

**JURIDICAL ANALYSIS OF THE AUTHORITY OF THE DISTRICT COURT TO  
POSTPONE ELECTIONS (STUDY OF DECISION NUMBER 757/PDT.G/2022/PN  
JKT.PST)**

**Khofifah Kusumawardhani**

Legal Studies Program, Faculty of Law, Universitas Muhammadiyah Surakarta  
[c100200411@student.ums.ac.id](mailto:c100200411@student.ums.ac.id)

**Labib Muttaqin, S.H., M.H.**

Legal Studies Program, Faculty of Law, Universitas Muhammadiyah Surakarta  
[lm812@ums.ac.id](mailto:lm812@ums.ac.id)

**ABSTRACT**

In early March 2023, Indonesia was shocked by the issue of postponing elections. A lawsuit was granted by the Central Jakarta District Court in decision number 757/Pdt.G/2022/PN Jkt.Pst to not conduct the remaining stages of the 2024 General Election filed by the Prima Party. This research uses doctrinal or normative methods including comparison, systematics, level of synchronization, history, and legal principles. The researcher uses the literature study method to obtain and collect data. Qualitative normative analysis and deductive reasoning techniques are used to analyze the data in this study. Article 2 paragraph (1) of Supreme Court Regulation 2/2019 clearly states that the State Administrative Court is responsible for cases of unlawful acts which are filed by government agencies and/or officials. It should not be the domain of the District Court to decide. The Central Jakarta District Court exceeded its authority by deciding a dispute with a government body in a case of unlawful act. The District Court does not have the absolute competence to decide cases such as those filed by the Prima Party in Decision Number 757/Pdt.G/2022/PN Jkt.Pst.

**Keywords:** Authority; Election; District Court

**INTRODUCTION**

In Indonesia, elections are held in an honest, general, direct, free, fair and secret manner. Pancasila and the 1945 Constitution of the Republic of Indonesia serve as the

foundation.<sup>1</sup> Based on Law No. 7/2017, an election is a way to achieve people's sovereignty by electing the President of the Republic and his deputy, members of the House of Representatives, members of the Regional Representatives Council, and members of the Regional People's Council at the provincial and district / city levels.<sup>2</sup>

Paimin Napitupulu defines election as an act of society to elect a person or group of people to the position of head of state, head of the people, or head of government.<sup>3</sup> This means that it is the people who choose the government. Everyone has the right to hold elections and elect individuals to be their leaders. As such, the people choose candidates for leadership in government through elections. Elections serve as a political tool through which the interests and ambitions of citizens can be expressed in the process of electing representatives who will serve in government.

In early March 2023, Indonesia was shocked by the issue of postponing the elections. A lawsuit was granted by the Central Jakarta District Court in decision number 757/Pdt.G/2022/PN Jkt.Pst to not carry out the remaining stages of the 2024 Election requested by the *Partai Rakyat Adil Makmur* (PRIMA). The Prima Party filed a lawsuit against the General Election Commission on the grounds that in the administrative verification stage of political party candidates running in the 2024 elections, the Prima Party considered it had suffered losses. Based on this decision, the General Election Commission is considered to have committed an unlawful act.<sup>4</sup>

PRIMA highlights the legal products issued by the General Election Commission of the Republic of Indonesia, in the Minutes of the Recapitulation of the Results of Administrative Verification of Political Parties Candidates for Election, which caused the candidate to not pass the administrative verification stage. Therefore, PRIMA Party's legal issues fall under the Election Process Dispute section if we look at Article 466 of the Election Law. Therefore, based on Articles 468 and 470 of the Election Law, it is not the District Court that has legal authority, but Bawaslu and the State Administrative Court.<sup>5</sup>

However, the Central Jakarta District Court in its Civil Lawsuit Decision Number 757/Pdt.G/2022/PN Jkt.Pst, decided to accept Prima's lawsuit in its entirety. The verdict stated that the General Election Commission had committed an unlawful act and punished it to compensate Prima for material losses of IDR 500 million; further stated that the General Election Commission had punished the Prima Party for immaterial losses by demanding that

the remaining stages of the 2024 General Election not be carried out and the entire election stage be repeated within a period of two years, four months and seven days; and finally stated that the case decision could be implemented immediately (*uitvoerbaar bij voorraad*). If observed based on the decision of the Central Jakarta District Court, the General Election Commission of the Republic of Indonesia is the defendant in this case which is classified as an unlawful act. In accordance with the internal rules of the Supreme Court, the State Administrative Court is the most appropriate party to fulfill the PRIMA Party's request.<sup>6</sup>

From the background that has been described, several problem formulations can be taken as follows:

1. What is the rule of law on the authority of the District Court in deciding election disputes in Indonesia?
2. How is the resolution of election disputes conducted by the District Court based on Decision Number 757/Pdt.G/2022/PN Jkt.Pst?

## **RESEARCH METHOD**

The doctrinal or normative method is used in this research. Doctrinal legal research includes comparison, systematics, level of synchronization, history, and legal principles. Normative research includes legal systematic research, namely research carried out on written law, namely legislation relevant to the research. The researcher uses the literature study method to obtain and collect data. The literature study method includes extracting and studying various sources of information and data, such as book documents, previous research results, journals, articles, and others that can be used as research material. To analyse the data in this study, qualitative normative analysis and deductive reasoning techniques were used by organizing it, classifying it into units that can be monitored, synthesizing it, looking for and identifying patterns, identifying what is significant and what can be learned, and figuring out what can be communicated to others are steps in the qualitative normative analysis process. The purpose of this method is to present a summary of the situation as it relates to the research topic. Deductive reasoning is used to assess qualitative data, which includes making generalizations about a problem and comparing it to specific issues.<sup>7</sup>

## **RESULTS AND DISCUSSION**

### **Rule of Law on The Authority of The District Court in Deciding Election Disputes in Indonesia**

In relation to the law, problems in elections in Indonesia are categorized into two categories based on the applicable laws, namely election disputes and election violations. Election violations are divided into three, namely: (1) administrative violations, including violations related to procedures, procedures, administrative mechanisms at every stage of organizing elections, except violations of the code of ethics for organizing elections and election crimes; (2) election crimes, which include non-criminal violations and non-criminal violations (3) violations of the code of ethics, which are violations of the moral standards contained in the oath and commitment before taking office as an election organizer.<sup>8</sup>

Election disputes can be classified into two categories: (1) election process disputes, election process disputes are defined in Article 466 of the Election Law as disagreements arising between candidates and between election organizers and election participants as a result of General Election Commission decisions, district / city General Election Commission decisions, and provincial General Election Commission decisions. The Election Supervisory Agency, the provincial Election Supervisory Agency, the regency/municipality Election Supervisory Agency, and the State Administrative Court handle election-related disputes. Articles 467 to 472 of the Election Law control this. (2) disputes over election results, Disputes over election results include disagreements between the General Election Commission and election participants over election results; this also includes disagreements over the vote totals that may affect the outcome of seats for candidates for the House of Representatives (DPR), the Regional Representatives Council (DPD), and the Regional Representatives Council (DPRD), as well as disagreements that may affect the outcome of the presidential and vice-presidential elections. Based on Article 24C of the 1945 Constitution paragraph (1), the Constitutional Court has the authority at the first and final level to decide cases where the decision is definitive, which to decide disputes over election results is the authority of the Constitutional Court.<sup>9</sup>

As part of the general judicial system, the General Courts have clear and

straightforward authority to hear, decide and resolve criminal and civil cases at first instance. This means that the General Courts can only handle civil and criminal cases, not governmental body disputes relating to electoral process disputes between political parties that are candidates for elections and the General Election Commission.

Guidelines for Dispute Resolution of Government Actions and the Authority to Adjudicate Unlawful Acts by Government Agencies or Officials in Supreme Court Regulation Number 2 of 2019 (PerMA 2/2019). All the arguments put forward by the Central Jakarta District Court regarding the civil lawsuit sued by the PRIMA Party should have been removed by the provisions in Article 2 paragraph (1) of the 2019 Supreme Court Regulation, because the provision states that the State Administrative Court has the authority to handle cases of unlawful acts by government agencies or officials. According to the decision of the Central Jakarta District Court, the defendant party is the Indonesian General Election Commission, and the type of lawsuit is an Unlawful Act.<sup>10</sup>

In Article 2 paragraph (1) of Supreme Court Regulation 2/2019, the State Administrative Court has jurisdiction over cases involving unlawful acts committed by government agencies and/or officials (*Onrechtmatigge Overheidsdaad*)<sup>11</sup>. The article clearly states that the State Administrative Court is responsible for cases of unlawful acts filed against government agencies and/or officials. It should not be the domain of the District Court to decide.<sup>12</sup>

### **Election dispute settlement conducted by the District Court based on Decision Number 757/Pdt.G/2022/PN Jkt.Pst**

Election administrative violations in Article 460 paragraph (1) of the Election Law, which more or less regulates the mechanisms, procedures, or mechanisms of election administration related to the holding of elections in the entire process of holding elections, are considered as election administrative violations. If you look at this problem, the District Court does not have the authority to decide administrative disputes. This is in line with Article 461 paragraph (1) of the Election Law that the Election Supervisory Agency is tasked with resolving claims of election administration violations.

Article 467 paragraph (1) of the Election Law stipulates that after the decision of the General Election Commission, the decision of the Provincial General Election Commission, and the decision of the Regency / Municipality General Election Commission are issued, the

Election Supervisory Agency, the Provincial Election Supervisory Agency, and the Regency / Municipality Election Supervisory Agency receive requests for resolution of election process issues, which means that the Election Supervisory Agency and the State Administrative Court have the authority to resolve Election Process Disputes. In addition, Article 470 paragraph (1) of the Election Law stipulates that the problems of legislative candidates for regencies/cities, provinces, the House of Representatives, the Regional Representative Council, or party candidates that arise in the constitutional realm are one of the problems of the electoral process which is handled by the State Administrative Court. After the issuance of the decision of the General Election Commission, Provincial General Election Commission, and Regency / Municipality General Election Commission, political candidates for election participants, or candidate pairs with the General Election Commission, Provincial General Election Commission, and Regency / Municipality General Election Commission.

Unlawful Acts are covered by the State Administrative Law if they are given by Government Agencies and/or Officials. Supervision and enforcement of sanctions are examples of state administrative law enforcement tools. Lawsuits against decisions and/or actions of state administrative agencies and/or officials can be filed by the public, in accordance with Law Number 30 of 2014 concerning Government Administration. However, because the law does not mention who is authorized to decide these matters and because there is no established procedure for resolving disputes regarding government activities, the Supreme Court decided to issue Perma Number 2 of 2019. The State Administrative Court, not the District Court, has exclusive authority over tort cases filed by Government Agencies and/or Officials because the State Administrative Court was established as a court with such authority.<sup>13</sup>

The proceedings between PRIMA and the General Election Commission related to administrative violations relating to the recapitulation of the results of the administrative verification of Political Parties Candidates for Election, is a case situation, which was filed by Prima Party to the District Court. However, the legal actions listed in the Election Law mentioned above have been carried out. From legal remedies at the Election Supervisory Agency, which ultimately rejected the Prima Party's lawsuit. This also applies to legal efforts at the State Administrative Court, which ultimately rejected the lawsuit. Then, PRIMA filed a lawsuit for Unlawful Acts to the Central Jakarta District Court.

It has previously been explained that this decision is based on the General Election Commission's decree Number 551 of 2022 which lists 24 political parties, and PRIMA's complaint against it to participate in the 2024 General Election, but does not include PRIMA Party. PRIMA Party does not meet the administrative requirements, based on the provisions of the General Election Commission's administrative verification as revealed in BA Number 232/PL.01.1-BA/05/2022 on the Recapitulation of Administrative Verification Results of Political Party Candidates for Election Participants dated October 13, 2022 (Model BA Recap Vermin KPU-PARPOL). Based on the General Election Commission's previous decision, a lawsuit was subsequently filed by PRIMA to the Central Jakarta District Court. The lawsuit contained a summary of the findings of the administrative verification of political party candidates running for election. Once approved, the lawsuit was filed under case number 757/Pdt.G/2022/PN Jkt.Pst.<sup>14</sup>

In their legal considerations, the judges considered that the Central Jakarta District Court was authorized to examine and decide the case. This was decided by the panel with an Interlocutory Decision dated January 20, 2023 which in its opinion also rejected the exception of the General Election Commission on the absolute authority of the District Court. In this case, the District Court has exceeded its authority as a judicial body to decide disputes with government bodies in accordance with Supreme Court Regulation 2/2019. The General Election Commission as an election organizing agency.

In addition, the use of Article 1365 of the Civil Code on Unlawful Acts in resolving election disputes is not appropriate. Based on Article 93 letter b jo Article 94 paragraph (3) of the Election Law, in the event of an election dispute, enforcement and prevention are carried out by the Election Supervisory Agency for election violations and election process disputes. The process begins with receiving an application for the process dispute resolution procedure, formally and materially verifying the request for resolution, mediating conflicts between parties, continuing the adjudication process, and finally resolving the election dispute. If one of the parties rejects the decision of the Election Supervisory Agency, then they must submit it to the State Administrative Court, not to the District Court.

In the constitution, the postponement of elections can only be changed through an amendment to the 1945 Constitution of the Republic of Indonesia. Article 22E states very clearly, unambiguously, precisely and unequivocally that elections are held every five years.<sup>15</sup>

No institution can postpone elections even if it is the Supreme Court. From this article, it would be very inappropriate if a District Court could postpone elections that have been regulated by the constitution. The verdict of the Central Jakarta District Court that the General Election Commission was sentenced to hold elections from scratch for approximately one year and not to hold the remaining 2024 elections within 2 (two) years 4 (four) months 7 (seven) days after the decision was made, is not something that can be decided by the District Court.

Therefore, based on the Election Law and the conception of the Executive Board and/or Officials on Wrongful Acts of Law, the District Court does not have absolute competence to decide the case filed by Prima Party. Center Decision Number 757/Pdt.G/2022/PN Jkt.Pst is considered unenforceable. This is because decisions made in civil cases cannot be executed. One of the reasons the decision in the case a quo is considered unenforceable is because the ruling cannot be implemented. This is based on Book II which contains Administrative and Technical Guidelines for General Civil and Special Civil Courts.

## CONCLUSION

Electoral issues in Indonesia are divided into two categories based on the applicable laws: electoral disputes and electoral violations. Electoral violations consist of administrative violations, electoral crimes, and violations of the code of ethics. Election disputes are divided into election process disputes and election result disputes. The Constitutional Court has the authority to decide disputes over election results. District Courts are only authorized to handle civil and criminal cases, not disputes between political parties and the General Election Commission. The State Administrative Court has jurisdiction over cases of unlawful acts by government agencies or officials, not the District Court. All of the arguments put forward by the Central Jakarta District Court regarding the civil lawsuit sued by the PRIMA Party in Decision Number 757/Pdt.G/2022/PN Jkt.Pst should have been removed by the provisions in Article 2 paragraph (1) of the 2019 Supreme Court Regulation.

Election administrative violations are regulated by Article 460 paragraph (1) of the Election Law, which includes mechanisms, procedures, or election administration. Administrative dispute resolution is the task of Bawaslu in accordance with Article 461 paragraph (1) of the Election Law. Meanwhile, disputes over the electoral process are handled by the Election Supervisory Agency and the State Administrative Court after the Election

Commission's decision is issued, in accordance with Article 467 paragraph (1) of the Election Law. The Central Jakarta District Court exceeded its authority by deciding disputes with government bodies in cases of unlawful acts. The District Court does not have absolute competence to decide cases such as those filed by Prima Party in Decision Number 757/Pdt.G/2022/PN Jkt.Pst, which is legally or juridically wrong, both the substance of the decision and the procedure for the decision. As a result, the General Election Commission had to appeal the District Court's decision. The decision was also made to ensure that the election continues to run as mandated by the constitution because it is considered defective due to ineligibility.

#### REFERENCES

1. Constitution of the Republic of Indonesia Year 1945
2. Law No. 7/2017 on General Elections
3. Rohaniah, Yoyoh, Efriza. Pengantar Ilmu Politik: Kajian Mendasar Ilmu Politik . Malang: Intrans Publishing;2015:439
4. . Kompas.id. Humas PN Jakarta Pusat Akui Putusan Prima Belum Berkekuatan Hukum Tetap. [Internet]. Kompas. 2023 [cited 6 Maret 2024] Available from : <https://www.kompas.id/baca/polhuk/2023/03/03/putusan-pn-jakpus-sudah-berkekuatan-hukum-kpu-diminta-lakukan-banding>
5. Supryadi, A., Yuliani, T., Mantika, A. F. 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. 2023;6(1). <https://doi.org/10.36679/ulr.v6i1.31>
6. Central Jakarta Court Decision Number 757/Pdt.G/2022/PN Jkt.Pst
7. Soerjono Soekanto, Pengantar Penelitian Hukum, Jakarta: UI-Press;2005:52
8. Mahmudi, M. Kewenangan Pengadilan Negeri Memutus Sengketa Antara Partai Politik Dan Komisi Pemilihan Umum. Hunila: Jurnal Ilmu Hukum dan Integrasi Peradilan. 2023;1(2):77-88. <https://doi.org/10.53491/hunila.v1i2.526>

9. Aryandani, R. Perbedaan Pelanggaran Administratif Pemilu, Pidana Pemilu, dan Sengketa Pemilu [Internet]. Hukumonline. 2024. [cited 6 Maret 2024] Available from : <https://www.hukumonline.com/klinik/a/perbedaan-pelanggaran-administratif-pemilu-pidana-pemilu-dan-sengketa-pemilu-lt65b248d363d2e/>
  10. Supryadi, A., Yuliani, T., Mantika, A. F. 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. 2023;6(1). <https://doi.org/10.36679/ulr.v6i1.31>
  11. Supreme Court Regulation Number 2 of 2019
  12. LK2FHUI. Putusan Pengadilan Negeri Jakarta Pusat tentang Penundaan Pemilu: Ada Hak Politik yang Tidak Terpenuhi [Internet]. 2023 [cited : 3 Maret 2024]. Available from: <https://lk2fhui.law.ui.ac.id/portfolio/putusan-pengadilan-negeri-jakarta-pusat-tentang-penundaan-pemilu-ada-hak-politik-yang-tidak-terpenuhi/>
  13. PSHK. Pengadilan Negeri Tidak Berwenang Menunda, Pemilu Tetap Dilaksanakan Sesuai Konstitusi [Internet]. 2023 [cited 5 Oktober 2023]. Available from: <https://pshk.or.id/publikasi/siaran-pers/pengadilan-negeri-tidak-berwenang-menunda-pemilu-tetap-dilaksanakan-sesuai-konstitusi/>
  14. Bachmid, F. Implikasi Hukum Putusan Nomor 757/Pdt. G/2022/PN Jkt. Pst tentang Penundaan Pemilu Tahun 2024. Jurnal Usm Law Review. 2024; 7(1):59-69. <http://repository.umi.ac.id/id/eprint/5503>
  15. Constitution of the Republic of Indonesia Year 1945
-

