

ABSTRAK

Deskripsi Sengketa pemberhentian Perangkat Desa Berdasarkan Keputusan Kepala Desa.

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Penelitian ini membahas pemberhentian perangkat Desa berdasarkan keputusan yang dikeluarkan oleh kepala Desa karena tidak dilaksanakannya surat perintah dan surat peringatan yang diberikan Tergugat kepada Penggugat terkait dengan pengembalian inventaris Desa, dugaan meracuni ternak salah seorang warga, pembangunan jembatan yang tidak diselesaikan oleh Penggugat. Fokus kajian diarahkan pada analisis pertimbangan hukum dalam tiga putusan, yaitu Putusan Pengadilan Tata Usaha Negara Mataram Nomor 18/G/2023/PTUN.MTR, Pengadilan Tinggi Tata Usaha Negara Nomor 37/B/PT.TUN.MTR, serta Putusan Peninjauan Kembali Mahkamah Agung Nomor 150 PK/TUN/2024. Penelitian ini menggunakan sifat penelitian deskriptif dan jenis penelitian normatif. Alasan Hakim Pengadilan Tata Usaha Negara Mataram menolak gugatan Penggugat adalah karena penerbitan keputusan objek sengketa sesuai dengan kewenangan yang dimiliki oleh Tergugat (Pasal 26 ayat (2) point (b) Undang-Undang Nomor 6 Tahun 2014 Tentang desa) kemudian sebelum Tergugat Menerbitkan keputusan objek sengketa Tergugat telah terlebih dahulu berkonsultasi dengan Camat (Pasal 69 Peraturan Pemerintah Nomor 43 Tahun 2014 Tentang Peraturan Pelaksana Undang-Undang Nomor 6 Tahun 2014 Tentang Desa) dan dari segi substansi Penggugat melakukan pelanggaran terhadap larangan sebagai perangkat Desa (Pasal 51 point (e) Undang-Undang Nomor 6 Tahun 2014 Tentang Desa). Alasan Hakim Pengadilan Tinggi Tata Usaha Negara mengabulkan gugatan Penggugat adalah karena Camat Kempo tidak memastikan Penggugat memenuhi syarat untuk diberhentikan (Pasal 5 ayat 6 Peraturan Dalam Negeri Nomor 67 Tahun 2017) dan pemberhentian Penggugat cacat substansi karena tidak memenuhi ketentuan peraturan perundang-undangan(Pasal 51 point (e) Pasal 53 point (d) Undang-undang Nomor 6 Tahun 2014 Tentang Desa). Alasan Hakim Mahkamah Agung menolak Permohonan Peninjauan Kembali dari Pemohon Peninjauan Kembali adalah karena tidak dilakukan pemeriksaan terlebih dahulu yang menyatakan bahwa penggugat dinyatakan sebagai terpidana berdasarkan putusan pengadilan yang telah berkekuatan hukum tetap (Pasal 25 ayat (2) point (a1) Peraturan Daerah Kabupaten Dompu Nomor 6 Tahun 2019) kemudian keputusan pejabat daerah yang jangkauan keputusannya berlaku diwilayah daerah bersangkutan tidak dapat diajukan kasasi (Pasal 45A ayat (2) point (c) sehingga untuk keputusan objek sengketa tidak dapat diajukan Peninjauan Kembali. Kesimpulan penelitian ini menegaskan bahwa putusan Pengadilan Tinggi Tata Usaha Negara dan Mahkamah Agung dalam Peninjauan Kembali merupakan putusan yang paling tepat secara yuridis karena perlu untuk membuktikan substansi pemberhentian seorang perangkat Desa apakah telah terbukti melanggar larangan sebagai perangkat Desa .

Kata kunci: Pemberhentian Perangkat Desa, Keputusan Kepala Desa, Pengadilan Tata Usaha Negara, Pengadilan Tinggi Tata Usaha Negara, Mahkamah Agung.

ABSTRACT

Description of the Dispute over the Dismissal of Village Officials Based on the Decision of the Village Head

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This study examines the dismissal of a village official based on a decision issued by the Village Head due to the failure to comply with an order letter and warning letters issued by the Defendant to the Plaintiff concerning the return of village inventory, allegations of poisoning the livestock of a resident, and the construction of a bridge that was not completed by the Plaintiff. The focus of the study is directed at analyzing the legal considerations in three court decisions, namely the Decision of the Mataram Administrative Court Number 18/G/2023/PTUN.MTR, the Decision of the Administrative High Court Number 37/B/PT.TUN.MTR, and the Decision on Judicial Review of the Supreme Court Number 150 PK/TUN/2024. This research employs a descriptive research approach and a normative legal research method. The reason the Judges of the Mataram Administrative Court rejected the Plaintiff's claim was that the issuance of the disputed decision was in accordance with the authority vested in the Defendant (Article 26 paragraph (2) point (b) of Law Number 6 of 2014 concerning Villages). Furthermore, prior to issuing the disputed decision, the Defendant had consulted with the Sub-District Head (Article 69 of Government Regulation Number 43 of 2014 concerning the Implementing Regulation of Law Number 6 of 2014 concerning Villages), and substantively, the Plaintiff had violated the prohibitions applicable to village officials (Article 51 point (e) of Law Number 6 of 2014 concerning Villages). The reason the Judges of the Administrative High Court granted the Plaintiff's claim was that the Sub-District Head of Kempo did not ensure that the Plaintiff fulfilled the requirements for dismissal (Article 5 paragraph (6) of Minister of Home Affairs Regulation Number 67 of 2017), and that the dismissal of the Plaintiff was substantively flawed because it did not comply with the provisions of the prevailing laws and regulations (Article 51 point (e) and Article 53 point (d) of Law Number 6 of 2014 concerning Villages). The reason the Judges of the Supreme Court rejected the Application for Judicial Review was that there had been no prior examination declaring that the Plaintiff had been convicted based on a court decision with permanent legal force (Article 25 paragraph (2) point (a1) of Dompu Regency Regional Regulation Number 6 of 2019). Furthermore, decisions issued by regional officials whose scope of application is limited to the relevant regional territory cannot be submitted for cassation (Article 45A paragraph (2) point (c)), therefore the disputed decision cannot be submitted for Judicial Review. The conclusion of this study emphasizes that the decisions of the Administrative High Court and the Supreme Court in the Judicial Review are the most legally appropriate, as it is necessary to prove substantively whether the dismissal of a village official has been proven to violate the prohibitions applicable to village officials.

Keywords: Dismissal of Village Officials, Decision of the Village Head, Administrative Court, Administrative High Court, Supreme Cou