

The Role of Litigation of the Legal Bureau of Lampung Province Secretariat in Preparing Concept for Handling State Administrative Disputes

ABSTRACT

This paper discusses the role of the Litigation Sub-Division of the Legal Bureau of the Lampung Provincial Secretariat (Sekda Prov. Lampung) in preparing the concept of handling State Administrative disputes, as well as the factors that hinder it. The method used is a normative and empirical legal approach. The author collects data through literature and field studies. Data processing through editing, classification and data systematization methods. The results of the study show that the role of the Litigation of the Legal Bureau of the Lampung Provincial Secretariat in preparing the concept of handling State Administrative disputes has not been implemented optimally. This is because the implementation of duties as the power of attorney of the regional government in the realm of justice is often late, especially in the activities of preparing and submitting power of attorney, answers, duplicates, evidence, witnesses, conclusions.

Keyword: Regional Secretariat of Lampung Province, State Administration, Dispute

INTRODUCTION

The State Administrative Court is one of several ongoing legal developments in Indonesia. State Administrative Disputes are disputes that arise in the field of State Administration between a Person or Civil Legal Entity with a State Administrative Agency or Official, both at the center and in the regions as a result of the issuance of a State Administrative Decision including personnel disputes based on applicable laws and regulations. The object of a State Administrative Dispute is a State Administrative Decision.

In a State Administrative Dispute, the disputing parties may each be represented by one or more attorneys. There are several parties other than advocates/lawyers who can become attorneys. This is based on Article 30

paragraph (2) of Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia. Its contents, the Attorney General's Office can specifically act inside and outside the court representing the state.

Based on the provisions above, it can be understood that in State Administrative cases the Attorney can become the attorney of the State Administrative official/agency in his position as the defendant. This is not so contrary to the provisions of Article 1 number 1 and 2 of Law No. 18 of 2003 concerning advocates, namely:

1. Advocates are professionals who provide legal services inside and outside the court in accordance with statutory regulations.
2. Advocate legal services include consultation, legal assistance, acting on behalf of clients, representing, accompanying, defending, and carrying out other legal actions in the interests of clients.

To that end, the author proposes a problem formulation. The problem formulation is to determine the extent of the role of litigation of the Lampung Provincial Secretary's legal bureau in handling state administrative disputes. Then, what are the factors that hinder it.

RESEARCH METHOD

According to Sjachran Basah, State Administrative Law is a collection of rules that facilitate the implementation of state administrative functions while protecting citizens from administrative actions and protecting the administration itself. Meanwhile, Ridwan HR is of the opinion that administrative law is the entirety of legal rules that regulate administration, government, and government administration. In general, state administrative law is a legal tool used by the government to actively play a role in the lives of the community, and vice versa, is a law that can be used by the community to influence and obtain protection from the government.

According to S. Prajudi Atmo Sudirdjo, he said: "State Administrative Law regulates the authority, duties, functions and behavior of State Administration officials, while the purpose of State Administrative Law is to ensure the existence of a bona fide State Administration, meaning that it is orderly, polite, fair and objective, honest, efficient and fair (sportsmanlike)".

Philipus M. Hadjon stated that government power is not only limited to the implementation of laws, but is active. In the concept of administrative law, this active nature is inherently the main element of *sturen* or *besturen*, which includes the following elements:

- a) *Sturen* is an ongoing activity. For example, the government's authority to issue building permits does not end after the permit is issued. The government continuously monitors compliance with the permit. If construction deviates from the permit, the government will use law enforcement authority, such as demolishing buildings that do not comply.
- b) *Besturen* is related to the use of power. The concept of power is a public law concept. As a public law concept, the use of power must be based on the principles of the rule of law, the principle of democracy and the instrumental principle. Related to the principle of the rule of law is the principle of *wet-en rechtmatigheid van bestuur* with the principle of democracy not just the existence of a people's representative body. In addition to the people's representative body, the principle of government openness and community participation institutions in decision-making by the government have a very important meaning. The instrumental principle is related to the nature of administrative law as an instrument.

Furthermore, the types of data used consist of primary data and secondary data. Primary data is data obtained directly through research activities by conducting interviews with related parties, namely the Legal Bureau of the Lampung Provincial Secretariat. The interview technique used is the purpose sampling technique. The interviewees were 2 people from the Legal Bureau of the Lampung Provincial Secretariat and 1 person from the Bandar Lampung State Administrative Court.

Secondary data was obtained from library research through documentation and literature studies, especially the provisions of laws and regulations that are in accordance with the research problems. Secondary data consists of primary, secondary, and tertiary legal materials. Primary legal materials are binding. Some of the sources are the 1945 Constitution, the fourth amendment; Law no. 51 of 2009; Law no. 9 of 2015; Government Regulation no. 41 of 2007; and Lampung Governor Regulation no. 59 of 2021.

Secondary legal materials are legal data that provide explanations or discuss primary legal materials. For example, books, references, literature or written works related to research materials. Tertiary legal materials are legal data that provide guidance or explanations to primary and secondary laws. Examples include the Indonesian Dictionary, English Dictionary, literature, internet, magazines and newspapers.

RESULT AND DISCUSSION

The Role of Legal Bureau Litigation

Based on the results of the interview with Andi Irwan as Head of the Legal Aid Section of the Legal Bureau of the Lampung Provincial Secretariat, he said that the Legal Bureau of the Lampung Provincial Secretariat in relation to the field of litigation has the task of coordinating the formulation of regional policies, coordinating the implementation of regional apparatus tasks, monitoring and evaluating regional policies. So, all forms of litigation in Lampung Province, the Legal Aid Section of the Legal Bureau automatically has the task of preparing planning materials, formulating, coordinating in the fields of legal aid, litigation, non-litigation and human rights and administration. This is as mandated in Article 22 of the Lampung Governor Regulation Number 59 of 2021 concerning the Organizational Structure, Duties and Functions and Work Procedures of Regional Apparatus, that:

- (1) The Legal Aid Section has the task of preparing planning materials, formulating, coordinating in the fields of legal aid, litigation, non-litigation and human rights and administration. (2) To carry out the tasks as referred to in paragraph (1), the Legal Aid Section has the function of preparing planning materials, formulating, coordinating in the field of litigation, non-litigation, integrated legal counseling for Lampung Province, administration; preparing evaluation materials and reporting for the Legal Aid Section; and implementing other functions assigned by superiors.
- (2) The Legal Aid Section as referred to in paragraph (1) is led by a Section Head who is under and responsible to the Head of the Legal Bureau.

Based on an interview with Ery Muniadi, Legal Aid Employee of the Legal Bureau of the Lampung Provincial Secretariat, the Litigation Section of the bureau has the authority to represent the Regional Government in resolving cases, both in court and outside the courts. Specifically for resolving cases in court, the Litigation Section of the Legal Bureau of the Lampung Provincial Secretariat is required to prepare a special power of attorney. This special power of attorney details the actions required in handling State Administrative (TUN) cases.

The provisions in the special power of attorney give the right to the recipient of the power of attorney to prepare and sign exceptions/answers and other related documents; submit or refute statements or evidence; present or reject witnesses and refute their statements; submit or respond to legal efforts (appeals and cassation) and make and sign memos or counter-memoranda; contact the first-level, appeals, and cassation courts, as well as other related agencies; and take other legal actions outside or inside the court that are deemed necessary and useful to resolve the case.

Furthermore, Suaida Ibrahim, Judge of the Bandar Lampung State Administrative Court, explained that the authority of the Lampung Provincial Government in resolving TUN cases can be implemented through a dispute resolution process by the Legal Division based on a special power of attorney. In

principle, if possible, settlement will be attempted first through non-litigation or out-of-court channels. If non-litigation channels are not possible or do not succeed in resolving the dispute, then the settlement will be continued through litigation.

Suaida Ibrahim added that dispute resolution through the PTUN can be taken under the following conditions:

1. Unavailability of settlement through administrative efforts.
2. The basic regulations for the issuance of State Administrative Decisions (KTUN) only regulate administrative efforts in the form of filing objections.
3. The basic regulations regulate administrative efforts in the form of filing objections and/or require the submission of administrative appeals, so lawsuits against KTUNs that have been decided at the administrative appeal level are submitted directly to the High State Administrative Court as the authorized first-level court.

Analysis based on research shows that the role of the Litigation Sub-Division of the Legal Bureau of the Lampung Provincial Secretariat in preparing the concept for handling TUN disputes is implemented, for example in the lawsuit related to the Determination of Minimum Wages in Lampung Province according to the Bandar Lampung PTUN Decision Number 9/G/2022/PTUN.BL dated June 24, 2022. In this case, the Litigation Section of the Legal Bureau of the Lampung Provincial Secretariat acted as the Legal Counsel for the Lampung Provincial Government.

Factors Inhibiting Handling of State Administrative Disputes

Based on an interview with Andi Irwan, there are three main obstacles in implementing the role of the Legal Bureau Litigation. The first is employee discipline. As part of the state apparatus, Civil Servants (PNS) have an obligation to carry out their functions and duties as servants of the state and the community.

Ideally, every employee upholds the dignity and image of employees for the benefit of the public and the state. However, the reality shows that there are employees who are not fully aware of these duties and functions, which often causes an imbalance in the implementation of duties and has the potential to disappoint the community.

The second obstacle is the limited facilities and infrastructure. The availability of adequate facilities and infrastructure has a significant influence on the effectiveness of public services, especially in terms of representing the Lampung Provincial Government in judicial and non-judicial processes. The facilities and infrastructure in question include office stationery and internet networks that employees can use to enrich references in resolving disputes submitted by the community. In addition, the absence of special official vehicles for the needs of the Legal Section in handling cases often forces the use of private vehicles.

The third obstacle is the inadequate number of employees. To speed up the case resolution process, such as the preparation and submission of power of attorney, answers, replies, duplicates, evidence, witnesses, and conclusions, a sufficient number of employees are needed, especially with the many other tasks that await. The number of employees, especially in the Counseling and Legal Aid Section of the Lampung Provincial Secretariat, is very limited, only four people. Meanwhile, the total number of employees in the entire Legal Section is fourteen people.

Ery Muniadi added that efforts to overcome employee discipline constraints can be done by making the imposition of disciplinary sanctions effective in accordance with Government Regulation Number 53 of 2010 concerning Civil Servant Discipline. Leaders must enforce discipline consistently without discrimination. In addition, socialization to the public regarding the duties and functions of the Legal Section needs to be improved. So far, the public tends to assume that assistance and granting power of attorney to the Regional Government in facing lawsuits is the task of advocates or lawyers. Therefore, the Legal Section also needs to provide counseling regarding alternative dispute

resolutions faced by the regional government, not only through the courts, but also through non-judicial channels.

Furthermore, Suaida Ibrahim, Judge of the Bandar Lampung State Administrative Court, stated that the solution to overcome the lack of facilities and infrastructure is to submit a proposal for additional budget to the relevant parties, so that it can be considered by the Lampung Provincial Government for follow-up in the future. Regarding the problem of the lack of employees, the Head of the Legal Division can submit a request for additional employees to the Regional Secretary through the Regional Personnel Agency of the Lampung Provincial Secretariat.

Based on this description, it can be analyzed that the main obstacle in the role of the Litigation Sub-Division of the Legal Bureau of the Lampung Provincial Secretariat in preparing the concept of handling State Administrative disputes is more due to the number or quantity of employees in the Legal Counseling and Aid Sub-Division. This is because the preparation of handling cases at the court level requires significant data, including the preparation and submission of power of attorney, answers, replies, duplicates, evidence, witnesses, conclusions, and others. This condition is exacerbated by the limited or even absence of adequate facilities and infrastructure, which will hinder the case resolution process.

Basically, the Litigation Section of the Legal Bureau of the Lampung Provincial Secretariat is an essential structure and part, providing a framework and limitations for policies related to the legal counsel of the Lampung Provincial Government. When viewed from the inhibiting factors, namely employee discipline, limited facilities and infrastructure, and inadequate number of employees, all three reflect the substance aspect. In this context, substance refers to the rules, norms, and real behavior patterns of individuals in the system, as well as the products produced by those in the legal system, including the decisions and new rules they draft.

CONCLUSION

Based on the results of the discussion, the following conclusions can be drawn. First, the role of the Legal Bureau Litigation in handling State Administrative disputes has not been implemented optimally because of the frequent delays in carrying out duties as the regional government's power of attorney in the judicial realm. The delay can be seen from the efforts to prepare and submit a power of attorney, duplicate, answer, witnesses, evidence, and conclusion. Second, inhibiting factors in handling the dispute include employee discipline; lack of adequate facilities and infrastructure; low number of employees; and lack of socialization and legal counseling to the community.

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