

Peranan dewan kehormatan penyelenggara pemilu peran dalam mendapatkan keadilan bagi calon peserta Pemilukada : studi kasus Pemilihan Gubernur Jawa Timur tahun 2013 = Dkpp role for election candidate in gaining justice case study east java governor election in 2013

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Abstrak

[ABSTRAK

Sesuai Undang-Undang Nomor 15 Tahun 2011 tentang Penyelenggara Pemilihan Umum, Dewan Kehormatan Penyelenggara Pemilu/DKPP) adalah sebuah dewan etik independen yang memiliki kewenangan untuk menyelidiki dan memutuskan ada atau tidaknya dugaan pelanggaran kode etik, berikut memberikan sanksi atau rehabilitasi. Dalam prakteknya, DKPP tidak hanya membuat keputusan terkait dengan etika pelanggaran, sanksi, dan rehabilitasi tetapi juga memerintahkan Komisi Pemilihan Umum Daerah untuk meninjau ulang atau mengubah Keputusan tentang penetapan peserta pemilukada, sementara kewenangan untuk meninjau ulang atau mengubah substansi keputusan tata usaha Negara oleh KPUD adalah Pengadilan Tata Usaha.

Fokus tesis ini adalah pemilihan gubernur di Provinsi Jawa Timur sebagai contoh dimana Putusan DKPP memerintahkan KPUD untuk mengubah keputusan mereka terkait penetapan peserta pemilukada yang sebelumnya dinyatakan tidak memenuhi syarat menjadi peserta pemilukada oleh KPUD. Perintah DKPP semacam ini tidak sejalan dengan Undang-Undang Nomor 15 Tahun 2011. Putusan DKPP tidak mengubah prinsip-prinsip dan mekanisme pengujian sebuah keputusan tata usaha Negara sebagaimana diatur dalam Undang-Undang tentang TUN.

Mekanisme penyelesaian sengketa TUN terkait pemilukada di PTUN yang tidak sejalan dengan proses dan tahapan pemilukada telah mengakibatkan DKPP menjadi pilihan bagi calon peserta pemilukada untuk mendapatkan keadilan. Dari sudut pandang penulis, perlu dibentuk suatu mekanisme khusus penyelesaian sengketa TUN terkait pemilukada di lingkungan peradilan TUN yang sejalan dengan keberadaan, tugas, dan kewenangan DKPP.

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ABSTRACT

In accordance with Law No. 15 Year 2011 on the General Election Implementers, Election Organizers Ethics Council is an independent ethic council that has authority to investigate and decide on complaints of alleged violations of code of conduct, which include sanctions or rehabilitations, committed by election organizers (included in the governor/regional elections). In practice, DKPP not only make decisions related to ethic violations, sanctions, and rehabilitations but also order the election organizers to review and/or change the Regional Election Commission decision. Whereas reviewing and changing KPUD

decisions is Administrative Court authority.

This thesis focus on governor election in East Java Province as an example area which DKPP verdict compelled KPUD to alter their decision related to electoral candidates, who previously ruled ineligible, could participate in the election. This mechanism is not in line with Law No. 15 Year 2011. DKPP verdict should not change the principles and mechanisms of test administration in Administrative Court as stipulated in Administrative law.

Mechanism of election dispute in PTUN is not in line with election process in the regional level. Therefore, DKPP be a favourable option for election candidates to gain justice.

From author perspective, it is necessary to establish special administrative resolution mechanisms in administrative court which it should be along with the existence of DKPP; In accordance with Law No. 15 Year 2011 on the General Election Implementers, Election

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