

Juridical Review of the Authority of the Central Jakarta District Court in Deciding Election Postponement Cases (Central Jakarta District Court Decision Study Decision Number 757/Pdt.G/2022/PN Jkt. Pst)

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Abstract

Indonesia is a unitary state in the form of a republic that adheres to an indirect democratic system of government, in which the people's voice is represented by the people's representative body so that the state always carries out a general election system every 5 years. General elections are a means of people's sovereignty to elect members of the DPR, DPD, DPRD, President and Vice President, which are carried out directly, publicly, freely, confidentially, honestly and fairly, within the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia. issues circulating in Indonesia regarding elections because Indonesia will again carry out elections in 2024. One of the issues that has shocked the public lately is the issue of postponing the elections that came from the Central Jakarta District Court. The research method used in writing this scientific article is normative juridical research. As for the research approach used in this study is qualitative research. From the results of the research, the authors conclude that the election dispute between the Prima Party and the KPU does not fulfill the conditions for postponement of the election, and that the Central Jakarta District Court is not authorized to adjudicate cases of postponed elections. Court institutions in the future are expected to carry out their duties and authorities in accordance with applicable laws and regulations.

Keywords: Indonesia, General Election, District Court



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INTRODUCTION

The state is an organization that has the power to regulate and administer order in society. According to Harold J. Laski, the state is a society that is integrated because it has coercive authority where individuals or groups are part of that society (Isharyanto: 2016). In Article 1 of the Montevideo (Pan American) Convention on Rights and Duties of States of 1933, it is stated that there are four elements that are required for the formation of a state, namely that the state must have permanent people, the state must have a permanent territory or area, the state must have government, and the state must have the ability to enter into relations with other countries. Apart from these four elements, there are two other characteristics that must be owned by a country, namely that the country must be able to account for the actions of its officials towards other countries, and the country must be independent (Adolf: 1990).

Indonesia has fulfilled all the elements for the formation of a de jure country contained in article 1 of the Montevideo (Pan American) Convention on Rights and Duties of States of 1933 after proclaiming independence to the world on August 17, 1945, or more precisely after the first meeting of the PPKI on August 17, 1945. August 18, 1945 which resulted in a decision to ratify and stipulate the 1945 Constitution, the appointment of Ir. Sukarno and Dr. (HC) Drs. H. Mohammad Hatta as president and vice president of the Indonesian state, and the formation of the Central Indonesian National Committee (KNIP) to assist the president in running his

government. Indonesia only received de facto recognition from several countries at the time of post-independence in 1946.

Based on article 1 paragraph 1 of the 1945 Constitution, Indonesia is a unitary state in the form of a republic (UUD NRI: 1945). A unitary state is a form of state in which the supreme power in the country is in the hands of the central government so that state affairs are not divided between the central government and regional governments (Wijayani: 2014). In the form of a unitary state, local governments will only carry out instructions from the central government so that the supreme power of a country is in the hands of the central government. In the Big Indonesian Dictionary (KBBI), it is explained that a republic is a form of government that has the sovereignty of the people and is headed by a president (Nwokeocha, 2023b). In Article 1 paragraph 2 of the 1945 Constitution, it has been stated that sovereignty is in the hands of the people and implemented according to the Constitution. So that we can conclude that Indonesia is a unitary state in the form of a republic and adheres to a democratic system of government.

According to Abraham Lincoln, democracy is a system of government of the people, by the people, and for the people (Daniel et al., 2022). Harris Soche in his book entitled "Law Supremacy and Principles of Democracy in Indonesia," argues that democracy is a form of people's government, so that government power is inherent in the people, the people themselves, and it is the right of the people or the rights of the people to regulate, defend and protect himself from the coercion of other people or bodies entrusted to rule. In Encik Muhammad Fauzan's book entitled "Indonesian Constitutional Law", it is explained that democracy is divided into two types, namely direct democracy and indirect democracy.

Direct democracy is democracy that involves its citizens in deliberations to determine public policies and laws. While indirect democracy is democracy implemented through a representative system which is usually carried out through general elections. Indonesia itself adheres to an indirect type of democracy, where the voice of the people is represented by a people's representative body, and the state always implements a general election system every 5 years (Martins, 2022). General elections are an instrument that realizes people's sovereignty with the intention of forming a democratic government that gains support from the people in order to realize national goals, where in general elections, people participate in selecting certain people to fill certain political positions. In Law no. 7 of 2017 concerning elections, General Election (Election) is defined as a means of people's sovereignty to elect members of the People's Legislative Council, members of the Regional Representatives Council, President and Vice President, and to elect members of the Regional People's Representative Council, which is carried out directly, publicly, freely, confidential, honest and fair within the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

2024 will be the last year of the leadership of President Joko Widodo, who has served for 2 terms since 2014-2019 and 2019-2024 (Obichili et al., 2023). So that Indonesia will again carry out presidential elections which are held every 5 years as written in article 7 of the 1945 Constitution which reads, "The President and Vice President hold office for five years, and after that they can be re-elected in the same position, only for one term of office." There have been many issues regarding the election that have spread on social media in the last two years. One of them is the issue of postponing the election that came from the decision of the Central Jakarta District Court (PN) which has recently shocked the Indonesian people. Lawsuit of the Just and Prosperous People's Party (Prima Party) against the General Court Commission (KPU) with case number 757/Pdt.G/2022/PN Jkt. Pst, which was registered by the Prima Party on

December 8, 2022, was based on an assessment by the Prima Party which suspected that the KPU had committed an unlawful act against the Prima Party (Ioraa, 2023).

The Prima Party feels that its party's right to participate in politics as an election participant and the right to be elected is limited by the KPU. This is because the KPU stated that the Prima Party did not meet the membership requirements so that the Prima Party could not participate in the verification process. However, the Prima Party felt that its party membership had met the stipulated conditions. Decision with case number 757/Pdt.G/2022/PN Jkt. The Pst issued by the Central Jakarta District Court regarding the lawsuit of the Just and Prosperous People's Party (Prima Party) against the General Court Commission (KPU) on March 2, 2023 sparked pros and cons in the world of politics. Those who reject and criticize the decision of the Central Jakarta District Court consider that the Central Jakarta District Court has no authority to decide election cases. So based on the description above, the author intends to review the Central Jakarta District Court Decision with case number 757/Pdt.G/2022/PN Jkt. Pst in a scientific writing with the title: "Juridical Review of the Authority of the Central Jakarta District Court in Deciding Election Postponement Cases (Study of Decisions of the Central Jakarta District Court Decision Number 757/Pdt.G/ 2022/PN Jkt. Pst)."

Based on the background described above, the following is the formulation of the problem which is the author's reference in compiling this scientific research article, namely: How is the suitability of the decision of the Central Jakarta District Court in postponing the election with the 1945 Constitution of the Republic of Indonesia and Law no. 7 of 2017 concerning Elections? Does the Central Jakarta District Court have the authority to decide on cases of postponing elections?

RESEARCH METHODS

The research method used in writing this scientific article is normative juridical research. As for the research approach used in this study is qualitative research. In this study, the author will examine secondary data consisting of primary legal materials in the form of laws and court decisions, secondary legal materials in the form of books, scientific research journals, news articles, and tertiary legal materials in the form of dictionaries.

RESEARCH RESULTS AND DISCUSSION

General elections (Pemilu) are a means of realizing people's sovereignty to produce people's representatives and a democratic state government based on Pancasila and the 1945 Constitution of the Republic of Indonesia which are organized by the state with the aim of achieving national goals and objectives written in the Preamble of the Law -The 1945 Constitution of the Republic of Indonesia. 2024 will be the last year of the leadership of President Joko Widodo, who has served for 2 terms since 2014-2019 and 2019-2024. There have been many rumors circulating regarding the presidential and vice presidential elections to be held in 2024 for the past 2 years. Starting from the discourse of a 3-term presidential term, to the issue of postponing the elections which came from the decision of the Central Jakarta District Court on 2 March 2023 (Nwokeocha, 2023a).

Decision of the Central Jakarta District Court with case number 757/Pdt.G/2022/PN Jkt. Pst reaped a lot of pros and cons, both in the political world and in society because the Central Jakarta District Court decided to postpone the 2024 elections for 2 years, 4 months and 7 days from the original schedule. The decision to postpone the election was initiated by a lawsuit from the Prima party which felt disadvantaged because it was stated that it had not passed the administrative verification process carried out by the KPU so that the Prima Party could not proceed to the factual verification stage.

Before registering a lawsuit with case number 757/Pdt.G/2022/PN Jkt. Pst at the Central Jakarta District Court, the Prima Party has submitted an administrative effort in the form of a request for election process dispute resolution to the RI Bawaslu on November 22, 2022, as recorded in the receipt of file Number 011/PS.PNM.LG/BAWASLU/XI2022 dated November 22, 2022. However, after verifying the Prima Party's application documents, Bawaslu stated that the election process dispute request submitted by the Prima Party could not be accepted because Bawaslu through decision number 002/PS./REG/BAWASLU/X/2022 stated that the RI KPU was not proven commit administrative violations in the Prima verification stage. The Prima Party then filed a lawsuit at the Jakarta State Administrative Court with case register number 425/G/2022/PTUN.JKT on November 30, 2022. The Head of the TUN Court issued a dismissal process stipulation with number 425/G/2022/PTUN.JKT on December 8, 2022 with a stipulation: "Declaring that the Plaintiff's Lawsuit is not accepted; Declare that the Jakarta TUN Court is not authorized to examine, decide, and resolve case number 425/G/2022/PTUN.JKT; Punish the plaintiff to pay court costs in the amount of IDR 232,000"

The Prima Party filed a lawsuit with the Central Jakarta District Court after the dismissal decision was issued by the TUN Court on December 8, 2022. The Central Jakarta District Court issued a decision with case number 757/Pdt.G/2022/PN Jkt. Pst on March 2, 2023 with a ruling: "In the Exception Rejecting the defendant's exception regarding the plaintiff's claim is vague/ unclear (obscur libel). In the matter:

1. Accept the plaintiff's lawsuit in its entirety;
2. Declare that the plaintiff is a political party that has suffered losses in administrative verification by the defendant;
3. Declare the defendant has committed an unlawful act;
4. Ordering the defendant to pay material compensation of Rp. 500,000,000.00 (five hundred million rupiah) to the plaintiff;
5. Punish the defendant not to carry out the remaining stages of the 2024 general election since this decision was pronounced and carry out the general election stages from the beginning for approximately 2 (two) years 4 (four) months 7 (seven) days;
6. Declare that the decision in this case can be executed immediately (uitvoerbaar bij voorraad);
7. Determined that the court costs be charged to the defendant in the amount of IDR 410,000.00 (four hundred and ten thousand rupiah)"

Point number 5 of the decision read out by the Panel of Judges at the Central Jakarta District Court regarding the postponement of the general election is the main point of the problem in this research. This is due to the legal problems of the Prima Party and the KPU not fulfilling the conditions for postponing the elections as stipulated in Article 431 of Law No. 7 of 2017 concerning Elections which reads:

- 1) In the event that in part or all of the territory of the Unitary State of the Republic of Indonesia there are riots, security disturbances, natural disasters, or other disturbances which result in part of the stages of holding elections being unable to be carried out, a follow-up election shall be held.
- 2) The implementation of the follow-up election as referred to in paragraph (1) starts from the stage of holding the election which was stopped.

As well as article 432 of Law No. 7 of 2017 concerning Elections which reads:

- 1) In the event that in part or all of the territory of the Unitary State of the Republic of Indonesia there are riots, security disturbances, natural disasters or other disturbances which result in

the impossibility of carrying out all stages of the election administration, a follow-up election shall be held.

2) Follow-up elections are carried out for all stages of election administration.

Based on articles 431 and 432 of Law No. 7 of 2017 concerning Elections, it can be concluded that events that can cause the election delay process are events that disrupt state security, riots, natural disasters, and other disturbances that result in the stages of holding elections not being carried out. , and there will be another follow-up election or follow-up elections after the country's condition has improved. The declaration of a state of danger is regulated in article 12 of the 1945 Constitution of the Republic of Indonesia which reads: "The President declares a state of danger. The conditions and consequences of a state of danger are determined by law."

Based on the provisions in articles 341 and 342 of Law no. 7 of 2017, we can see that the legal dispute between the Prima Party and the KPU regarding election disputes does not fulfill the conditions for postponing the election. So that point number 5 of the decision of the Central Jakarta District Court with case number 757/Pdt.G/2022/PN Jkt. Pst on March 2, 2023 is not in accordance with the legal provisions in Law no. 7 of 2017. Article 466 of Law No. 7 of 2017 which explains election process disputes reads: "Election process disputes include disputes that occur between election participants and disputes between election participants and election organizers as a result of the issuance of KPU decisions, Provincial KPU decisions, and decisions Regency/City KPU."

The settlement of election process disputes at the Bawaslu is regulated in article 468 of Law no. 7 of 2017 which reads:

- 1) "Bawaslu, Provincial Bawaslu, Regency/Municipal Bawaslu have the authority to resolve election process disputes.
- 2) Bawaslu, Provincial Bawaslu, Regency/Municipal Bawaslu examine and decide on election process disputes no later than 12 (twelve) days after receiving the request.
- 3) Bawaslu, Provincial Bawaslu, Regency/City Bawaslu shall settle election process disputes through the following stages: a. receive and review requests for election process dispute resolution; and b. bring together disputing parties to reach an agreement through mediation or deliberation and consensus.

As well as article 469 which reads:

- 1) "Bawaslu decisions regarding election process dispute resolution are final and binding decisions, except for decisions on election process disputes relating to: a. verification of Election Contesting Political Parties; b. determination of the final list of candidates for members of the DPR, DPD, Provincial DPRD and Regency/Municipal DPRD; and c. Determination of Candidate Pairs.
- 2) In the event that the election process dispute settlement as referred to in paragraph (1) letters a, b, and c carried out by the Bawaslu is not accepted by the parties, the parties can submit legal remedies to the state administrative court.
- 3) The entire process of making Bawaslu decisions must be carried out through an open and accountable process.
- 4) Further provisions regarding procedures for resolving election process disputes are regulated in the Bawaslu Regulations."

Provisions regarding the settlement of election disputes at the State Administrative Court are regulated in article 470 of Law no. 7 of 2017 which reads:

- 1) Disputes over the election process through the state administrative court include disputes that arise in the field of election state administration between candidates for DPR, DPD, provincial DPRD, regency/city DPRD, or political parties contesting election candidates, or candidate pairs of candidates and KPU. Provincial KPU, and Regency/Municipal KPU as a result of the issuance of KPU decisions, Provincial KPU decisions, and Regency/Municipal KPU decisions.
- 2) The election process dispute as referred to in paragraph (1) is a dispute that arises between:
 - a. KPU and Election Contesting Political Parties which do not pass the verification as a result of the issuance of a KPU Decree concerning the Determination of Election Contesting Political Parties as referred to in Article 173;
 - b. KPU and Candidate Pairs that do not pass the verification as a result of the issuance of a KPU Decision regarding the Determination of Candidate Pairs as referred to in Article 235; And
 - c. KPU, Provincial KPU, and Regency/Municipal KPU with candidates for members of DPR, DPD, Provincial DPRD, and Regency/Municipal DPRD who have been removed from the final list of candidates as a result of the issuance of a KPU Decree regarding the Establishment of the Final Candidate List as referred to in Articles 256 and Article 266.

Based on the articles above, we can conclude that the party authorized to resolve election disputes is Bawaslu. If the party concerned does not accept the decision on the dispute determined by the Bawaslu, then the party can file a legal remedy at the State Administrative High Court as contained in article 469 paragraph 2 of Law No. 7 of 2017. The election process dispute submitted to the TUN Court is an election dispute that occurs between state administrative institutions, political parties candidate for election contesting, or with the KPU, Provincial KPU, and Regency/City KPU. So it can be concluded that the Central Jakarta District Court is not authorized to decide on cases of postponement of elections.

CONCLUSION

Based on the author's explanation above, it can be concluded that based on the provisions in articles 341 and 342 of Law no. 7 of 2017, the legal dispute between the Prima Party and the KPU regarding election disputes does not meet the conditions for postponement of elections. Events that can cause the postponement of the election process are events that disrupt state security, riots, natural disasters, and other disturbances that result in the stages of holding elections being unable to be carried out, and further elections or follow-up elections will be held after the country's condition has improved. The declaration of a state of danger is regulated in article 12 of the 1945 Constitution of the Republic of Indonesia which reads: "The President declares a state of danger. The conditions and consequences of a state of danger are determined by law." So that point number 5 of the decision of the Central Jakarta District Court with case number 757/Pdt.G/2022/PN Jkt. Pst on March 2, 2023 is not in accordance with the legal provisions in Law no. 7 of 2017.

As well as in the provisions of article 467 of Law no. 7 of 2017, the party authorized to resolve election disputes is Bawaslu. If the party concerned does not accept the decision on the dispute stipulated by the Bawaslu, then the party can submit a legal remedy to the State Administrative High Court as contained in article 469 paragraph 2 of Law no. 7 of 2017. The election process dispute submitted to the TUN Court is an election dispute that occurs between state administrative institutions, political parties candidate for election contesting, or with the KPU, Provincial KPU, and Regency/City KPU. So it can be concluded that the Central Jakarta District Court is not authorized to decide on cases of postponement of elections.

With this scientific writing, the authors hope that in the future court institutions can carry out their duties and authorities in accordance with applicable laws and regulations. As well as the authors of the court institutions can be more thorough, careful, and wise in accepting and deciding a case submitted by the party concerned in order to realize justice for all Indonesian people.

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