

Ratio Decidendi in the Decision of State Administrative Case No.160/G/2018/PTUN.SBY

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ABSTRACT

This study aims to examine the ratio decidendi which is the basis for the judge in issuing a decision in case No.160/G/2018/PTUN.SBY. In the litigation process, the ratio decidendi is an important aspect to determine whether the arguments of the lawsuit are rejected, granted, or partially granted. This research is included in the type of juridical-normative research conducted with a statutory approach (statue approach) and a case study approach (case study). This research uses secondary legal sources from various laws and regulations relating to state administrative courts, as well as legal materials from books, journals, and other literature studies relevant to legal issues. The results showed that the Panel of Judges of PTUN Surabaya considered the settlement of the case by using 3 testing parameters, namely in terms of authority to issue, in terms of formal procedures for issuance and in terms of the material substance of the object of dispute. the results showed that the ratio decidendi of the judge in Decision No.160/G/2018/PTUN.SBY, including, among others, the authority of the defendant as a state official, the formal procedure of the mechanism for issuing the letter that became the object of dispute, and the formal substance of the lawsuit.

INTRODUCTION

As an effort to protect the rights and interests of citizens related to state administrative disputes, especially those that cannot be resolved by deliberation, juridically in accordance with the mandate of the Decree of the People's Consultative Assembly of the Republic of Indonesia number IV/MPR/1978 which is linked to the Decree of the People's Consultative Assembly of the Republic of Indonesia number II/MPR/1983 concerning GBHN, the problem will be resolved by the State Administrative Court (Habibi, 2019).

The State Administrative Court, which has been recognized for its existence in Indonesia in accordance with Law No. 5 of 1986, is Law No. 14 of 1970, concerning the main provisions of judicial power. The State Administrative Court as an institution that exercises judicial power, its existence is a very important right. This is because it has complemented the differences in the characteristics of a legal state, namely the principle of legality of recognition of human rights and the existence of the State Administrative Court, as well as the Law of the Republic of Indonesia No. 48 of 2009 concerning Judicial Power.

Legal protection related to state administrative disputes is the responsibility of the State Administrative Court or PTUN. The State Administrative Court is authorized and tasked with examining, deciding and resolving disputes related to state administration (Abi Sugara and Arif Wibowo, 2022).

The State Administrative Court is obliged to protect and guarantee the rights of the people from the arbitrariness of the government. In addition, the State Administrative Court is also an office tool or legal supervision which is expected to become a dynamic institution to provide legal protection to the people who seek justice, especially related to State administrative disputes.

Methodology

This research is a type of juridical-normative research. This type of normative legal research is a series of literature-based research conducted on legal products (Zainuddin Ali, 2021). Juridical-normative research is carried out through the study of laws and regulations and various literature that has relevance to the research. Juridical-normative research is also interpreted as secondary research, because basically legal research does not recognize the existence of data. In normative research, problem solving for the legal issues studied and providing prescriptions are carried out on data that has been presented in the form of decrees, scientific study results, and rulings that have permanent legal force (*in kracht*) (Putri et al., 2023).

Legal materials are all forms of library materials that can be used or needed in analyzing an applicable law. Legal material in this case is positioned as crucial data used to study legal issues in normative research. Some of the sources of legal materials used in this study are, (a) Law Number 51 of 2009 concerning the second amendment to Law Number 5 of 1986 concerning the State Administrative Court, (b) Law Number 30 of 2014 concerning Government Administration, (c) State Administrative Court Decision Number 160/G/2018/PTUN. SBY, (d) Legal scientific books on the State Administrative Court system, (e) Literature review related to legal issues of the State Administrative Court, (f) Legal journals and articles relevant to the State Administrative Court.

The legal materials used in this study were collected through literature study techniques. Literature study is the collection of data and information related to research topics through various regulations and laws, scientific papers, books, and internet sites that present information related to the problem being researched (Jhony Ibrahim, 2009). The analysis of the legal material in question is carried out in a qualitative descriptive manner. The analysis mechanism is taken by describing or explaining laws and regulations and legal conceptions, then associated and analyzed in depth to the decision of the state administrative case No.160/G/2018/PTUN. SBY issued by the Surabaya State Administrative Court. After that, conclusions are drawn to obtain an outline description of the facts about the legal phenomenon being studied.

Results and Discussion

Ratio Decidendi Authority Aspect

The authority aspect in this case refers to the validity and legality of the Jegulo Village Decree regarding the dismissal of the Jegulo Village Apparatus or in this context the plaintiff. The decree then became the object of dispute in the case submitted to the Surabaya State Administrative Court (PTUN). The aspect of authority in question refers to the authority of the defendant in issuing a decision letter on the object of dispute. This authority underlines the signing of the object of dispute that has been carried out by the defendant, considering that the defendant has resigned from the position of Head of Jegulo Village.

The Panel of Judges of the Surabaya Administrative Court in resolving the case first tested the authority of the defendant in determining the Decree related to the dismissal of the Village Apparatus which in this context is the object of dispute. In terms of authority, the Panel of Judges reviewed that the Village Head was declared legitimate and had the authority to issue a decision on the object of dispute. The Village Head is an official who is given authority by the applicable laws and regulations to determine the dismissal of the Village Apparatus with a decree that has gone through village deliberations and a request for recommendation from the local sub-district head.

In addition, another consideration by the Panel of Judges is that the decision letter related to the dismissal of the Jegulo Village Head has not been issued, which leads to the meaning, that the defendant has not been officially dismissed from the position of Village Head and still has the legal authority to issue decisions related to the case. Referring to these considerations, in the context of the issuance of a decision letter on the object of dispute in terms of authority, it is declared legally valid and the defendant is declared not to violate the principle of propriety in issuing a decision letter on the object of dispute.

Ratio Decidendi Aspek Prosedur Formal

One of the formal requirements to be able to file a lawsuit at the State Administrative Court (PTUN) is the existence of the interests of the aggrieved party. In this case, the filing of the lawsuit filed by the plaintiff is in accordance with the principle of "*point d'interest point d'action*", which means emphasizing that there must be interests first before filing a lawsuit. In this case, the Panel of Judges considered that the plaintiff was a party whose interests were harmed because it had brought juridical consequences to the plaintiff's legal position. As a result, the plaintiff was unable to obtain rights and carry out his duties and obligations as the Jegulo Village Apparatus. This occurs as a result of the issuance of a decree or object of dispute, so that the plaintiff has an interest in filing a lawsuit with the State Administrative Court (PTUN).

This is in accordance with Article 53 paragraph (1) of Law Number 9 of 2004 concerning the State Administrative Court, which explains that a person or civil legal entity whose interests are harmed by a State Administrative Decree (KTUN) can file a written lawsuit to the competent Court which contains a demand that the disputed decision be declared null or invalid. The regulation also explains that decisions that have been declared invalid and legally invalid by the competent court can be accompanied by demands for substantial compensation or recovery.

The Panel of Judges also considered the defendant's answer stated in the execution, which broadly denied that the evidence or statement submitted by the plaintiff was not true. Furthermore, the Panel of Judges reviewed and examined the correctness of the formal procedures related to the issuance of the Decree of the Jegulo Village Head or the object of dispute issued. Based on this, the Panel of Judges refers to all forms of legal provisions that regulate the dismissal mechanism for village officials who violate the prohibition.

Regarding the mechanism for dismissing the Village Apparatus, in this context the Head of Jegulo Village issued a decree on the object of the dispute because of allegations of immoral acts, resulting in a reaction of rejection from a number of community members because it was considered to have violated the prohibition for the Village Apparatus. Before dismissing the plaintiff, the Head of Jegulo Village had held a clarification meeting through village deliberation together with the Chairman of BPD, LPMD, and BHABINSA of Jegulo Village. From the results of the village deliberations, the Jegulo Village Head was encouraged to further request a recommendation to the Sub-district Head regarding the dismissal of the village apparatus through a letter with No.141/350/414.411.13/2018.

Following up on the recommendation request letter, the Soko Sub-district of Tuban Regency conducted an examination and review related to the alleged immorality which ultimately issued a letter of recommendation for the dismissal of the Jegulo Village Apparatus on behalf of the plaintiff concerned. Based on the results of these considerations, the panel of judges is of the opinion that the mechanism for the issuance of the object of dispute by the defendant has been carried out in accordance with the provisions of Article 37 paragraphs (4) and (5) of Tuban Regency Regional Regulation Number 2 of 2016 concerning the Dismissal of Village Apparatus and Article 32 of Tuban Regent Regulation Number 30 of 2017. Referring to the results of these considerations, the Panel of Judges stated that the issuance mechanism and procedure for the issuance of the object of dispute carried out by the defendant were in accordance with the general principles of good governance and did not violate the principles of legal certainty, openness, and professionalism.

Ratio Decidendi Substansi Material

The Panel of Judges of the Surabaya State Administrative Court in deciding the case in decision No.160/G/2018/PTUN. SBY, in addition to considering in terms of issuance authority and formal procedures regarding the termination mechanism, the Panel of Judges also considered the material substance of the object of dispute. In substance, the cause of the violation committed by the plaintiff triggered a reaction that required the defendant, as the Head of Jegulo Village, to act and make a decision on the occurrence of the case. To respond to the emergence of the case, the defendant acted by referring to the provisions of the applicable law.

The Panel of Judges of the Surabaya Administrative Court considered that the reason for the defendant to issue the decision letter of the object of dispute was to implement the provisions of Article 32 of the Tuban Regent Regulation Number 30 of 2017. So, in this case, the issuance of a decision letter on the object of dispute is a representation of the legal regulation. Based on the regulation, it has been regulated regarding the violation of the prohibition as a Village Apparatus, including actions that disturb a group of village communities as in Article 32 paragraph (2). The actions that are considered to be troubling to a group of people as referred to are immoral acts, gambling, and narcotics abuse by the Village Apparatus.

Considering and reviewing this matter, the Panel of Judges concluded that the plaintiff had violated the prohibition as a village apparatus, namely an act that disturbed a group of people, one of which included immoral acts. This is as stipulated in Article 51 of Law Number 6 of 2014 concerning Jo Village . Article 37 paragraph (2) letter e of Tuban Regency Regional Regulation Number 2 of 2016 concerning Village Apparatus *jo.* Article 32 paragraph (2) letter a, paragraph (3) and paragraph (4) of Tuban Regent Regulation Number 30 of 2017 concerning Implementing Regulations of Tuban Regency Regional Regulation Number 2 of 2016 concerning Village Apparatus.

The Panel of Judges also argued that the defendant's action in issuing a decision letter on the object of dispute related to the dismissal of the village apparatus was an appropriate action and in accordance with laws and regulations, so that the action was considered not contrary to the principles of legal certainty, openness, and professionalism. Referring to the conclusion of the Panel of Judges, the lawsuit filed by the Plaintiff was declared to have no legal grounds, so it must be rejected in its entirety and declared defeated. In addition, the Panel of Judges also sentenced the plaintiff to pay the arising case costs of Rp 399,000.00 (three hundred and ninety-nine thousand rupiah).

Conclusions

The basis for the legal considerations of the Panel of Judges in decision No.160/G/2018/PTUN. SBY is oriented towards *ratio decidendi* in dispute resolution. The Panel of Judges of the Surabaya Administrative Court considers the resolution of the case using 3 test parameters, namely in terms of issuing authority, in terms of formal issuance procedures and in terms of the material substance of the object of dispute. *Ratio decidendi* which is the basis for the legal consideration of the Panel of Judges in decision No.160/G/2018/PTUN. SBY, among others, includes the authority of the defendant as a state official in issuing the Decree of the Village Head who is the object of the dispute, the formal procedure in the mechanism for issuing the Decree of the Village Head who is the object of the dispute, and the material substance that is the basis for the issuance of the Decree of the Village Head who is the object of the dispute. These three points of consideration led the judge to a conclusion stating that the lawsuit postulated by the plaintiff was rejected and charged the plaintiff with a nominal amount of Rp 399,000.00.

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