

CHAPTER I

INTRODUCTION

A. Background of Research

Currently Indonesia has been enlivened by news about the postponement of the 2024 elections, the Central Jakarta District Court has granted the Prima Party lawsuit with case number 757/Pdt.G/2022/PNjkt.Pst, the Central Jakarta district court knocked the hammer of the 2024 elections postponed. The decision is contained in a civil decision that has been filed by the Prima Party as the plaintiff and the general election commission as the defendant. However, a problem arose which was related to the fifth petitum in the decision, namely "Punishing the defendant (KPU) not to carry out the remaining stages of the 2024 general election since this decision was pronounced and carry out the General Election stages from the beginning for approximately two years four months seven days". The case with register number 757/Pdt.G/2022/PNjkt.Pst was filed on December 8, 2022 after the prime party was declared by the General Election Commission or KPU ineligible as a 2024 election participant.¹

In this case, the author chose this problem because in this civil case the District Court, which is a division of the General Court, lacks the jurisdiction to make decisions on the delay of elections. Article 25 Paragraph 2 of Law Number 48 of 2009 respecting judicial power states that the general judiciary is empowered to investigate, try, and provide decisions in criminal and civil cases in compliance with relevant statutes. Therefore, it is believed that the Central Jakarta District Court Number

¹ Anas Yusuf and A Junaedi Karso, 2023, *Kupas Tuntas Pro Kontra Keputusan Pengadilan Jakarta Pusat Terkait Penundaan Pemilihan Presiden Tahun 2024 Meraung Penundaan Presiden Tahun 2024 Tetap Dilaksanakan Berdasarkan Konstitusi Indonesia*, Purbalingga, Eureka Media Aksara, p. 188

757/Pdt.G/2022/PN Jkt.Pst's ruling went beyond its power and breached each judicial institution's absolute competence.²

When the court, which is tasked with upholding justice and freedom, ends up rendering rulings that cast doubt on justice itself, this is extremely troubling. The ruling of the Central Jakarta District Court, registered under the number 757/Pdt.G/2022/PN Jkt.Pst, is in direct opposition to both Article 167 Paragraph (1) of Law Number 7 of 2017 and Article 22E Paragraph 1 of the 1945 Constitution of the Republic of Indonesia. The latter provision governs the establishment of democratic parties for a maximum of five years. This ruling not only breaches existing legal provisions but also goes against the District Court's absolute competence, which falls under the purview of the General Court. The term "absolute competence" describes the court's capacity to consider a matter considering the available evidence.³

Then, on March 10, 2023, the General Election Commission, which oversees conducting general elections every five years, filed an appeal with the DKI Jakarta High Court. Although the lawsuit filed by the plaintiffs is based on Article 1365 of the Civil Code regarding unlawful acts, the Jakarta High Court Panel of Judges stated in its consideration that "the essence of the dispute in the subject of this case relates to decisions issued by the General Election Commission, which in substance can be categorized as unlawful acts by the authorities." For this reason, it is within the State Administrative Court's absolute jurisdiction.⁴

The Central Jakarta District Court's ruling was then overturned by the Panel of Judges on March 2, 2023, in Jakarta High Court Decision Number 230/PDT/2023/PT DKI. There are two ways to attempt to postpone the election: first, by amending Article 7

² Dachran Busthami, "Kekuasaan Kehakiman dalam Perspektif Negara Hukum di Indonesia," *Masalah-Masalah Hukum*, Vol. 46, No. 4 (October, 2017), pp. 39–40

³ Budi Aspani, "Kompetensi Absolut dan Relatif Peradilan Tata Usaha Negara Menurut Undang-Undang Nomor 5 Tahun 1986 Jo. Undang-Undang Nomor 9 Tahun 2004", *SOLUSI*, Vol. 16, No. 3 (September, 2018), p. 345

⁴ Jakarta High Court decision register number: 230/PDT/2023/PT DKI

and Article 22E Paragraph (1) of the Republic of Indonesia's 1945 Constitution (constitutionally). Second, by issuing a Presidential Decree, but this second method was considered unconstitutional.⁵

The matter began when the Prima Party, headed by Secretary General Do Mingus Octavianus Tobu Kiik and Chairman Agus Priyono, joined the efforts to postpone the election. Following the announcement by the General Election Commission that the main opposition party had failed the administrative verification process to contest in the 2024 election, they launched a legal action against the government in Central Jakarta. Even though the documents that had previously been deemed ineligible were also found to have met the requirements by the general election commission and only a few issues were discovered, the prima party filed a lawsuit against the commission because they felt that they had been unfairly treated by the latter.⁶ The outcome of this verification led to the filing of the lawsuit. Consequently, Prima was unable to proceed with the process of factual verification in its capacity as a political party and contender for the 2024 general election. Beginning with the reading of that ruling, Prima asked the Panel of Judges to order the General Election Commission to postpone the remaining stages of the 2024 general election for about two years, four months, and seven days.⁷

On November 4, 2022, General Election Supervisory Body or BAWASLU issued the Decision No.002/PS.REG/BAWASLU/X/2022, effectively providing the Prima Party with a chance to submit correction paperwork. Then, on November 4, 2022, the Indonesian General Election Commission put out letter number: 1063/PL.01.1-

⁵ Nurirvan Mulia Putra Ahmad, Utang Rosidin & Elan Jaelani, "Tinjauan Yuridis Upaya Penundaan Pemilu 2024 dalam Perspektif Hukum Ketatanegaraan Indonesia", *Varia Hukum: Jurnal Forum Studi Hukum dan Kemasayakatan*, Vol. 5, No. 2 (July, 2023), pp. 5-6

⁶ News Indonesia, 2023, *Pemilu 2024: Gugatan Partai Prima 'salah kamar', putusan Pengadilan Tinggi 'harus jadi acuan' bagi gugatan lain yang meminta pemilu ditunda*, <https://www.bbc.com/indonesia/articles/cp3jlr8e3exo>. (accessed on 21 September 2023, 19:31)

⁷ Fikri Hadi, Suwarno Abadi, and Farina Gandryani, "Tinjauan Yuridis Penundaan Pemilihan Umum Melalui Putusan Pengadilan Negeri (Analisis Putusan PN Jakarta Pusat Nomor 757/Pdt.G/2022/PN Jkt.Pst)," *Wijaya Putra Law Review*, Vol. 2, No. 1 (April, 2023), p. 78

SD/05/2022, effectively stating that the Prima party had failed to follow the General Election Supervisory Body ruling. The judges of the Central Jakarta District Court believe that the General Election Supervisory Body's decision does not forbid uploading corrective documents because it has been declared to not meet the requirements for Political Party Information System or SIPOL. As a result, the Prima party cannot access Political Party Information System to perform document repairs. The judges' panel also determined that, in its ruling dated November 4, 2022, the Indonesian General Election Supervisory Body had not been followed by the General Election Commission. even though the General Election Supervisory Body's ruling had to be followed. This is enough evidence to show that the General Election Commission, the defendant, committed an illegal act.⁸

A disagreement about state administration is generally at the heart of the issues surrounding the Central Jakarta District Court's ruling between the Prima Party and the General Election Commission. This raises concerns about the District Court's authority to hear and rule on cases involving unlawful acts. The Prima Party's civil lawsuits are not subject to examination, trial, or decision by the Central Jakarta District Court. This is since the State Administrative Court and the General Election Supervisory Body have the proper legal authority to handle the Prima Party's demands. Therefore, the legal issues facing the Prima Party fall under the heading of Election Process Disputes under the provisions of Article 466 of Law Number 7 of 2017 (Election Law). Accordingly,

⁸ Ady Supryadi, Tin Yuliani, Fahrrozi and Aesthetica Fiorini Mantika, "Analisis Yuridis Kompetensi Absolute Pengadilan Negeri Jakarta Pusat dalam Memutus Perbuatan Melawan Hukum Oleh Komisi Pemilihan Umum Republik Indonesia (Studi Kasus Putusan Nomor 757/Pdt.G/2022/Pn Jkt Pst)", *Unizar Law Review*, Vol. 6, No. 1 (June, 2023), pp. 99-100

Election Supervisory Body and State Administrative Court, not the District Court, have legal jurisdiction, as stated in Articles 468 and 470 of the Election Law.⁹

Considering the primary matter if a case is brought into the civil sphere, it is inappropriate to file it. This is so because elections are under the purview of public law rather than private law, as they are a constitutional democratic event. Based on the provisions of Article 2 point 7 of Law Number 5 of 1986 Jo. Law Number 9 of 2004 Jo. Law Number 51 of 2009 on the Second Amendment to Law Number 5 of 1986 on Administrative Courts, the District Court may basically reject this case and then transfer it to the State Administrative Court." This could be interpreted as follows: "The State Administrative Court has the authority to adjudicate matters regarding the determination of candidate pairs, determination of political party support and so on as long as it is made in the form of a letter decision of the State Administrative Official." Or assign it to the Constitutional Court in line with Article 24C Paragraph (1) of the 1945 Constitution, which states that: The Constitutional Court's authority and duties include evaluating laws that violate the 1945 Constitution, resolving disagreements over the authority of state institutions to which the 1945 Constitution grants authority, determining whether to dissolve political parties, and resolving disputes over election outcomes.¹⁰

B. Statement of the Problems

Based on the background already explained, the author formulates a research problems namely:

1. What is the difference between the ratio decidendi of the District Court and High Court?

⁹ Tri Wahyuni, 2023, *Pemilu 2024: Gugatan Partai Prima 'salah kamar', putusan Pengadilan Tinggi 'harus jadi acuan' bagi gugatan lain yang meminta pemilu ditunda*, <https://www.bbc.com/indonesia/articles/cp3jlr8e3exo>, (accessed on 17 September 2023, 22:00)

¹⁰ Law Number 51 of 2009 concerning State Administrative Courts

2. What is the implication of the decision of District Court and High Court to postponement of election?

C. Objectives of Research

The purposes of this writing are:

1. To find out the ratio decidendi of the District Court and High Court regarding the case of postponement of the 2024 General Election.
2. To analyze the implication of the decision of District Court accepted the lawsuit while the High Court rejected it.

D. Benefits of Research

There are some benefits of this research, as follow:

1. Theoretical Benefit

Contribution to the development of legal science, especially in the authority of district courts regarding the postponement of elections in Indonesia.

2. Practical Benefits

This research is expected to provide a reference and give contribution to the Government of the Republic of Indonesia, especially the Central Jakarta District Court in accepting a case, handling a case, and giving a decision on a case.