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**Juridical Analysis of Dismissal of Village Heads Affected by Adultery Cases (Case Study Decision****Number: 3/G/2022/PTUN.SMG)**

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**ABSTRACT**

In conducting this research, the research objective was to describe how the arrangements regarding the dismissal of village heads in the Village Law no. 6 of 2014 and what are the legal considerations of the judges of the Semarang State Administrative Court in deciding the Decision Number: 3/G/2022/PTUN.SMG case concerning the Dismissal of the Village Head in Karangtengah Village who used a normative juridical method in his analysis. This research has the following results: 1. The dismissal of the village head has been regulated in Article 40 of Law no. 6 of 2014 concerning Villages, when viewed from the case in the decision above the Village Head resigned because he was dismissed by the Regent for violating the prohibition stated in the law. 2. According to the PTUN decision, because he had committed the crime of adultery, which in this case violated Article 29 of Law No. 6 of 2014 concerning Villages, namely disturbing a group of people, the Village Head was dismissed from his position. In terms of deciding on the decision, the judge has considered through laws and regulations and aspects such as juridical, philosophical, and sociological aspects. As a result, the object of dispute in the decision is considered valid and legally enforceable.

Keywords: Village Head, Dismissal, PTUN, Adultery

**INTRODUCTION**

Definition of village according to Law Number 6 of 2014 concerning Villages, namely that Villages are villages and traditional villages or what are called by other names, hereinafter referred to as Villages, are an integrated legal community that has territorial boundaries and has the power to organize and handle government affairs, the needs of local communities based on community ideas, rights of origin, and/or traditional rights recognized and respected in the government system of the Unitary State of the Republic of Indonesia.

In carrying out its government, the village has a government that is led by village head and supported by village officials. The village head, based on Wonogiri Regent Regulation Number 46 of 2018, is the leader of the village government who has the authority, duties and obligations to manage his village household and carry out tasks from the government and regional government. The duties of a village head are stated in Article 26 of Law Number 6 of 2014 concerning Villages, which states "that the implementation of village government, implementation of village development, enforcement of village society and empowerment of village communities are the duties of a village head".

According to Suryaningrat, the definition of a village head is a legitimate leader because he received formal election from the government. The implementation of village government should be more successful if its implementation does not rely on mere regulations, but is also supported on the basis of personal, spiritual and leadership relationships. Leaders have the skills to influence other people naturally so that individuals obey the leader of their own accord sincerely, consciously and not forced. In order for a village head to become an informal leader, he must learn and master the art and knowledge of leadership. (Suryaningrat, 1992).

In terms of duties, village heads also have prohibitions that must not be carried out as stated in Law no. 6 of 2014 concerning Villages. In this case, adultery occurred between the village head and a married

woman. This includes zina which means sexual intercourse between a man and a woman through the genitals or anus without sharia rights or *shubhah*. (Hidayat, 2016). And this matter has been decided through Decision Number: 3/G/2022/PTUN.SMG, the result of which was the decision to dismiss the Karangtengah village head from his position which caused a dispute between the Karangtengah village head as the Plaintiff and the Wonogiri regent as the Defendant.

In this case, it falls within the authority of the State Administrative Court, which in this case is in the Semarang area. In its formation, the State Administrative Court has the aim and objective of protecting the community whose legal interests are often trampled due to widespread official interference in community activities. Through the State Administrative Court, the authorities can be sued by citizens and receive corrective action from the State Administrative Court. (Atmosudirjo, 1981). There are 2 (two) main issues in this case study, namely: First, how are the arrangements for the dismissal of village heads in Village Law no. 6 of 2014? then secondly, what are the legal considerations of the judges at the Semarang State Administrative Court in deciding the case of Decision Number: 3/G/2022/PTUN.SMG regarding the dismissal of the village head in Karangtengah Village?

In this case study, the author wants to explain the dismissal of village heads as contained in Law no. 6 of 2014 concerning Villages. From this description, the author is interested in discussing Decision Number: 3/G/2022/PTUN.SMG which contains the dismissal of village heads from a legal perspective in a research contained in a legal writing entitled "Juridical Analysis of the Dismissal of Affected Village Heads Adultery Case (Case Study Decision Number: 3/G/2022/PTUN.SMG)"

## RESEARCH METHODS

The method used is a normative juridical approach, the meaning of which is an approach to the case to be studied by focusing on the doctrines or principles of legal science, or the basis of existing rules, and also considering the application and legal implications. This research uses a descriptive type, namely research that aims to describe something in an area (Mezak, 2006). This research uses legal materials in the form of secondary legal materials, then in collecting it uses library research. Data analysis is carried out using qualitative descriptive analysis methods. Descriptive analysis is analysis that describes and explains the data found in the research.

## RESULTS AND DISCUSSION

### Regulations for the Dismissal of Village Heads in Village Law no. 6 of 2014

In government, the village is under the district/city which is led by one leader, namely the village head. In government, villages act as self-governing communities and local self-government (Moch., 2015). In this case, if these two things are combined, it is necessary that the integrity of the customary law community is part of the village area, organized thus into villages and customary villages. The definition of a village head is not clearly regulated in statutory regulations, but it can be defined that a village head is the leader of a village. The village head is determined by the general election of the village head by the community and serves a term of 6 (six) years and can serve concurrently for 3 (three) terms. The Village Head is elected directly by the village residents through nomination, voting and confirmation. This has been regulated in Article 34 Paragraph (1) of Law no. 6 of 2014 concerning Villages. During the village head election, an election committee is formed which has the task of selecting and selecting village head candidates based on predetermined requirements, conducting voting, identifying village head candidates who have been elected, and compiling a report regarding the implementation of the village head election.

After being elected as village head, in carrying out his duties there are things that are prohibited from abusing his authority and duties as village head; taking advantage of personal gain and harming others; disturbing society; committing KKN or collusion, corruption and nepotism; holding concurrent positions; and several other things as stated in Article 29 of Law no. 6 of 2014 concerning Villages. If the village head

is proven to have violated the prohibition stated in Article 29 of Law no. 6 of 2014 concerning Villages, you can receive administrative punishment in the form of a verbal warning or a written warning. If the warning is ignored by the village head, he may be subject to sanctions in the form of temporary dismissal which can then be continued as dismissal.

The definition of dismissal is the termination of the employment relationship between one or more employees and the company which arises/occurs due to the employment contract and causes the person concerned to lose their status as an employee (Wursanto, 1988). Meanwhile, the dismissal of a village head is the termination of his position as village head. According to Article 40 Paragraph (1) of Law no. 6 of 2014 "a village head can resign due to death, personal request, or dismissal". Matters that cause a village head to be dismissed are also regulated in Law No. 6 of 2014 in Article 40 paragraph (2) which states "a village head can be dismissed if his term of office has ended, he is unable to carry out his duties as village head for 6 (six) ) months in a row, does not fulfill the requirements as village head, and violates the prohibitions that have been stipulated as village head."

The dismissal of the village head is carried out by the regent/mayor in accordance with his authority in Article 40 Paragraph 3 of Law no. 6 of 2014 concerning Villages. The village head can be dismissed by the Regent/Mayor based on a recommendation from the BPD or Village Consultative Body or not based on a recommendation from the BPD. So, the dismissal of a village head can be carried out either by the village head himself (by submitting an application), or by other parties such as regents/mayors due to several reasons, as regulated in the applicable law or because they receive reports from the community or other parties. related parties to the local Village Consultative Body and after that an inspection is carried out and a recommendation is made to the Regent or Mayor to dismiss the village head.

**Legal considerations of the Semarang State Administrative Court judge in deciding the case Decision Number: 3/G/2022/PTUN.SMG concerning the Dismissal of the Village Head in Karangtengah Village**

In this case there are parties including the Plaintiff, namely Bambang Daryono or the village head of Karangtengah, against the Defendant, namely the Regent of Wonogiri. The object of the lawsuit in the dispute regarding this decision is the Decree of the Regent of Wonogiri Regency Number: 141.1/204/HK/2021 concerning the Dismissal of Disrespectfully Bambang Daryono from the Position of Head of Karangtengah Village, Karangtengah District dated 24 September 2021. That the Decree of the Regent of Wonogiri Regency Number: 141.1 /204/HK/2021 which is the object of dispute in this lawsuit is a State Administrative Decree that is in accordance with and fulfills the provisions of article 1 point 3 of Law no. 51 of 1986 concerning State Administrative Courts, namely written, concrete, individual and final.

Object a lawsuit in a PTUN is a KTUN or State Administrative Decree in Article 1 number 9 states that "State Administrative Decrees are written requirements issued by state administrative bodies or officials which contain state administrative legal acts based on applicable laws and regulations. , which are concrete, individual and final, and give rise to legal consequences for people or civil legal entities" (Fellista and Laga, 2018). In this case, a lawsuit has been filed at the Semarang State Administrative Court by the Plaintiff because the Defendant is domiciled in the Central Java Province Region, so he is the one who has the authority to try and examine the a quo case as stipulated in Article 54 paragraph (1) of Law no. 5 of 1986 concerning State Administrative Courts(Marshal NG, 2018). Conclusions can be drawn from the basis of the lawsuit filed by the Plaintiff, namely:

1. Whereas the Plaintiff is the official Head of Karangtengah Village who was appointed from December 2016 to 2022 based on the Decree on the Validation and Appointment of the Elected Village Head Number 387 of 2016 dated 30 December 2016, therefore the Plaintiff is legally authorized to be the Village Head for the period 2016-2022;
2. It has been proven true that the Plaintiff committed the crime of adultery and was sentenced based on the decision of the Semarang High Court Number: 441/Pid/2020/PT SMG, which was followed by the issuance of the object of dispute by the Defendant in the a quo case in the form of the Decree of the Regent of Wonogiri Number 141.1/204/ HK/2021 concerning Disrespectful Dismissal of the Plaintiff from the position of Head of Karangtengah Village which is felt to be contrary to Article 2

- Paragraph (2) letter g of Minister of Home Affairs Regulation No. 66 of 2017 concerning the Appointment and Dismissal of Village Heads;
3. That the Plaintiff in submitting his submission has complied with the provisions of Article 53 paragraph (2) of Law no. 9 of 2004 concerning State Administrative Courts. In this case, removing the object of the dispute is not in accordance with the general principles of good governance, namely ignoring the principle of legal certainty; principle of benefit; and the principle of accuracy, so that the object of the dispute is declared void or invalid. Therefore, if the object of the dispute is declared null and void, it is mandatory to revoke the object of the a quo dispute.

Based on this lawsuit, a lawsuit was submitted by the Plaintiff containing: 1) Granting the Plaintiff's lawsuit in its entirety; 2) Declaring void or invalid Wonogiri Regent's Decree No. 141.1/204/HK/2021 concerning Dismissal Without Respect. Bambang Daryono from the position of Karangtengah Village Head dated September 24 2021; 3) Sentencing the Defendant to pay compensation for material and immaterial losses amounting to Rp. 1,059,000,000.00 (one billion fifty-nine million rupiah); 4) Punish the Defendant to revoke the Regent's Decree Number 141.1/204/HK/2021 concerning Dismissal Without Respect. Bambang Daryono from the position of Karangtengah Village Head dated 24 September 2021; 5) Sentence the Defendant to pay all costs incurred in this case.

Furthermore, an answer to the lawsuit was issued by the defendant dated February 23 2022, the contents of which were: First, in exception. Exception in Article 77 of Law no. 51 of 2009 concerning the Second Amendment to Law no. 5 of 1986 concerning State Administrative Courts is divided into three, namely exceptions regarding absolute authority, relative exceptions, and other exceptions besides absolute and relative authority. Exceptions regarding the court's absolute authority can be raised at any time during the examination period. Regarding the absolute power of the court, if the judge knows about it, the judge must declare that he has no power to decide the dispute in question. Then, regarding exceptions to relative authority. Exceptions regarding relative authority should be raised before there is an answer to the main dispute, and the exception must be decided before the main dispute is decided. Other exceptions that are not related to the court's authority can only be decided on the subject of the dispute (Elidar Sari, 2014).

The first exception concerns the time limit or expiry for filing a lawsuit. Based on the provisions of Article 55 of Law Number 5 of 1986 concerning State Administrative Courts, it states: "A lawsuit can only be filed within a period of 90 (ninety) days from the time the Decision of the State Administrative Body or Official is received or announced." The Defendant has determined the object of the dispute on September 24 2021 and is effective starting from October 4 2021 and was accepted and acknowledged by the Plaintiff on October 4 2021. Meanwhile, the Plaintiff submitted an Administrative Objection to the Defendant on December 21 2021 which has expired. , because it should be submitted no later than November 2 2021 if it is in accordance with Article 77 Paragraph (1) of Law no. 30 of 2014 concerning Government Administration. Because of this, the Plaintiff is deemed to have agreed with the object of the dispute that has been determined. The second exception is regarding the Plaintiff's Claim being Unclear/Vague(*Obscure Libel*). What is meant by a Vague Claim is that the lawsuit submitted contains defects so that it does not meet clear and definite requirements (*duedelijke en bepaalde conclusie*) (Harahap, 2016). Obscure Libel can also be interpreted as a lawsuit which contains notifications that differ in opinion from one another (Dzulhifli Umar, 2000). The reason for the Plaintiff's calculation of the amount of compensation to the Defendant actually causes the object of the dispute to become unclear/vague, because the calculation time for the compensation demanded by the Plaintiff is 15 (fifteen) months and 15 (fifteen) months running. Even though the object of the dispute has been in effect since October 4 2021 until now it has only been running for 5 (five) months.

Furthermore, the answer to the lawsuit in the main case is that the Plaintiff has been dishonorably dismissed from the position of Karangtengah village head by the Defendant as of October 4 2021, based on Wonogiri Regent's Decree Number 141.1/204/HK/2021 dated September 24 2021 concerning the Disrespectful Dismissal of Mr. Bambang Daryono from the position of Karangtengah village head because

he had received a written report from the Karangtengah sub-district head regarding a report of a criminal act of adultery between the Plaintiff and a married woman in Temboro Village, Karangtengah District. Then, this was followed by a written report from the Karangtengah sub-district head, which contained the aspirations of the people of Karangtengah Village through a letter from the Chairman of the Karangtengah BPD and stated that the Plaintiff should resign as head of Karangtengah village and for the time being that the Plaintiff should not rule before there is a Legal Decree. The defendant took the decision to temporarily suspend and appoint Mr. Purwoko as the Village Secretary acts as the acting village head of Karangtengah until the legal case involving the Plaintiff receives a Court Decision which has permanent legal force. On October 14 2020, the Plaintiff's legal case received a Court Decision based on the Wonogiri District Court Decision Number 91/Pid.B/2020/PN Wng, where the verdict can be concluded that the Plaintiff was proven to have committed the crime of adultery and was given a prison sentence of 5 (five) months, but the Plaintiff filed an appeal and the result was that there was no need to serve a prison sentence of 5 (five) months unless the Defendant (Plaintiff) had committed another criminal act as proven by a judge's decision, before the 10 (ten) month probation period expired.

After there was a legal decision, the Defendant decided to issue a decision, namely the dishonorable dismissal of the Plaintiff as Karangtengah village head in the Decree of the Regent of Wonogiri Regency Number: 141.1/204/HK/2021, which in this case is the object of the dispute. In issuing the object of the dispute, the Defendant has paid attention to legal aspects, namely juridical, philosophical and sociological aspects as well as paying attention to existing laws and regulations and general principles of good governance. Furthermore, the Defendant also rejected material and immaterial claims which were not in accordance with Government Regulation no. 43 of 1991 concerning Compensation and Procedures for Its Implementation in State Administrative Courts as the Defendant has explained in the Exception. From the answer to the lawsuit submitted by the Defendant, the judge rejected the answer to the lawsuit because based on all legal considerations the answer to the lawsuit was proven to have no legal basis.

Then, in this writing, a juridical analysis was carried out regarding the Decision of the State Administrative Court Number 3/G/2022/PTUN.SMG. What is meant by juridical analysis based on the online legal dictionary is a series of attitudes towards observing, describing and/or reformulating an object by applying legal criteria as criteria for drawing conclusions about something that is contrary to the law. Analysis in this case will be through consideration of the judge's decision in accordance with juridical, philosophical and sociological aspects. (Supreme Court of the Republic of Indonesia, 2006).

The juridical aspect is an aspect that is guided by applicable law. Judges who enforce the law must understand what is relevant to the case at hand. Judges should take into account whether a law is honest, useful, or provides legal clarity when applied, because one of the aims of the law is to uphold justice. (Rifa'i, 2010). Furthermore, the philosophical aspect is an aspect that focuses on honesty and balance, while the sociological aspect considers the cultural values that live in society. The inclusion of these three aspects is an effort to uphold balance values and be accepted by society.

#### a. Juridical Aspect

In considering the judge's decision, it is guided by the law in disputes regarding State Administrative Decisions, namely Wonogiri Regency Regional Regulation Number 7 of 2018 concerning Amendments to Wonogiri Regency Regional Regulation Number 17 of 2016 concerning Election, Validation and Appointment, Inauguration and Dismissal of Village Heads, in addition to it is also guided by Law no. 6 of 2014 concerning Villages. The judge in this decision rejected all claims submitted by the Plaintiff and stated that the object of the dispute submitted by the Defendant was valid because it was in accordance with statutory regulations and the Defendant also had the authority to issue the object of the dispute, which in this case was the Regent's Decree on the Dismissal of the Head. Village.

The plaintiff was dismissed as village head because he had violated the village head's prohibition as stated in Article 29 of Law no. 6 of 2014 concerning Villages, especially letter e, namely "carrying out actions that disturb a group of Village residents". The act of adultery committed by a village head has disturbed the community, because this could impact the good image of the village led by the village

head. Apart from that, adultery is a criminal offense that can be sentenced according to Article 284 of the Criminal Code Paragraph (1) which reads: "Sentenced with a maximum imprisonment of 9 (nine) months:

- a) A married man who performs mukah (overspel) even though it is known that article 27 BW applies to him;
- b) A married woman who performs mukah."

b. Philosophical Aspect

The philosophical aspect is an aspect that is based on truth and justice. Judges are tasked with maintaining justice in the judicial process and in decision making. The philosophy of justice can involve considerations of ethics, morals and values that underlie the applicable legal system. The philosophical aspect is a consideration or element that focuses on the value of justice for the defendant and victim (Wahyunadi, 2016). The philosophical aspect has a crucial role in anticipating disputes regarding legal regulations that have been synthesized with basic and noble values in society. Point Triwulan Tutik believes that philosophical aspects are related to philosophical and legal teachings, so the scope of legal philosophy cannot be separated from these philosophical teachings (Tutik, 2006).

In this case, the judge has sentenced the Plaintiff to imprisonment for 5 (five) months, but the Plaintiff filed an appeal so that the prison sentence is 5 (five) months with the provision that the length of the sentence imposed on the Plaintiff does not have to be carried out, unless the Plaintiff has committed other criminal acts proven by a judge's decision, before the 10 (ten) month probation period expires. Apart from that, the judge also granted the object of the dispute, which in this case was the dismissal of the Plaintiff as head of Karangtengah village. by giving sanctions in the form of a trial period of 10 (ten) months to the Plaintiff and also dishonorably dismissing him as village head so that the decision creates a sense of justice towards the community in general.

c. Sociological Aspects

The sociological aspect pays attention to the cultural values that already exist in society. Applying sociological aspects requires extensive expertise and understanding as well as wisdom that can uphold values that have been ignored in society. Applying this sociological principle is not easy because there is no connection to the system. These three elements are included so that the decision issued by the judge is considered fair and accepted by the public (Rifa'i, 2010). In this case, the Plaintiff as the village head has been legally and correctly proven in the eyes of the law to have committed the crime of adultery with a married woman. This is very contrary to the moral and religious values of Indonesian society because this is something that is not praiseworthy and is prohibited according to religious norms and committing this act can result in sin.

The plaintiff in this case has violated the prohibitions as a village head as stated in Article 29 of Law no. 6 of 2014 concerning Villages. This caused unrest in both Karangtengah Village and Temboro Village, which led to rejection from the majority of Karangtengah Village residents, if the Plaintiff returned to work as Karangtengah village head. Moreover, when the adultery case occurred, conditions in Indonesia were still affected by the Covid-19 pandemic which caused the residents of Karangtengah Village to request the Defendant through the Karangtengah Subdistrict Head to quickly determine clarity regarding the Plaintiff's status as Karangtengah village head, because in this case the residents need a leader. to take policies, especially in dealing with the Covid-19 Pandemic situation.

From the analysis of these aspects, the panel of judges has decided on the verdict for the case in Decision Number: 3/G/2022/PTUN.SMG, namely:

1. Reject the Plaintiff's claim in its entirety;
2. Sentenced the Plaintiff to pay court costs amounting to Rp. 347,000,- (Three hundred and forty seven thousand rupiah).

## CONCLUSION

The rules regarding the dismissal of village heads are regulated in Article 40 of Law no. 6 of 2014 concerning Villages, namely "the village head can resign if he dies, at his own request, or is dismissed". The village head can be dismissed because his term of office has ended, is unable to carry out his duties as village head for 6 (six) consecutive months, does not meet the requirements as village head, and violates the prohibitions that have been stipulated as village head. In this research, the author examines Decision Number: 3/G/2022/PTUN.SMG which contains the dishonorable dismissal of the head of Karangtengah village by the Regent of Wonogiri for committing the crime of adultery. The village head has violated Article 29 of Law no. 6 concerning Villages in letter e which reads "committing actions that disturb a group of village people" because they have been proven to have committed adultery with a married woman, which in this case is included in the crime of adultery. In this dismissal, the panel of judges carried out legal considerations in accordance with legal aspects, namely juridical, philosophical and sociological aspects. In this case, it can be concluded that the Plaintiff in carrying out his duties ignored the applicable laws and regulations. The judge in his decision in Decision No: 3/G/2022/PTUN.SMG issued a ruling which reads as follows: 1. Reject the Plaintiff's lawsuit in its entirety; 2. Sentence the Plaintiff to pay court costs amounting to Rp. 347,000,- (Three hundred and forty seven thousand rupiah).

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