



The Authority of the Village Government to Collect Village Tourism Objects

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Abstract. Village Regulations are a further elaboration of higher legislation taking into account the socio-cultural conditions of the local village community. The problem raised in this article is how is the normalization of the authority of the village government to collect fees for village tourism objects? And how is the content of the Village Regulation regarding the retribution for village tourism objects? Legally, the Village can collect levies on tourist objects in the village, regulated in the framework of Village Regulations as regulated in Article 37 of the Minister of Home Affairs Regulation No. 44/2016: Villages can carry out levies in order to increase the village's original income in accordance with the authority of the Village and Traditional Villages based on statutory regulations.

Keywords: Village · Regulations · Traditional Villages

1 Introduction

As in Law Number 6 of 2014 concerning Villages, Village Regulations are statutory regulations established by the Village Head together with the Village Consultative Body. These regulations apply in certain village areas. Village Regulations are a further elaboration of higher legislation taking into account the socio-cultural conditions of the local village community. The problem raised in this article is how is the normalization of the authority of the village government to collect fees for village tourism objects? And how is the content of the Village Regulation regarding the retribution for village tourism objects?

Based on the background and formulation of the problem that has been described, the purpose of this study is to analyze the normalization of levy arrangements carried out by the Village and formulate the content material in a Village Regulation. The Village Regulation is a further elaboration of this higher statutory regulation which has a function, namely as a work guide for all parties in the implementation of activities in the village. In addition to this, the Village Regulation also serves to create a harmonious, harmonious and balanced life order in the village [6].

2 Discussion

The legal product that regulates the authority to collect local taxes is Law Number 28 of 2009 concerning Regional Taxes and Regional Levies 3 (State Gazette of the Republic

of Indonesia of 2009 No. 130, Supplement to the State Gazette of the Republic of Indonesia Number 5049). Regency/City areas are given new Local Original Revenue Sources (PAD) consisting of Regional Taxes and Regional Levies. Regarding the types of Taxes that become sources of Regional Original Revenue quantitatively as many as 11 types, so that there are the addition of 4 new types of regional taxes as sources of regional original income, namely: 1. Land and Building Taxes have been effectively submitted to become Regional Taxes in 2014. 2. Rights Acquisition Fees Land and Buildings are effectively handed over to the regions starting in 2011. 3. The Surface Water Tax is effectively handed over to the regions starting in 2014. 4. Swallow's Nest Tax.

The Village Government is not part of the formal government bureaucracy, does not carry out clear government affairs, the organization is not equipped with public service institutions, and its financial sources are based on funding from the top government in the project scheme. The state implements Law 6/2014 on Villages to improve the welfare of rural communities. However, this village law leaves a fundamental problem regarding its institutional status which is outside the government bureaucratic system according to the principle of decentralization as regulated in Law 30/2014 on Government Administration so that its status is not clear: whether as local-state government, local self-government, self-governing communities, as a combination of them, or state corporatism.

Article 19, which states that: "The authority of the village includes authority based on the right of origin". Elucidation of Article 19 a What is meant by "right of origin" is a right which is a living inheritance and Village initiative. However, if this provision is linked to Article 34 (1) of PP 43/2014 concerning the Implementing Regulations of the Village Law, it is stated that the authority of village government regulations includes: (a) the system of customary law community organizations; (b) establishment of community institutions; (c) development of customary law and institutions; (d) land management of Village Capital Resources; and (e) developing the role of village communities. Thus, the granting of power of attorney letters b, c, d, and e above is contrary to the mandate of Article 18 B paragraph (2) of the Constitution, because the norms contained in letters b, c, d, and e are not intended to acknowledge and respect but instead make new authority. The norm of Article 19 and the Elucidation of Article 19 a is the basic source of the recognition principle, while Article 19 b below is the basic source of the subsidiarity principle.

Pasal 19 b UU 6/2014:

"Village authority includes authority based on local authority at the village level "

Explanation of Government Regulation No. 43/2014 Article 19 b of Law 6/2014:

What is meant by "village-scale local authority" is the authority to regulate and manage... Among other things the management of: (1) ship berths; (2) village market; (3) public baths; (4) irrigation network; (5) rural community settlement environment; (6) Village community development and integrated service post management; (7) Development and development of art and learning studios; (8) village library and reading garden; (9) village ponds; (10) village scale drinking water; and (11) Construction of village roads between settlements to agricultural areas".

The problem with the legal structure is that Article 19 b of this government regulation is not in accordance with the facts on the ground. Authority as referred to in Article 19 b Government. PP 43/2014 is less clear because the principle is not an authority based

on the principle of decentralization or the principle of recognition. Therefore, 74,956 villages do not regulate and manage these complex and diverse matters. This happened because the Central Government never conveyed this. If there is a village government that owns one or more of these matters based on the project, it is certain that the village will not be able to take care of it. This is due to the lack of village institutional resources that do not have organizational organs to carry out this. This situation shows that the principles of systemic precision (*startel van duidelijke systemetiek*), the executable principle (*het startel van uitvoerbaarheid*), and the implementation principle are in accordance with individual abilities (*het beginsel van de individuele rechtsbedeling*). The village government as a quasi-government does not have the power to carry out these various public affairs.

Pasal 19 c dan Pasal 19 d UU 6/2014.

Mention that:

“Village authority includes authority based on the authority granted by the Government, Provincial Government, or Regency/Municipal Government and other authorities granted by the Government, Provincial Government, or Regency/City Regional Government in accordance with the provisions of laws and regulations” [5].

The problem with the legal structure is that the authority possessed by the Village Government creates a vague system in the administration of the bureaucracy. The type of authority granted (attributive) to village government institutions is unclear. Whether the authority given is delegated or *medebewind*. If the type is delegative then the problem is from whom to whom. Whether from the central government government which is higher than the village as a state government, or from the local government government which is higher than the village as a local government, or from local government. Self-government to the village as a self-governing community. This situation shows that the principle of systemic precision is not fulfilled, starting from the beginning of *van duidelijke systemetiek*, the principle of clear goals (*het mulasel van duidelijke doelstelling*), and the principle of legal certainty.

Pasal 69 UU 6/2014.

Article 69 regulates the Village Regulation which states that:

“The types of regulations in the village consist of village regulations, joint regulations with the village head, and village head regulations....”

Draft Village Regulations concerning Village Revenue and Expenditure Budgets, levies, spatial planning, and Village Government organizations must be evaluated by the Regent/Mayor before being stipulated as Village Regulations ... etc.”

The issue of the legal structure is the basis for the status of the Village Government as a “Pseudo Government Unit”, so that the Village Government is not legal to make laws and regulations as regulated in Law 12/2011. Law 12/2011 - there is no mention of a statutory regulation called a Village Regulation. The Village Government has not actually been able to make Village Regulations due to limited institutional resources. This situation shows that Article 69 does not fulfill the correct systematic principles, correct organ principles, and legal certainty, and is enforceable and can be executed.

Article 117 number 1 of the Job Creation Law which amends Article 1 number 7 of the Village Law defines village regulations as follows:

Village Regulations are statutory regulations established by the Village Head after being discussed and agreed with the Village Consultative Body.

The Village Regulation is one of the existing regulations in the village in addition to the Village Head Regulation and the Village Head Joint Regulation. It should be underlined, Village Regulations as a type of legislation may not conflict with higher laws and regulations. In addition, village regulations must not conflict with the public interest. The purpose of the public interest is the condition of disruption of community harmony, the occurrence of racial discrimination based, disruption of public services, to disruption of public security and order [1].

Furthermore, regarding the content material that may be regulated in Village Regulations, in principle, it must refer to existing statutory regulations, especially higher statutory regulations. Further material content of higher legislation [2]. So it can be said that Village Regulations can regulate things that have not been or are not regulated in higher laws and regulations, provided that these things must be included in the authority of the village.

Regarding the levies regulated in the Village Regulations, in fact the Village Regulations can regulate the levies. This provision is indirectly stated in Article 69 paragraph (4) of the Village Law:

Draft Village Regulations concerning Village Revenue and Expenditure Budgets, levies, spatial planning, and Village Government organizations must obtain an evaluation from the Regent/Mayor before being stipulated as a Village Regulation.

From the sound of the provisions above, it can be understood that it is imperative that the regulation of levies is only regulated through a Village Regulation. This means that, a contrario, village levies cannot be regulated by a Village Head Regulation or a Village Head Joint Regulation. In addition, before being stipulated as a Village Regulation, a Draft Village Regulation regarding levies must also receive an evaluation from the Regent/Mayor. So, although levies are allowed to be regulated, there are still restrictions, namely they must be in the form of a Village Regulation and must pass an evaluation from the Regent/Mayor.

Furthermore, the affirmation of the permissibility of regulating village levies is stated in Article 37 of the Minister of Home Affairs Regulation No. 44/2016:

Villages can carry out levies in the context of increasing Village original income in accordance with the authority of the Village and Traditional Villages based on statutory regulations.

However, villages are prohibited from collecting fees for administrative services provided to village communities, including:[3].

- a. cover letter;
- b. letter of recommendation; and.
- c. Letter of Statement.

The levies that may be made by the village are levies on business services such as public baths, village tours, village markets, boat moorings, fish cages, fish auctions, and others [4].

3 Conclusion

1. Legally, the Village can collect levies on tourist objects in the village, regulated in the framework of Village Regulations as regulated in Article 37 of the Minister of Home Affairs Regulation No. 44/2016: Villages can carry out levies in order to increase the village's original income in accordance with the authority of the Village and Traditional Villages based on statutory regulations. However, villages are prohibited from collecting fees for administrative services provided to village communities, including cover letters; letter of recommendation; and certificate.
2. Village regulations as one type of legislation may not conflict with higher laws and regulations. In addition, village regulations must not conflict with the public interest. The content material that may be regulated in Village Regulations in principle must refer to existing statutory regulations, especially higher statutory arrangements. As a regulation that applies to the scope of the village, the Village Regulation may contain material on the implementation of village authority and further regulate the content of higher laws and regulations. So it can be said that Village Regulations can regulate things that have not been or are not regulated in higher laws and regulations, provided that these things must be included in the authority of the village.

4 Sugestion

1. The Village Government should be careful in formulating Village Regulations regarding Fees, because it can increase the burden on the population.
2. District government to carefully consider when evaluating the implementation of village regulations

Figures and tables should be placed either at the top or bottom of the page and close to the text referring to them if possible.

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