

# CHAPTER I

## INTRODUCTION

### A. Background

In the face of global economic liberalisation, efforts are needed to strengthen the role of Micro, Small, and Medium Enterprises, hereinafter referred to as MSMEs, which are placed within the framework of the agenda of strengthening the structure of the business world and the structure of the economy itself.<sup>1</sup> The role of MSME in encouraging the development of the country's economic growth, especially in the Yogyakarta area, MSME has a very significant role in the development of the regional economy. However, this important role of MSMEs is not encouraged by adequate financing, so the development of MSMEs in Yogyakarta is still relatively low. MSME financing in Yogyakarta is mostly self-financing, although a small portion has received financing from the government.<sup>2</sup>

MSMEs are also considered saviors of the Indonesian economy because small and medium enterprises are units that are able to play a role and function as safety valves both in providing alternative productive business activities, as well as in terms of labor absorption. So that MSME can reduce unemployment, provide labor, reduce poverty,

---

<sup>1</sup> Aburizal Bakri, 2011, *Merebut Hati Rakyat Melalui Nasionalisme, Demokrasi dan Pembangunan Ekonomi Disusun oleh Lalu Mara Satria Wangsa*, Jakarta, Intisari Mediatama, p.12.

<sup>2</sup> Abdul Wahab, "Keberpihakan Kebijakan Pemerintah pada Sektor Usaha Rakyat Perspektif Ekonomi Islam (Studi Kasus Keberlangsungan Pasar Tradisional)", *Tsaqafah*, Vol. 12, No. 1 (2016), p. 167–186.

improve welfare, and build national character.<sup>3</sup> Therefore, to facilitate their business, it is expected that there will be many contributions from the government towards the development of their business. Contributions such as the presence of:<sup>4</sup>

1. Financial institutions as fund helpers.
2. However, this has also begun to be resolved with the support of the government with training for MSME and assistance with production machinery, so that the process of training and coaching MSME actors is able to improve their business.
3. Product marketing, the average MSME product is still marketed only in the surrounding area, even though the quality of the product is able to reach other countries for export, therefore the marketplace that was built can help market Indonesian MSME products. In addition, the marketplace also promotes through social media, digital advertising, news portals, and other online media.

MSME has the advantage of optimising the utilisation of national resources. However, its development is still constrained by various classic problems.<sup>5</sup> One of them is the difficulty in obtaining the legality or formality of its business, what is meant by formalisation of MSME is granting certain

---

<sup>3</sup> Taranggana Gani Putra, “Peran Pemerintah Daerah dan Partisipasi Pelaku Usaha dalam Pengembangan MSME Manik-manik Kaca di Kabupaten Jombang”, *Jurnal Kebijakan dan Manajemen Publik*, Vol. 3, No. 1 (2015), p. 1.

<sup>4</sup> Raden Rudi Alhempri dan Wismar Harianto, “Pengaruh Pelatihan dan Pembinaan terhadap Pengembangan Usaha Kecil pada Program Kemitraan Bina Lingkungan”, *Jurnal Ilmiah Bisnis dan Ekonomi Asia*, Vol. 12, No. 1 (2018), p. 74–84.

<sup>5</sup> Kadarisman Hidayat, “Pengembangan formalisasi kehadiran MSME”, *Jurnal Profit*, Vol. 6, No. 1 (2012), p. 57–62.

business activity permits and legal entity status for MSME in accordance with applicable laws and regulations. Formalisation of MSME can be divided into two forms, namely: a) Company formalisation, which is the ratification of the legal entity form of the company concerned. For example, a trading company (UD), an individual company (CV), a partnership company (Firma), a limited liability company (PT), a Persero company, and others; b) Licensing of business activities issued by sectoral agencies/institutions. For example, Establishment Business Licence (SIUP), mining license, environmental license, route license, and others. The legalisation of a company's legal entity is under the authority of the Ministry of Law and Human Rights, which is delegated to a Notary. Therefore, the cost is relatively high for micro and small businesses. In anticipation of this, legal policies are needed to guarantee and protect them so that they can compete in the midst of global economic liberalisation.<sup>6</sup>

As a state of law, it is appropriate for the government to establish a basic concept that contains legal guidelines on the direction of national legal development for a certain period of government. If we look at the ideals of the state concept, it can be said that Indonesia adheres to the Theory of a Modern Legal State. Modern rule of law (modern *rechtstaat*), which is a type of state that has a broader obligation, namely the obligation to organize public welfare (*bestuurzorg*). The state within these parameters is known as a "welfare state", which in its development becomes a social service state because the state has

---

<sup>6</sup> Masnur Tiurmaida Malau, "Aspek Hukum Peraturan Dan Kebijakan Pemerintah Indonesia Menghadapi Liberalisasi Ekonomi Regional: Masyarakat Ekonomi ASEAN 2015", *Rechtsvinding*, Vol. 3, No. 2 (2014), p. 375–395.

obligations and duties as a public servant<sup>7</sup>, This includes licensing policy, which is the granting of legality to a person or business actor/certain activities, either in the form of a license or business registration mark. Permits are one of the most widely used instruments in administrative law, to direct the behavior of citizens.<sup>8</sup>

To control every activity or behavior of individuals or collectivities that are preventive in nature is through licensing which has similarities such as dispensations, permits, and concessions. Licensing as one of the instruments in the administration of local government can be applied as one of the authorities stipulated by the local government whose implementation is reflected in the legal actions of the regional head, both on the basis of the laws and regulations that are used as the basis, as well as in the context of addressing the principles of proper governance as a form of public accountability. Legislation products regarding licensing and non-licensing procedures in various government agencies are felt by the public to still prioritize the culture of official power, overlapping regulations, bureaucratic, non-transparent, and frequent illegal fees. Therefore, the structuring of licensing and non-licensing procedures is needed.<sup>9</sup> This is in line with Article 1 paragraph (2) and paragraph (3), as well as Article 5 paragraph (2) of the 1945 Constitution, that the Indonesian state is a democratic state of law, sovereignty is in the hands of the people, and the

---

<sup>7</sup> Notohamidjojo, 1970, *Makna Negara Hukum*, Jakarta, Badan Penerbit Kristen, p. 23.

<sup>8</sup> Philipus M. Hadjon, 1993, *Pengantar Hukum Perizinan*, Surabaya, Yuridika, p. 2.

<sup>9</sup> Juniarso Ridwan, 2009, *Hukum Administrasi Negara dan Kebijakan Pelayanan Publik*, Bandung, Nuansa, p. 99.

President holds the power of government according to the Constitution, and the President holds the power to form Government Regulations. These constitutional provisions stipulate that the state administration system must be based on the principle of popular sovereignty and the principle of the rule of law. Based on these principles, all decisions and actions of government administrators must be based on the principles of popular sovereignty and the rule of law. The activity of structuring the licensing and non-licensing governance system aims to reorganize in order to create professionalism, efficiency, and effectiveness in government administration, especially in the licensing sector. Licensing and non-licensing processes must be made simple, clear/transparent, have time certainty, no cost, be fair, and have legal certainty. Therefore, every licensing and non-licensing process must include the time limit required to create certainty for the people served. The licensing and non-licensing process must be seen as providing incentives for the community to grow and develop as a process of business continuity and healthy competition.

In practice / in fact, there are difficulties in obtaining licenses, licensing procedures that are long, complicated, long time, unclear costs, and the occurrence of illegal levies are one form of poor public services. Where MSMEs should get clear legal guarantees through business licensing regulations related to MSME. business licensing for MSMEs in Indonesia can

be considered non-standard, bureaucratic, and not integrated. Such conditions greatly affect economic growth and also hinder the pace of investment.<sup>10</sup>

Regarding licensing for micro and small enterprises (MSME), Presidential Regulation No. 98/2014 on Licensing for Micro, Small, and Medium Enterprises has been issued. In order to accelerate the pace of economic growth, it is necessary to empower MSME through the provision of simple licensing to MSME actors.

Based on the description above, the author intends to research "Licensing as a Form of Legal Protection for MSME in Yogyakarta" The main issues to be discussed in this study are the development of MSME before and after obtaining licenses and legal protection.

## **B. Problem Formulation**

Looking at the research background above, this research formulates two questions that must be answered:

1. How is the implementation of regulations related to licensing for MSME in the Yogyakarta area?
2. What are the obstacles in the business licensing process for MSME in the Yogyakarta region?

## **C. Objective of Research**

1. To find out the realization of business licensing as a form of legal protection for MSME in the Yogyakarta area.

---

<sup>10</sup> Sulasi Rongiyati, "Pengaturan Kemudahan Berusaha Untuk MSME dalam RUU Cipta Kerja, *Pusat Penelitian DPR RI*", Vol. 12, No.13 (2020), p. 4.

2. To find out the constraints of business licensing for MSME in Yogyakarta.

#### **D. Benefits of Research**

The expected benefits of this research are as follows:

1. Theoretical Aspects

This research is intended to be able to contribute to regional economic growth, especially in providing a creative economy declaration that can trigger the passion of the regional economy, especially for MSME actors.

In the aspect of science, this research is intended to be used as a reference in the field of law, especially regarding business licensing so that MSME can obtain legal protection guarantees regarding business licenses in Yogyakarta. In addition, it can be used as study material related to similar research.

2. Practical Aspects

This research will provide a better understanding of MSME so that they can go to a larger scale, and not a few then turn into legal entities, in order to get legal guarantees to overcome various obstacles in licensing services for MSME in Yogyakarta.