

DISPUTE SETTLEMENT THROUGH EXAMINATION OF QUICKLY REVIEWED FROM LAW NUMBER 9 YEAR 2004 CONCERNING COUNTRY COURT TRIAL

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ABSTRACT

After the lawsuit goes through the pre-trial process, it is considered to have had the perfection of the lawsuit, if in the lawsuit as can be concluded from the reasons for the petition, there is a request to the court that the dispute examination be accelerated, because there is a plaintiff's interests which are quite urgent. Examination of the event is quickly carried out by Judge Tunggal. In the case that the application as referred to in Article 98 paragraph (1) is granted, the Chair of the Court within a period of seven days after the issuance of the stipulation as referred to in Article 98 paragraph (2) determines the day, place and time of the hearing without going through the preparatory inspection procedure as referred to in Article 63. This research uses an empirical normative method. In carrying out the examination effort with a quick event it was found that in the process of dismissal or deliberation meeting only mandated administrative examination and had not yet reached the main case and there was dishonesty from justice seekers in putting forward the facts, so that it became an opportunity for the lawsuit to be able to pass the examination in a quick event. The conclusion of this research is that it is necessary to update the regulations relating to the resolution of disputes through examination with quick events so that they are integrated with the examination of the preparation and or provisions not to be restricted to the Chief Justice only, but to be extended by giving and involving judges, in order to realize a simple principle , fast, cheap in the judicial process.

Keywords: examination with fast events.

INTRODUCTION

According to Rozali Abdullah,³⁵ State Administrative Court Procedural Law is a series of regulations which contain how people must act, one another to carry out the running of the State Administrative Law (State Administrative Law). In other words the law governing the ways of dispute in the State Administrative Court and regulates the rights and obligations of the parties involved in the process of dispute resolution. According to Article 47 of Law Number 5 of 1986 as amended by Law Number 9 of 2004 and most recently

³⁵ Rozali Abdullah, *Hukum Acara Peradilan T ata U saha N egara*, Cetakan Ketiga, RajaGrafindo Persada, Jakarta, 1994, hlm. 1-2.

amended by Law Number 51 concerning State Administrative Court,³⁶ the court has the duty and authority to examine, decide upon, and resolve State Administration disputes.

State Administration dispute is a dispute arising in the field of Tata Usaha Negara between persons or entities civil law with the Agency or Official Tata Usaha Negara, both at the central and local, as a result of the issuance of the Decree of Tata Usaha Negara, including employment disputes based on applicable laws and regulations.³⁷ In the explanation of the Undang-undang PTUN term dispute in question here has a special meaning in accordance with the function of Justice Tata Usaha Negara ie assess differences of opinion concerning the application of the law. Agency or Official Tata Usaha Negara in decision-making is to assume the public interest or the interests of society, but in the case or specific cases there is a possibility the decision was considered to pose a disadvantage for a person or body of civil law so as to who feel aggrieved were given the opportunity to submit lawsuit to the State Administrative Court.³⁸

In realizing such a fresh and national life, through various ways through gradual, continuous and sustainable national development as mandated by the 1945 Constitution, the government through its apparatus in the field of State Administration is required to play an active and positive role in people's lives.

The government through its apparatus in the field of State Administration must be aware of its active and positive role, which is when the law really aspires to a situation so that every citizen can feel and enjoy an orderly condition or atmosphere and have legal certainty based on justice, but in its implementation often arises a problem of the possibility of a conflict of interest, disputes, or disputes between the Agency or Official of State Administration with citizens who can harm or hinder national development.

³⁶ Lembaran Negara RI Tahun 2009 Nomor 160, Tambahan Lembaran Negara RI Nomor 5079

³⁷ Undang-undang Nomor 9 Tahun 2004

³⁸ Dr. Fence M. Wantu, SH., MH., Hukum Acara Peradilan Tata Usaha Negara (Kota Gorontalo : UNG – Press, 2014), hal. 36

The birth of a State Administration dispute is not an extraordinary thing, but rather a matter that must be resolved and sought a solution through the means provided by the applicable laws and regulations . Dispute resolution through the State Administrative Court, when the Panel of Judges is deemed complete and has fulfilled the existing requirements, the dispute can be continued in the following stages, which can be through the Regular Examination stage or the Quick Event Examination.

Generally a lawsuit is examined by a regular event, but only in certain cases a suit is examined by a quick event. If there is a plaintiff's interest that is deemed sufficiently urgent, the plaintiff in his lawsuit can appeal to the Court so that the examination of the dispute is carried out by a quick agenda (Article 98); this expedited hearing was carried out with a Single Judge. What is accelerated is not only about the examination, but also includes proof and verdict. Seven days after the issuance of the decision on quick proceedings, the Chairperson of the Court must have determined the day, date and place of the hearing examination , without going through the Preparatory Examination procedure; The period of response and verification of the two parties is determined not to exceed fourteen days (Article 99).

The requirement for the granting of an application for a speedy event by the Act is only referred to as "urgent plaintiffs' interests". Because the course of a fast event is certainly a deviation from ordinary events which also means interfering with the daily practice of the case which certainly also interferes with the day-to-day performance of the relevant Court organization in resolving other cases, so for such an application to be granted there must be a reason "The plaintiff's urgent interests" must be really serious. Furthermore, it must also be considered, that with the implementation of the fast event it must be maintained can still obtain a final decision that is really good. Indeed, it is necessary to distinguish between the grounds that can be the reasons for the quick event to be applied and

the basis used to break the dispute itself, namely those contained in Article 53 paragraph (2) a, b, and c.

Table 1. Settlement of Disputes in the State Administrative Court

Year	Number of State Administration Dispute Settlement		
	Number of Disputes	Ordinary Event	Fast Event
2010	20	19	1
2011	24	23	1
2012	21	20	1
2013	30	30	-
2014	28	28	-
2015	16	16	-
Amount	139	136	3

Data Source : Kupang State Administrative Court

Seeing from this, the State Administration dispute resolution is considered important to consider. However, in fact, the resolution of State Administration disputes is often very far as expected or even contrary to existing and applicable rules. One of them is in the settlement of State Administration disputes through Examination by Quick Event. Where in the rules are regulated properly but in implementation a is often not as expected.

MATERIALS AND RESEARCH METHODS

The method used is the f - empirical normative research method , namely research aimed at studying the resolution of State Administration disputes through inspection procedures with a quick event. Data collection techniques in the form of literature studies which include:

1. Primary Legal Material, which is legal material that is authoritative in the form of Legislation,³⁹ related to Examination of a Quick Event at the State Administrative Court.

³⁹ Peter Mahmud Marzuki, *Metode Penelitian Hukum* (Jakarta : Kencana, 2005), hal.141

2. Secondary Legal Material, namely legal material that provides an explanation of the primary legal material.⁴⁰
3. Tertiary Legal Materials, namely legal materials that provide explanations and instructions for primary and secondary legal materials.⁴¹ Obtained from legal dictionaries, Indonesian language dictionaries, and Encyclopedias.

The data obtained will then be processed and analyzed descriptively qualitatively by explaining or by describing the data obtained with a logical and correct interpretation in accordance with the problem under study in order to obtain a picture or explanation of what actually happened to answer the problem.

RESULTS AND DISCUSSION

1. Procedure for Settling Disputes Through Examination with a Quick Event at the State Administrative Court

According to the scholar Friedrich Julius Stahl in a formal state of law, in principle, and in general all acts which harm everyone or the rights of everyone can be monitored by the court, while the *refiew* can be channeled through the State Administrative Court or ordinary / general court.⁴² Why does lawmaker open up the possibility of being inspected by a quick event? That is because it is estimated that the average of each case if it has to be checked by ordinary events will take a long time. Because it is necessary for a procedure that can accelerate the course of ordinary procedures.⁴³

That in accordance with the results of research on the Process of examining the Fast Event in 3 (three) cases (case Number 6 / G / 2010 / PTUN-KPG, case Number 5 / G / 2011 / PTUN-KPG, and case Number 6 / G / 2010 / PTUN-KPG) is almost the same as the

⁴⁰ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta : UI-Press, 2007), hal. 52

⁴¹ Ibid, hal.52

⁴² A Siti Soetami, *Hukum Acara Peradilan T ata U saha N egara* (Bandung : Refika Aditama, 2005), hal.9

⁴³ Indroharto, *Usaha Memahami Undang- undang Tentang Peradilan T ata U saha N egara (Buku II, Beracara di Pengadilan T ata U saha N egara)*, (Pustaka Sinar Harapan, 1994), hal. 158

settlement process, namely : Filing of Lawsuit, Administrative Research, Consultative Meeting, Examination of Disputes and Decision Making. In Examination of Dispute, it is necessary to pay attention to matters as stated in Article 99 of Law Number 5 of 1986, which states that : (1) Examination with a quick event is carried out with a Single Judge. (2) In the event that the application referred to in Article 98 paragraph (1) is granted, the Chairperson of the Court within seven days after the issuance of the stipulation as referred to in Article 98 paragraph (2) determines the day, place, and time of the hearing without going through the preparatory inspection procedure as referred to in Article 63.

As for the period of time for answers and verification for both parties, each is determined not to exceed fourteen days. Included in the examination process respectively in Case Number 6 / G / 2010 / PTUN-KPG and Case Number 5 / G / 2011 / PTUN-KPG and Case Number 6 / G / 2012 / PTUN-KPG so that these three cases are resolved with the completion of the fast event the Panel of Judges has examined or seen the previous deadline pad filed a State Administrative Court .

So that when viewed from k euntungan of fast event inspection is the verdict can be faster, but its weakness for the third party can not be included in the proceedings and the risk of the facts are not as strong and me n make sure as the regular events. Specifically the advantages and disadvantages of 3 cases are (1) Case Number 6 / G / 2010 / PTUN-KPG other types of cases namely the Flores Regency general election regarding the nomination of the Regional Head and Deputy Regional Head in 2010 (2). Case Number 5 / G / 2011 / PTUN-KPG type of case Other namely the Election of the Head of the Nulle Village in South Central Timor Regency in 2011 (3). Case Number 6 / G / 2012 / PTUN-KPG Tender type of case that is Notification of Failed tender tender in Alor Regency Bappeda in 2012, so that it can be involved in the dispute resolution process with a quick event then these 3 (three) cases must be resolved by inspection with a quick event by court order because state efforts in

accordance with the provisions of Article 98 paragraph (1) a sovereign, when there is a fairly urgent interest of the plaintiff should be inferred from the grounds of their petition, the plaintiff in the lawsuit could appeal to the courts in order to dispute accelerated .

Analysis of the effectiveness of dispute resolution through examination by fast events as a means in the selection of dispute resolution for State Administration, will be based on the number of lawsuits that passed the usual event / dismissal process and the lawsuit passed in the examination with fast events to be resolved through the Judiciary, but apparently in the final decision cannot be granted or not accepted.

2. What Factors Cause an Examination Effort with a Quick Event at the State Administrative Court

From the results of the interview of the author to the Respondents related to the non-acceptance of the lawsuit submitted for examination by a quick event, then the author can draw conclusions:

- 1) In the first stage of selection (Administration) on the eligibility requirements of a lawsuit, sometimes the Chairperson of the Court does not pay attention to the conditions as stipulated in article 98 of Law Number 5 of 1986, so there is a lawsuit that escapes but in the final decision was declared not granted .
- 2) The public as victims of the decision of the State Administration officials in filing their claims do not yet understand the rules and conditions required in Law Number 5 of 1986 concerning the suitability or suitability of a lawsuit.

➤ **Internal Factors.**

Internal factors are factors that are closely related to the State Administrative Court where this factor influences in a consideration of the Chief Justice in carrying out the determination of a dispute to escape or whether a lawsuit filed by the plaintiff who in the petition for the court checks with a quick trial.

In a deliberation meeting, the Chairperson of the Court shall have the authority to decide by a decision supplemented with considerations that the claim filed was declared unacceptable or groundless, in the case of:

- a. The subject of the lawsuit is clearly not included in the court's authority.
- b. The conditions of the claim as referred to in article 56 are not fulfilled by the plaintiff even if he has been notified and warned.
- c. The lawsuit is not based on reasonable grounds.
- d. What was demanded in the lawsuit has actually been fulfilled by the State Administrative Decree that was sued.
- e. The lawsuit filed prematurely or have overdue, n Amun lawsuit is continued in the examination of, Trial.

➤ **External Factors.**

According to the Chairman of the Kupang State Administrative Court that External Factors are obstacles which are caused not only from within (internal) but also from outside (external). This factor can originate from the plaintiff or mental state official / administration, where there is dishonesty from the plaintiff in presenting data in the actual lawsuit, but the plaintiff basically presents the opposite facts with the intention that the lawsuit avoid the dismissal process. Therefore the honesty factor of the plaintiff (*Justicia belen*) is expected to be able to act honestly, not manipulate the lawsuit can only be litigated, which in turn will harm yourself.

CONCLUSIONS AND SUGGESTIONS

Based on the presentation of research data as described in the Settlement of Disputes Through Examination with Quick Events at the Kupang State Administrative Court due to:

1. The procedure for examining the Fast Event in these 3 (three) cases is almost the same as the resolution process, namely: Filing a Lawsuit, Administrative Research, Consultative Meeting, Principal Dispute Examination and Decision Making. In the Dispute Principal Examination it is necessary to pay attention to matters as stated in Article 99 of Law Number 5 of 1986, which states that (1) Examination with a quick event carried out with a Single Judge. (2) In the event that the application referred to in Article 98 paragraph (1) is granted, the Chairperson of the Court within seven days after the issuance of the stipulation as referred to in Article 98 paragraph (2) determines the day, place, and time of the hearing without going through the preparatory inspection procedure as referred to in Article 63.
2. Factor-factor cause to attempt the examination with a quick event at the administrative court kupang are:
 - Factors law, meant that in the process dismissal or merely consultative meeting mandated the administrative examination and has not reached the principal case pemeriksaan.
 - External Factors, intended bahwa, their lack of honesty of justice seekers (*Justicia belen*) development in promoting the fact, so that it becomes an opportunity for the lawsuit can qualify in the examinations with rapid event.

Based on all of the above descriptions and conclusions, the author suggests things as follows:

1. It needs to be updated or revised article 98 paragraph (1) of Law Number 5 of 1986 Jo. Law Number 9 of 2004, in conjunction with Law Number 51 of 2004 relating to the settlement of disputes through examination by fast agenda, to be united with inspection preparations as regulated in article 63 paragraph (1) of Law Number 9 of 2009 and / or provisions This authority should not be limited to the Chair of the Court, but is extended

by giving it and involving the judges, in order to be simple, fast and inexpensive in the court process.

2. In order for the justice seekers / Plaintiffs to submit a lawsuit must truly honestly put forward the facts and data, so that it does not cause losses as unexpected, and also the plaintiff must understand the requirements relating to the filing of the lawsuit.

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