



Responsibility of the Regional Government of South Sulawesi Province in Granting Rock Mining License and Controlling Illegal Mining in Gowa District

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Abstract. The main problem in this study Abstract concerns the responsibility of the Regional Government of South Sulawesi Province in Granting Mining Permits for Rock Quarry Materials and Controlling Illegal Mining in Gowa Regency. The research uses the empirical juridical law method, meaning that a study examines problems according to the facts that occur in the field, studies of legislation, sources from archives, official documents regarding mining permits. The next step is to classify according to the problem under study, then the data is compiled and analyzed using a descriptive method. The results of this study indicate that the responsibility of the Regional Government of South Sulawesi Province in granting mining permits for rock minerals has been stipulated in Law No. 23 of 2014 concerning Regional Government. Thus the provincial government took over the Mining Business Permit (IUP) from the hands of the district government through a one-stop integrated service. As for controlling illegal mining, which is currently rife in Gowa Regency, the government and police have made maximum efforts to eradicate this unlicensed mining by giving a warning of strict sanctions.

Keywords: Mining License, Illegal Mining, Regional Government

1 INTRODUCTION

There are nine highland sub-districts in the Gowa Regency, including Parangloe, Manuju, Tinggimoncong, Tombolo Pao, Parigi, Bunga-ya, Bontolempangan, and Biring Bulu. The Gowa Regency is one of the regions in the province of South Sulawesi and has an area of 1,883.32 km² and a population of approximately 752,896 people, or equal to 3.35.30% of Kabupaten Gowa's total area specifically, the Pangloe, Ting-gi Moncong, Bungaya, and Tompobulu sub-districts has a land slope that is greater than 40 degrees. There are numerous big rivers that cross through Gowa Regency; the longest one is 90 km long and 881 km wide. 1 The geographical conditions and area owned by the gowa regency provide considerable potential mining accommodations including mining commodities in the form of (a) heap soil found in samata, patta-lassang and padangtaring the potential is estimated at more than 160 million tons. (b) rock excavation materials are found along the jeneberang and tanggara rivers. In the

caddika and pallangga areas there are ancient river deposits. Its potential is estimated at 100 million tons. (c) river sand is found along the jeneberang river from kadaluaja to songkolo area with a potential of billions of tons. Ancient river sand deposits are also found in passelengang with an area of about 200 hectares and a thickness of two to three meters. (d) igneous rock (diorite) with a potential of 125 million tons, the building foundation material can be found in the bontoloe and bangkoa areas, (e) basalt in the form of alkaline frost is found in the sub-districts of parangloe, bontomarannu, tompobulu, high moncong, bungaya its potential reaches billions of tons. (f) andesite, in the form of outside found in bontomanai, mangguntur, bulumaya, lebangbu'ne and erelembang with resources reaching 922,100,000 tons, there are also kaolin, tras, clay, zeolite, bentonite, and pumice stone.

The head of the gowa mining and energy office, H. M. RIDWAN TALIB S.T., M.H. mentioned the potential of class B excavations, such as sulfur found in the lompo battang mountains at an altitude of 1,900 meters above sea level, precious metals and primary deposits in borong sapiri, bulubincanai, baturappe, and bangkoa and secondary deposits along the jeneberang river, tanggara, bangkoa, sukung river, malonjo, malakaji and sugai sapaya, while class A excavations are coal, botong prospect area, bulutawara and peo prospect area. However, only river rocks and sand and embankments have been worked on, and other potentials have not been touched.

The largest potential of excavation material in Gowa Regency is rock excavation material, this is because the distribution of this excavation material is more evenly distributed in all regions. The excavation material is easy to find and its existence is needed by the community in terms of building the facilities and infrastructure needed.

Seeing the magnitude of the potential of rock excavation material contained in the gowa regency causes many mining business activities to be carried out by both individuals and business entities. Basically, mining business activities carried out must have a permit, this does not rule out the possibility of illegal mining business activities that often escape the attention of the government as the party authorized to issue licenses.

A permit is a piece of paper that the local government issues in accordance with state, federal, and municipal laws that certifies someone or something is authorized to engage in a certain business or activity. There are several different types of permits that can be found in Law Number 4 of 2009 concerning Mineral and Coal Sand Mining, which has been amended to Law No. 3 of 2020. These permits include: mining business license (IUP), exploration business license (IUP), production operation business license (IUP), community mining license (IRP), special mining business license (IUPK), exploration business license (IUPK), and production operation business license.²

The materials used for rock excavation encompass a variety of substances, such as pumice, tras, toseki, marble, perlite, diatomaceous earth, fullers earth, granite slate, granodiorite, andesite, gabbro, basalt peridotite, trachite, leucite, clay, siltstone, pumice, opal, chalcedony, chert, quartz crystal, jasper, chrysoprase, calcareous wood, gametes, jade, agate, diorite, topaz, large quarry mountain stone, gravel quarried from hills, river gravel, river stone, sifted river gravel without sand, dredged sand, tidal sand, natural sandy gravel (sirtu), selected fill material (soil), local soil fill, red soil

(laterite), onic limestone, sea sand, and sand that lacks significant quantities of metallic or non-metallic mineral elements in terms of mining economics.

Rock excavation material, commonly referred to as class C excavation material, plays a significant role in supporting infrastructure development. This material is particularly crucial in the construction of road infrastructure facilities, housing projects, and office buildings.

The utilization of natural potential in each region can be done for anything and anyone, but there are still rules and norms that must be obeyed and agreed upon. Excavation C is a mining material that is usually used for infrastructure development. Both private, private and government buildings. One concrete example of excavation C comes from Julukanaya Village, Pallangga District, Gowa Regency. In this village, the C excavation material is all explored and managed by the private sector. Management by the private sector certainly brings income to the region, both those directly related to the location and the local government.

For those directly related to the location, such as the village. Because the location of the C excavation in this area is very close to community settlements (villages), the managers usually provide opportunities for the surrounding villagers to earn a living by working as menial workers "sand collectors" in the C excavation mine. The first problem that arises from the management of excavation C in this area is the damage to the road traveled by vehicles transporting excavation C from the mine site to the "consumer". This is because the capacity of the road before the presence of excavation C in this area is still coated with rough asphalt (not Hotmik) so that it is unable to withstand the load on it which is daily passed by large trucks (the tonnage of vehicle loads is not proportional to the tonnage of the road class) so that the only road to the village which is the location of the excavation C is severely damaged. The second problem is the availability of C excavation material is one of the non-renewable natural resources, so new problems arise. Based on this phenomenon, the researcher is interested in raising the research title regarding "Responsibility Of The Regional Government Of South Sulawesi Province In Granting Rock Mining License And Controlling Illegal Mining In Gowa District".

2 METHOD

This legal research is a type of normative and empirical legal research, this is because this research uses primary and secondary data in examining and tracing the norms and regulations governing the granting of mining licenses and controlling illegal mining. The data collection method is carried out in two ways, namely library research, the author collects data by reading a number of literatures relevant to the responsibilities of local governments in granting mining licenses for rock excavation materials and controlling illegal mining in Gowa Regency. Field research, namely research collecting data by observation to the research location and conducting interviews with a number of competent sources. The research data is processed and analyzed qualitatively, namely analyzing data based on its quality and then describing it using words

so that a discussion or explanation is obtained in the form of a systematic and understandable sentence, then conclusions are drawn.

3 RESULT AND DISCUSSION

3.1 Responsibility of The Regional Government of South

The province of Sulawesi Permit (Vergunning) is currently undergoing the process of obtaining clearance from the mining authorities. This approval is based on the license granted by laws or government regulations, allowing for deviations from forbidden rules under specific circumstances. Permission can also be interpreted as a dispensation or release / exemption from a prohibition. The main thing about a permit is that an action is prohibited unless it is permitted in order to comply with the relevant provisions in certain ways. Refusal of permission occurs when the criteria set by the authorities are not met, for example in the case of prohibiting the construction of a building, unless there is a written permit and the authorized official provided that the conditions are complied with.

The mining business license, also referred to as IUP, is a license that authorizes the undertaking of mining activities, as stipulated in Law Number 4 of 2009 concerning Mineral and Coal Mining, which has since been revised by Law No. 3 of 2020, Article 1 paragraph (7).

The subject of this discussion pertains to the regulatory measures outlined in Minister of Energy and Human Resources Regulation Number 34 of 2017, which specifically addresses the licensing procedures within the domain of mineral and coal mining activities. According to paragraph (1) of Article 1, the Exploration IUP, which stands for exploration mining business license, is a license that is issued to authorize the execution of various operations related to general investigation, exploration, and feasibility study.

Mining is an activity that is needed in various sectors of life because of its role in providing commodities that are useful both in physical development and in the economic sector of a region. The existence of good minerals which are excavated materials is a blessing for each region because it directly affects the original income of a region, including rock materials which also play an important role in the development sector both in the form of public infrastructure and personal supporting facilities.

With respect to the issuance of mining permits, there has been a notable development subsequent to the implementation of Law number 23 of 2014, which pertains to local governments. The responsibility for granting permits, which was previously vested in the Regency/City government, has now been transferred to the Provincial government. This is based on articles 14 and 15 of the Act which reads:

- a. The management of governmental affairs pertaining to forestry, marine, and energy and mineral resources is allocated between the central and provincial levels of governance.
- b. The paragraph discusses the management of the Regency/City Forest Park in relation to government affairs in the Forestry Sector.

- c. The central government assumes control over the management of oil and natural gas in the field of energy and mineral resources, as mentioned in paragraph (1) concerning government matters.
- d. The jurisdiction over government activities pertaining to energy and mineral resources, including the direct utilization of geothermal energy within the Regency/City area, is vested in the local authorities of the respective Regency/City.

Minister of Energy and Human Resources Regulation No. 34/2017 on Licensing in the Mineral and Coal Mining Sector

- a. Revenue sharing is allocated to both producing and non-producing districts/cities as outlined in paragraph (1) of the government affairs implementation.
- b. The selection of the specific Regency/City region for profit sharing calculations pertains to maritime items located within a defined boundary of four miles, measured from the antai line towards the loose aut and/or towards the archipelagic waters.
- c. In the scenario where the boundary of the regency/city area, as mentioned in paragraph (6), measures less than 4 miles, the division of the area's boundary is conducted equitably based on distance or in accordance with the principle of the center line of the adjacent region.
- d. The allocation of concurrent government responsibilities between the central government, provincial governments, and districts/cities is outlined in the annex, which is an essential component of this legislation.
- e. The authority of each level or structure of government to handle concurrent government matters, which are not explicitly stated in this Law, is determined based on the principles and criteria for the division of concurrent government affairs as referenced in Article 13.
- f. The determination of concurrent government affairs, as mentioned in paragraph (2), is established through presidential regulation.
- g. Modifications to the allocation of concurrent governmental responsibilities between the central government and the regional governments of Provinces and Districts/Municipalities, as mentioned in paragraph (1), that do not entail the transfer of concurrent governmental responsibilities to other levels or governmental structures as determined by regulations set forth by the government.
- h. Modifications, as delineated in paragraph (4), are permissible as long as they do not contravene the principles and criteria governing the allocation of concurrent governmental matters, as outlined in article 13.

3.2 Controlling

TheriseofillegalILLEGALminingMININGactivitiesINGOWAforclassDIS-TRICTCexcavated materials in Batagulung Village has made the mining department issue a letter of reprimand to miners who do not have permits. The reason is that ille-

gal mining activities can damage the environment, so in every mining permit management must first complete an Environmental Impact Assessment (Amdal).

Reprimands issued by the government to miners who do not have permits are carried out so that miners understand and can comply with regulations, but some of the miners ignore the reprimands and still carry out mining activities regardless of the impact on the surrounding environment. The reprimands that have been issued by the government to miners who do not have permits are even indifferent, indifferent to the reprimands they get consider that they are only temporary.

Although the reprimand has been issued by the government to miners who do not have a mining business license, on the other hand the reprimand was ignored by the miners due to economic conditions that demand doing so, this shows that the lack of awareness of the mining community regarding environmental damage and regulations issued by the government and the lack of firm government in conducting supervision. In accordance with the legislation outlined in Law No. 4 of 2009 pertaining to mineral and coal mining, which has subsequently been revised under Law No. 3 of 2020, specifically in article 158, it is stipulated that individuals engaging in mining activities without possessing a valid mining business license (IUP) shall be liable to a maximum imprisonment term of 5 years and a maximum monetary penalty of Rp. 100 billion rupiah.

If there is a form of violation or deviation, be it from certain parties, the steps taken are to provide legal sanctions or in the form of fines to individuals in order to get a loot effect. Communities engaged in mining activities often receive reprimands. However, the community does not want to take care of mining permits because there are too many complete files, it takes a long time and requires considerable costs. The miners, especially in Majapai village, claimed that mining activities had received permits but only unilaterally, not from agencies authorized to grant permits in terms of mining.

The mining department will sanction miners who have violated or disobeyed the rules. Sanctions are legal steps that must be carried out by the government or authorities to those who commit certain offenses, both personally and in groups. Sanctions are a more severe punishment and therefore the force of law has not been carried out in accordance with the regulations because so far the conditions that have occurred in Majapai Village, Bontononpo District, Gowa Regency, mining activities for class C excavated materials, the authorities have not regulated or implemented the rules effectively and efficiently. Sanctions and fines have not been fully imposed by the government on miners who do not have permits.

Government oversight, particularly the power to enforce and implement already-existing laws and regulations, gives the impression that the government is not simply letting miners go about their business. Because there are still miners who break the law or do not have permits, and they are not subject to the appropriate laws or consequences. Sanctions and fines are still not provided for in mining regulations, and government oversight is still insufficient. As a result, these regulations must be tightened in order to prevent harm to the public, reduce irregularities, and bring mining into compliance with the laws that protect the environment.

The extent of proficiency, expertise, and aptitude exhibited in executing an activity or in the technical operations of a corporation to achieve desired objectives can serve as a basis for assessing the level of human resources' impact on oversight inside a mining organization. In order to achieve targeted objectives and optimize human resources, it is imperative to augment the quantity of supervising officers through the implementation of training programs or other relevant initiatives.

Community participation is an unimportant factor in determining the success of an activity. The form of community participation in reporting irregularities that occur in mining is still lacking. Because there are still many people who support their lives from mining. So they still don't care about the deviations that occur. Supervision requires support from the local community to facilitate supervision. Reporting in the form of irregularities that occur, the government easily supervises effectively and efficiently. Community participation is needed in providing information in order to achieve an effective supervision so that it can achieve predetermined goals. In an organization if the community can take part in a plan, but not only so that the goal is achieved as expected, but also requires awareness and concern and community responsibility towards the environment.

4 Conclusion

Law No. 23 of 2014 respecting Regional Government, which replaced Law No. 32 of 2004 as of October 2016, outlines the local government's obligation to give mining permits for rock excavation materials in South Sulawesi Province. In accordance with Law Number 23 of 2014 concerning regional government, the provincial government now handles all mining licensing matters through the integrated licensing service office of South Sulawesi Province, taking over the Mining Business License (IUP) from the district government through a one-stop integrated service. Previously, the IUP could be issued by the district or city government.

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