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Meaning of Correction of Bawaslu's Verdict to the Decision to Resolve Disputes of the Election Process (Bawaslu Study of West Lombok Regency)

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Abstract

After the reform, the existence of the general election supervisory agency is increasingly considered important to ensure the quality of the implementation of the general election. The purpose of the research is to analyze the meaning of the correction of the Bawaslu verdict to the dispute resolution decision of the Bawaslu Regency Election process (Bawaslu Case Study of West Lombok Regency). Research methods, types of normative legal research, with approaches; laws and regulations, concept approaches, and case approaches. In conclusion, the meaning of the correction of Bawaslu's decision on the dispute resolution decision of the Bawaslu Regency Election process (Bawaslu Case Study of West Lombok Regency), is an administrative effort to resolve disputes in the Election process, where Bawaslu is authorized to make corrections to the decisions of Bawaslu Province and Bawaslu Regency / City. The results of the correction of the decision by Bawaslu on the dispute resolution of the Election process in West Lombok Regency have the potential to be used as a reference for political parties participating in the election, to act unconstitutionally by nominating legislators not old enough.

Keywords: *Meaning of Correcting the Verdict; Bawaslu; Dispute Resolution of the Election Process*

Introduction

After the reform, the existence of election supervisory agencies is increasingly considered important to ensure the quality of election implementation. The law governing changes to the election supervisory committee is Law No. 12 of 2003 concerning Elections of Members of the House of Representatives (DPR), Regional Representative Council (DPD), and Regional People's Representative Council (DPRD), Law No. 22 of 2007 concerning Election Organizers that changes the Supervisory Committee for Elections (abbreviated as Panwaslu), become the Election Supervisory Board (hereinafter written Bawaslu). There was a debate about Bawaslu institutions that were not mentioned in Article 22 E of the Constitution of the Republic of Indonesia in 1945 (hereinafter written the 1945 NRI Constitution), which was then submitted by judicial review to the Constitutional Court.

The constitutional court judged that the function of holding elections was not only carried out by the General Election Commission (hereinafter written by the KPU) but also included election supervisory agencies, in this case, Bawaslu as a unitary function of holding elections that are national, permanent and independent (Putusan MK, 2020).

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The implementation of the 2014 election was guided by Law No. 15 of 2011 concerning Election Organizers. This law itself is guided by the Constitutional Court Decision Number: 11/PUU-VIII/2010. Article 1 number 5 of the Indonesian Law Number 15 of 2011 states that:

“Penyelenggara Pemilu adalah lembaga yang menyelenggarakan Pemilu yang terdiri atas KPU dan Bawaslu sebagai satu kesatuan fungsi penyelenggaraan pemilu untuk memilih anggota DPR, DPD, DPRD, Presiden dan Wakil Presiden secara langsung oleh rakyat, serta untuk memilih Gubernur, Bupati dan Wali Kota secara demokratis”.

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Ahead of the implementation of the 2019 General Election, Indonesian Law No. 7 of 2017 concerning General Elections was born (hereinafter written Law No.7 of 2017 concerning Elections). In this Law, Bawaslu's position is further strengthened by several rule changes, including the increase in the number of Bawaslu members, especially the expansion of Bawaslu's authority, which is expected to be even better in the future.

Since the inauguration of Bawaslu West Lombok Regency for the 2018-2023 term, it has handled and followed up on various allegations of election violations either derived from the findings of the election supervisor or reports submitted by the public to the election organizers including in the election of members of the DPR, DPD, Provincial /Regency/City DPRD and the 2019 Presidential Election. At the beginning of his term, Bawaslu West Lombok became the first Bawaslu in Indonesia to resolve disputes over the election process.

The case of the election dispute handled by Bawaslu West Lombok Regency is a case of Register Number: 01/PS/BWSL. LBB.18.05/VIII/2018. Bawaslu West Lombok Regency has received an application for dispute resolution of the 2019 general election process which is a dispute between the Working Class Party and the West Lombok Regency KPU. In Law No. 7 of 2017 concerning Elections, Article 466 is explained that disputes over the Election process include disputes that occur between Election Participants and disputes between Election Participants and Election Participants' disputes with Election Organizers as a result of the issuance of KPU Decrees, Provincial KPU Decrees, and Regency / City KPU Decisions (Dokumen Laporan, 2018).

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As for the position of the case: The Chairman of the Regional Leadership Council of the West Lombok Regency Working Class Party, through his lawyer called the Applicant, applied Dispute Resolution of the General Election Process to Bawaslu West Lombok Regency as a result of the issuance of the West Lombok Regency KPU Decree Number: 69 /HK.03.1-Kpt/5201/KPU-Kab/VIII/2018 concerning the Determination of the Provisional Candidate List (abbreviated as DCS) member of the West Lombok Regency Regional People's Representative Council dated 11 August 2018 (Ibid, 2020).

Based on Article 7 paragraph (1)b of the Bawaslu Regulation of the Republic of Indonesia (abbreviated as Bawaslu RI) Number 18 of 2018, one of the dispute applicants in the Election process is the Political Party of the Election Participant. Bawaslu West Lombok Regency has received an application for dispute resolution of the 2019 general election process requested by the Regional Leadership Council of the West Lombok Regency of Golongan Karya Party due to the non-establishment of one of the candidates for the West Lombok Regency DPRD to be DCS.

The submission of the Applicant's application a quo to Bawaslu West Lombok Regency is still within the grace period specified in the laws and regulations, because the object of dispute issued by the Respondent is set on August 12, 2018. The applicant submitted a quo application to Bawaslu West Lombok Regency on August 13, 2018. After the assessment and examination of the application file, registration and preparation of the mediation schedule are carried out as the first stage of the dispute resolution process of the election process. At this mediation stage, no agreement was reached between the applicant and the respondent so Bawaslu continued on the next process, namely adjudication on August

23, 2018, with the agenda of reading the applicant's application and the respondent's answer (Ibid, 2020). This is following the mandate of Law No. 7 of 2017 concerning Elections, Article 468 Paragraph (3):

“Bawaslu, Bawaslu Provinsi, Bawaslu Kabupaten/Kota melakukan penyelesaian sengketa Pemilu melalui tahapan: a. menerima dan mengkaji permohonan penyelesaian sengketa proses Pemilu; dan b. mempertemukan pihak yang bersengketa untuk mencapai kesepakatan melalui mediasi atau musyawarah dan mufakat”.

Furthermore, Article 468 Paragraph (4) is explained, that, if no agreement is reached between the parties to the dispute as in Paragraph (3) b, Bawaslu, Bawaslu Province, Bawaslu Regency / City resolves disputes of the Election process through adjudication so that on the next day adjudication is carried out with an evidentiary agenda as well as presenting witnesses from the applicant and the respondent. After hearing all the testimony of witnesses, Bawaslu conducted a formulation and plenary in the period between August 29 and September 4, 2018. On September 5, 2018, an agenda for reading the verdict by the adjudication panel was carried out, starting with reading the consideration, considering the legal position, until it came to the verdict that read “*menolak permohonan pemohon untuk seluruhnya*” (Ibid, 2020).

Before closing the hearing the chairman of the assembly explained to the applicant, can apply for correction of the verdict, as a legal effort, if the applicant feels dissatisfied or harmed by the results of the ruling. Correction of the verdict can be submitted to Bawaslu RI, whose submission is through Bawaslu West Lombok Regency. This is regulated in Regulation Number 27 of 2018 concerning the Second Amendment to Regulation 18 of 2017 concerning Procedures for Dispute Resolution of the Election Process Article 42 Paragraph (2). On the same day, the applicant applied for correction of the verdict to Bawaslu of the Republic of Indonesia, through Bawaslu West Lombok Regency. For 2 (two), a decision was issued by Bawaslu RI with the decision to accept the applicant's application for all and win the applicant's party and ordered that the KPU determine the candidates for the West Lombok Regency DPRD members who were previously Ineligible (TMS) carried from the Golkar Party in the West Lombok 2 (Sekotong-Lembar) constituency, to be included in the DCS members of the West Lombok DPRD.

Based on the description of the background, the problem was formulated: the meaning of correcting Bawaslu's decision on the decision to resolve the dispute resolution of the Bawaslu Regency Election process (Bawaslu Case Study of West Lombok Regency).

Research Methods

The type of research is normative legal research, Usually normative legal research is researched only library material or secondary data, which includes primary, secondary, and tertiary legal materials (Soekanto and Mamudji, 2004). with an approach; statute approach, conceptual approach, and case approach. Source and type of legal materials, using primary, secondary, and tertiary legal materials. Legal material collection techniques, after all, legal materials are collected, classification is carried out, grouped by type, level, and so on, then analyzed and described descriptively.

Result and Discussion

In the enforcement of election law, Bawaslu West Lombok Regency is a non-judicial institution that is given duties and authority as a quasi-judiciary in the dispute resolution of the Election process by law through adjudication whose ruling is legal. In the adjudication mechanism, Bawaslu West Lombok Regency is in the position of *Judex Factie*, which carries out the trial process to collect evidence and facts

and conduct studies and legal applications in making dispute resolution decisions in the Election Process Dispute Resolution. Disputes of the Election process enter into a group of non-result disputes, meaning that this dispute is not related to the results of the election, but to the election process itself, which is suspected or considered the election process causes harm to certain parties, in this case, are election participants (Syam, 2022).

The Bawaslu RI corrections assembly is positioned as Judex Jurist who conducts examinations and corrections to the decision of Bawaslu West Lombok Regency if there is an error in the application of the law on the verdict. Bawaslu RI did not consider the evidence presented in the Bawaslu trial of West Lombok Regency, which was in the form of documents and witness statements, and informant institutions. If seen in Article 31 letter (f) of Regulation Number 18 of 2017 concerning Procedures for Dispute Resolution of the Election Process, the evidence in the dispute resolution of the Election process is the knowledge of the assembly.

The Bawaslu Ri corrections assembly ruled itself out as Judex Jurist, where Bawaslu RI did not pay attention to the Regulation of the Minister of Home Affairs which became one of the bases for consideration of the adjudication assembly. Bawaslu West Lombok in its decision (Putusan Penyelesaian Sengketa, 2018), namely Permendagri Number 74 of 2015 concerning Procedures for Changing Population Data Elements in Electronic Identity Cards Article 3 Paragraph (1) (Permendagri, 2015). Explained that the static data elements are the Population Master Number (NIK), Place of Birth Date, and Blood Type. Article 15 Paragraph (2) a, also explains the change of the data element of the place of birth date by attaching a photocopy of a copy of the court determination and showing a copy of the court determination. The basis of the rule is not used as a guideline by Bawaslu RI, so it seems that Bawaslu RI is more inclined to the description of the West Lombok Regency Disdukcapil which overrides Article 15 Paragraph (2) a letter a. Thus Bawaslu West Lombok Regency as Judex Factie is very detailed to know the facts of the trial so that the verdict made will refer to the evidence and facts of the trial.

Referring to the decision on dispute resolution of the Bawaslu Process of West Lombok Regency Number: 01/PS/BWSL. LBB.18.05/VIII/2018, it is clear that the head of the verdict reads "DEMI KEADILAN BERDASARKAN KETUHANAN YANG MAHA ESA" so that it can be ascertained that the ruling is a legal ruling issued from an official trial and open to the public, as well as court decisions in general. On the other hand, when paying attention to the results of the correction of the verdict by Bawaslu RI, there is no Head of Verdict that reads "DEMI KEADILAN BERDASARKAN KETUHANAN YANG MAHA ESA, so there is no clarity whether the results of the correction of the verdict are a verdict or not. The results of the correction of the verdict by Bawaslu RI contained orders to the KPU of West Lombok Regency, which is considered by order number 4 (four) then the results of the correction explained themselves as a ruling stating as follows:

"Memerintahkan KPU Kabupaten Lombok Barat untuk menindaklanjuti Putusan Bawaslu dengan menerbitkan Keputusan baru yang mencantumkan DCS dari Partai Golongan Karya (Golkar) pada Daerah Pemilihan II atas nama Lalu Ivan Indaryadi dalam Pemilihan Umum Anggota DPRD Kabupaten Lombok Barat Tahun 2019;" (Putusan Bawaslu, 2018).

Thus, based on the phrase "putusan Bawaslu" In order No. 4 (four), then according to Bawaslu's perspective, the result of correction of the verdict is a verdict and the orders are the verdict. With the issuance of the results of corrections to the decision on dispute resolution of the Election process by Bawaslu West Lombok Regency, it became the final process of administrative settlement efforts in Bawaslu and became final for the West Lombok KPU.

The West Lombok KPU must carry out the direct order contained in the decision on the results of the correction of the verdict by Bawaslu without having to wait for the issuance of the repair of the verdict by Bawaslu West Lombok. As for the improvement of the decision by Bawaslu West Lombok solely because it carries out the order of the correction results because the repair order has been addressed

directly to the West Lombok KPU, even before Bawaslu West Lombok made improvements to its decision in dispute resolution. The West Lombok KPU carried out an immediate repair order, based on the results of the correction of the Bawaslu RI ruling without having to wait for the improvement of the dispute resolution decision of the Bawaslu West Lombok election process.

It is clear that in the context of the prevailing judicial procedures, Bawaslu RI is positioned as a *Judex Jurist* who only checks on the error of application of the law in the decision to resolve disputes in the Election process in Bawaslu West Lombok. Thus, if there is no error in the application of the law of the Pspg Bawaslu West Lombok decision, the results of the correction of the verdict by Bawaslu RI should not change the decision to resolve the dispute of the Bawaslu West Lombok election process (Badrin. Et al., 2020) In resolving disputes in the election process, Bawaslu West Lombok as *Judex Factie* is very aware of the legal facts that occurred in the adjudication trial, so it is less likely that there will be errors in the application of the law at the time of making the verdict.

With the issuance of the results of the correction by Bawaslu RI, the decision of Bawaslu West Lombok which rejected the applicant's application became invalid and based on the order on the results of the correction of the decision by Bawaslu RI that the West Lombok KPU obtained an order to make a new decision that included prospective members of the DprD Election Area II Sekotong West Lombok Regency Sheet into the DCS (Ibid, 2020).

Legal certainty is one of the principles of organizing The General Election because if it is not legally determined, it can be ascertained that there will be potential conflicts, both legally, politically, socially, and culturally. The decision of the dispute resolution of the Election process becomes one of the forms and efforts to provide legal certainty and justice in the election process. The decision to resolve disputes in the Election process by the Election Supervisor is a ruling that is also legal because it is a provision of the Law as the basis for the implementation of elections.

The results of the correction of the verdict by Bawaslu RI, have ruled out the decision on the dispute resolution of the Election process by Bawaslu West Lombok, which reflects the facts that appeared in the trial and based on the results of supervision in form A Supervision and print out of the Voter Data Indormasi System (SIDALIH) which explains that the prospective legislative candidate (Bacaleg) on behalf of Lalu Ivan Indaryadi was indeed born on December 28, 1997, and not May 28, 1997.

The results of the correction of the decision by Bawaslu RI on resolving disputes in the Election process in West Lombok Regency have the potential to be used as a reference for political parties participating in the election, to act unconstitutionally by nominating legislators not old enough. If that happens, then they will demand justice by receiving the same treatment based on the results of the correction of the 2019 Election dispute resolution decision, which if not enforced the same, can result in conflict and also have an impact on the loss of trust or public trust in Bawaslu institution itself, especially Bawaslu West Lombok Regency as an institution that is tasked and authorized in carrying out the main task of supervision in the implementation of elections such as prevention, enforcement of violations and resolution of election disputes.

Conclusion

The meaning of the correction of Bawaslu's decision on the dispute resolution decision of the Bawaslu Regency Election process (Bawaslu Case Study of West Lombok Regency), is an administrative effort to resolve disputes in the Election process, where Bawaslu is authorized to make corrections to the decisions of Bawaslu Province and Bawaslu Regency / City. The results of the correction of the decision by Bawaslu on the dispute resolution of the Election process in West Lombok Regency have the potential

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