency had the privilege of cancelling a procurement prior to contract signing merely by complying with conditions and terms specifically provided under section 67 paragraph one (1), (2), (3) or (4). If the state agency's exercise of discretion was not in accordance with the prescribed rules, a bidder had the right to apply for judicial review. Such provision therefore protected both the benefits of the State and public interest, which would ensure that expenditure of national budget was efficient and created value for money for the state's functions. Despite certain effects on the right of a business operator to make a claim, it did not create a burden or restrict rights and liberties of a person beyond reasonable necessity. Also, the provision applied generally and was not intended to apply to any particular case or person. The provision satisfied the principle of proportionality and was neither contrary to nor inconsistent with section 41(3) of the Constitution.