



Authorities of Village Heads in Appointing Village Apparatus as the Establishment of Village Autonomy (Study of Appointment of Village Officials in Pekalongan Regency)

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Abstract. This study aims to examine and analyze: 1) The authority of the village headman in the appoint of the apparatus based on village autonomy; 2) Mechanism of appointment of Village Apparatus within the framework of Village Autonomy in Pekalongan Regency; and 3) Factors that become obstacles in the appointment of Village Apparatus from the perspective of Village autonomy and the solution. This study is a sociological juridical approach, namely the analysis of the application of legislation with qualitative research methods. The sources and types of data in this study consist of primary data and secondary data. The data were analyzed using autonomy theory, authority theory, and government system theory. The results of this study indicate that: 1) The Village Headman has attributive authority to appoint Village Apparatus based on Village autonomy as outlined in Law Number 6 of 2014; 2) The mechanism for appointing Village Apparatus in Pekalongan Regency is carried out based on Pekalongan Regency Regional Regulation (PERDA) Number 20 of 2017 concerning Appointment and Dismissal of Village Apparatus and Pekalongan Regent's Regulation (PERBUP) Number 22 of 2018 concerning Implementation Regulations of Pekalongan Regency Regional Regulation Number 20 of 2017 regarding the Appointment and Dismissal of Village Apparatus, carried out in two ways, namely: 1) through mutation and 2) through a screening and filtering process. The factors that hinder the authority of the Village Head in appointing Village Apparatus are, (a) aspects of legal substance, namely the existence of articles and paragraphs in laws and regulations that are not clear, (b) Aspects of the legal structure, namely the relationship of power and interests of the Regional Government and Village, (c) Aspects of legal culture, namely the legal awareness of the community is still low and most people do not know and understand the laws and regulations regarding the Village.

Keywords: The Authority of the Headman · Appointment of Village Apparatus · Village Autonomy

1 Background

The birth of village autonomy is a new era in which villages have the right to be independent in advancing their society democratically, both in the political, economic and cultural fields. Of course, village autonomy requires a bureaucracy that is reformist, efficient, creative, innovative, and able to answer challenges in dealing with uncertainties in the present and in the future. The ability to survive and make the village prosperous is very dependent on the collegial collective awareness of all elements of the village community.¹

The implementation of the Village Head's authority in appointing Village Officials has not fully gone well, as mandated by the Village Law.² Based on BPS data from Pekalongan Regency, there are 272 villages and 13 sub-districts from 19 sub-districts in Pekalongan Regency,³ most of them face similar problems related to the authority of the Village Head in appointing and dismissing Village Officials.

Differences in culture and values originating from ethnic diversity and various political cultures remain a major source of conflict⁴. Indonesia with its various ethnicities, cultures, languages and religions/beliefs on the one hand is a nation's wealth and identity, but on the other hand it is often a challenge for village governments to adapt their own ethnic identity to national identity, especially if the state tries to maintain political authority strong over subnational differences and interests.⁵

The appointment and dismissal of village apparatus as assistants to the Village Head in carrying out their duties and authorities as Village Government apparatus is regulated in Permendagri Number 67 of 2017 concerning Amendments to Minister of Home Affairs Regulation Number 83 of 2015 concerning Appointment and Dismissal of Village Officials. Whereas what is meant by Village Devices are staff elements that assist the Village Head in formulating policies and coordination that are accommodated in the Village Secretariat, and elements that support the Village Head's duties in implementing policies that are accommodated in the form of technical implementers and regional elements.⁶

¹ Haris Budiman, Anis Mashdurohatun, Eman Suparman, A Comparative Study of Spatial Policy In Indonesia And The Netherlands, *Jurnal Dinamika Hukum*, Vol 18, No 3 (2018), page 295–300.

² Nanang Zulkarnaen, Maemunah, "Kewenangan Kepala Desa Dalam Mengangkat Dan Memberhentikan Perangkat Desa Di Tinjau Dari Undang-Undang Nomor 6 Tahun 2014 Tentang Desa", *Civicus Pendidikan Pancasila & Kewarganegaraan*, Vol. 6 No. 1 (2018), p. 27

³ BPS, 2021, *Kabupaten Pekalongan Dalam Angka*, BPS, Pekalongan, p. 19.

⁴ Yu, Mengyan (Yolanda). 2017, *Instrumental Autonomy, Political Socialization, and Citizenship Identity: A Case Study of Korean Minority Citizenship Identity, Bilingual Education and Modern Media Life in the Post-Communism Transitioning China*, Springer Nature Singapore Pte Ltd, Singapore, p. 9.

⁵ Rizal Mubit, Peran Agama Dalam Multikulturalisme Masyarakat Indonesia, *Epitisme Jurnal Pengembangan Ilmu Keislaman* Vol 11 No 1 (2016), page 163–184.

⁶ Peraturan Menteri Dalam Negeri Nomor 67 Tahun 2017 tentang Perubahan Atas Peraturan Menteri Dalam Negeri Nomor 83 Tahun 2015 Tentang Pengangkatan Dan Pemberhentian Perangkat Desa, Pasal 1.

The provisions for implementing the appointment of village officials regulated in Regional Regulation Number 20 of 2017 and Pekalongan Regent Regulation Number 22 of 2018 are inconsistent with the existing laws and regulations such as the Village Law and Permendagri Number 67 of 2017 regarding the mechanism for appointing village officials. In particular, Article 1 paragraph 12 of PERBUP 22 of 2018 states that “Appointment is the process of filling in Village Officials which is carried out through the administrative requirements research stages and “implementation of screening tests and/or special exams”. Furthermore, in Article 6 letter f it is emphasized that the screening test and/or special exam is the task of the Selection Committee.

It is not explained how the procedures (mechanisms) for carrying out the examination for appointing village officials are referred to. Who prepares the tests/test questions? where implemented? What is the problem package security system? Is the material tested in accordance with the needs of the village? What is the village apparatus exam for? Are village apparatus exams or tests in accordance with the mandate of the Village Law and Minister of Home Affairs Regulation Number 67 of 2017?

Regional Regulations and Regulations of the Regent of Pekalongan Regency as mentioned, are still a big question mark when examined from the theory of the legal system and government. This is because the legal logic used makes no sense at all, how is it possible that an autonomous region (Regency/City) whose autonomy is based on a grant from the Central government has the authority to regulate an autonomous region (Village) which has genuine autonomy (not a grant from the Government)?

These questions arise, due to the fact that screening tests and/or special exams for Village Apparatuses are carried out by the Region (in this case the Pekalongan Regency Government) in collaboration with universities without involving the Village in preparing test materials or determining which college or institution will be serve as the organizer/location for the Examination.

Claims of fraudulent village apparatus exams in Kediri Regency, East Java, resulted in the Regent taking action to stop the village apparatus test exam process and repeat all stages of village apparatus appointments.

2 Research Methods

The approach used in this study is a sociological juridical approach,⁷ which emphasizes practice in the field relating to legal or statutory aspects that apply with regard to the object of research discussed and looks at the applicable legal norms, then relates it to the facts and facts contained in people’s lives and discusses how the law operates in society.⁸

⁷ Andri Winjaya Laksana, Sociological Analysis of Narcotics Circulation Treatment On Students, *Jurnal Pembaharuan Hukum*, Vol 8, No 1 (2021), page 105–117.

⁸ Amiruddin dan Zaenal Asikin, 2003, *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Jakarta, p. 21.

3 Discussion

3.1 Authority of the Village Head to Appoint Village Officials Based on Village Autonomy

The authority of the Village Head to appoint Village Apparatuses in Pekalongan Regency based on the regulations used, namely PERDA of Pekalongan Regency Number 20 of 2017 and Pekalongan PERBUP Number 22 of 2018 is to form a Selection Committee and determine/appoint Village Apparatus candidates by Village Head Decree based on the recommendation of the Camat (as extension of the local government_Regent).

Information from the Village Head at the two research locations (Tegalontar Village and Waru Kidul Village) indicates that the Village Head does not have any authority in the process of selecting and screening potential Village Apparatus candidates, because all stages of recruitment activities for Village Apparatus candidates are regulated in great detail and are highly technical in nature by Local Government (PERBUP Pekalongan Number 22 of 2018).

The authority of the Village Head in the villages used as research locations (Tegalontar village and Waru Kidul village) has not yet led to the spirit mandated in the Village Law, this is due to a misinterpretation of the applicable laws and regulations, both by the Village Government, Supradesa, and Local Government. On the one hand the Village Law gives full authority to the Village Head in appointing and dismissing Village Officials⁹, however, on the other hand, this authority is limited by requiring the Village Head to consult with the Camat on behalf of the Regent/Mayor before appointing Village Officials.¹⁰

The provisions of the Village Law do not explain what is meant by the word “consulted”, linguistically the word “consulted” is not found in the Big Indonesian Dictionary (not the standard language). Several things emerged from the use of the term “consulted”, namely: first, what matters were consulted on? If the word “consulted” refers to a person with expertise (Village Apparatus), then the provisions of Article 49 paragraph (2) of the Village Law are contrary to the previous articles and the principle of village autonomy. Second, if you use the basic word, namely “consultation”, according to the Big Indonesian Dictionary, the word consultation is defined as an exchange of thoughts to get the best possible conclusions (advice, suggestions, etc.). Then exemplified in the case of doctors (experts/actor) with patients (operants), namely “medical negotiations between providers and recipients of health services aimed at finding causes of disease and determining how to treat it.”¹¹. This means that, the position of the Village Head in Article 49 paragraph (2) is as a subordinate (operan) who does not have the expertise and independence in determining actions, while the Camat on behalf of the Regent/Mayor is an actor or superior who has a position and/or expertise in directing actions subordinates (Village Head). Unless there is another meaning or intent in the jargon “to be consulted”, the problem is that the word “to be consulted” has never been in the Big Indonesian Dictionary and violates standardized grammar rules. Then how is it possible that something

⁹ Undang-Undang Nomor 6 Tahun 2014 Tentang Desa, Pasal 26 ayat (2).

¹⁰ Ibid. Pasal 49 ayat (2).

¹¹ <https://kbbi.web.id/konsultasi>

that contains defects (material defects) can be used as guidelines or rules of the state? This has had a fatal impact on the preparation of the regulations under it, as happened in almost all districts/cities which regulate in great detail regarding the appointment and dismissal of village officials.

Third, there is a dualism of Village regulation at the Ministry level, the Village Ministry regulates the position of the village as community government, a hybrid between self-governing community and local self-government, but the Ministry of Home Affairs still views villages as government organizations that are in the district/city government system (local state). Government) which places the village as an administrative unit or pseudo-government which is an extension of the state. This is exactly the same as the point of view of Law no. 5 of 1979 against the village. The village is not seen as a whole as a legal community unit, but rather the village as the lowest administrative unit under the Camat.

Fourth, as an administrative area, the village has authority in administering village government and managing village finances. This of course has implications for the ability of the village government as the executor of autonomous authority and potential financial sources that must be found. Administration of government requires human resources that are quite anticipatory and initiative. The village government must be anticipatory of all problems, both those that already exist and those that will potentially burden the village. These problems arise as a result of the inability of village officials to identify problems encountered related to government initiative.

The findings of this study assess that Pekalongan Regency Regional Regulation Number 20 of 2017 and Pekalongan Regent Regulation (PERBUP) of Pekalongan Number 22 of 2018 concerning Appointment and Dismissal of Village Officials have followed the Laws and Regulations above which were used as considerations in the preparation of the PERDA and PERBUP, namely the Village Law. As previously discussed, misinterpretation and material defects in the Village Law have caused the regulations under it to experience the same thing.

3.2 Procedures and Mechanisms for Appointing Village Officials in Pekalongan Regency

The appointment and dismissal of village officials in Pekalongan Regency is regulated in Regional Regulation (PERDA) Number 20 of 2017 and its implementation is regulated in Pekalongan Regent Regulation (PERBUP) Number 22 of 2018. In Article 1 paragraph (12) it states that what is meant by Appointment is a process Filling in Village Officials which is carried out through the stages of researching administrative requirements and carrying out screening tests and/or special exams. Furthermore, in paragraph (17) it states that what is meant by screening are activities carried out by the Village Apparatus Selection Committee which include the announcement and registration of prospective candidates, and in paragraph (18) what is meant by screening are activities carried out by the Village Apparatus Selection Committee including research on administrative requirements, determination of Village Apparatus Candidates and examination results.

The procedures or stages for appointing Village Officials in Pekalongan Regency are based on PERBUP No. 22 of 2018 is divided into 3 (three) categories, namely: 1) appointments due to vacancies, 2) mutations and 3) screening and screening of village apparatus.

In general, the steps involved in appointing Village Officials are: 1) forming a selection committee, 2) announcement and registration of prospective candidates, 3) screening of prospective candidates, 4) screening of prospective candidates, 5) appointment and inauguration of Village Officials. In addition to regulating general matters regarding the elaboration of the laws and regulations above it, Pekalongan Regency PERDA Number 20 of 2017 and Pekalongan Regent Regulation No. 22 of 2018 also regulates matters of a very technical nature in the process of appointing Village Officials¹².

The factors that hinder the implementation of the Village Head's authority to appoint village officials in Pekalongan Regency can be grouped into several dimensions based on Firedman's theory of legal effectiveness, namely: 1) legal substance, 2) legal structure, and 3) culture law (legal culture).

4 Conclusion

1. The Village Head has attributive authority to appoint Village Officials based on Village autonomy as stipulated in Law Number 6 of 2014, but in implementing regulations such as Government Regulation Number 43 of 2014 concerning Regulations for Implementing Law Number 6 of 2014 concerning Villages, has not provided full authority to the Village Head to appoint Village Officials, because in PP 43 of 2014 it only states "other conditions specified in Regency/City regional regulations", as well as PERMENDAGRI No. 83 of 2015 which was amended by PERMENDAGRI No. 67 of 2015. Meanwhile, the Regional Regulation (PERDA) No. 20 of 2017 and Pekalongan Regent Regulation (PERBUP) No. 22 of 2018 do not accommodate the village head's authority in appointing village officials based on village autonomy.
2. The mechanism for appointing Village Apparatuses in Pekalongan Regency is carried out based on Regional Regulation (PERDA) of Pekalongan Regency Number 20 of 2017 concerning Appointment and Dismissal of Village Officials and Pekalongan Regent Regulation (PERBUP) of Pekalongan Number 22 of 2018 concerning Regulations for Implementing Pekalongan Regency Regional Regulation Number 20 of 2017 concerning Appointment and Dismissal of Village Officials, it is carried out in two ways, namely: 1) through mutation and 2) through a screening and screening process.
3. Several factors became obstacles in the appointment of Village Apparatuses from the perspective of Village autonomy, namely: legal substance, legal structure, and legal culture.

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