

Pembatalan Lelang dalam Proyek Pemerintahan: Studi Kasus PT Bali Towerindo Sentra Tbk. = Cancellation of Government Project Auction: Case Study of PT Bali Towerindo Sentra Tbk.

Muslihah Ananda Putri Pratiwi, author

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Abstrak

Pemerintah Provinsi DKI Jakarta ingin menerapkan Sistem Jalan Berbayar Elektronik (SJBE) sebagai strategi pengendalian lalu lintas untuk mengatasi masalah kemacetan melalui pembatasan kendaraan. Pembangunan SJBE menggunakan skema KPBU dengan melaksanakan tahap pelelangan. Namun, Panitia Pengadaan Barang/Jasa Pembangunan SJBE Provinsi DKI Jakarta (Panitia Lelang) melakukan pembatalan lelang, sebab menemukan kesalahan dalam dokumen pemilihan dan menerbitkan Surat Pengumuman Pembatalan Lelang tanggal 2 Agustus 2019. PT Bali Towerindo Sentra Tbk. merasa dirugikan atas pembatalan lelang tersebut, sehingga menggugat Panitia Lelang ke PTUN Jakarta dengan hasil putusan yaitu mengabulkan permohonan penundaan lelang ulang. Pada tahap banding, PTTUN Jakarta menguatkan putusan PTUN Jakarta. Namun, pada tingkat kasasi, Mahkamah Agung (MA) membatalkan kedua putusan tersebut dan mengabulkan permohonan Panitia Lelang. Pembahasan dalam penelitian ini mengkhususkan kepada pembatalan lelang proyek pemerintahan terkait pembangunan SJBE pada kasus PT Bali Towerindo Sentra Tbk. sebagai perwakilan Konsorsium Smart ERP. Penelitian ini menggunakan metode penelitian yuridis-normatif yang disusun secara deskriptif-analitis. Hasil dari penelitian ini adalah bahwa Panitia Lelang memiliki kewenangan terhadap pembatalan lelang berdasarkan peraturan perundang-undangan. Lelang pembangunan SJBE dibatalkan sehingga Pemprov DKI Jakarta mengadakan lelang ulang dan PT Bali Towerindo Tbk. serta Konsorsium Smart ERP dapat berpartisipasi kembali dalam pelelangan ulang. Pengadaan Pembangunan SJBE menggunakan sumber dana non-APBD dengan menggunakan pendapatan dari pengoperasian SJBE. PT Bali Towerindo Sentra Tbk. sebaiknya lebih memperhatikan substansi peraturan perundang-undangan terkait pembatalan lelang. Selain itu, penulis berharap Panitia SJBE dapat lebih rinci dalam membuat ketentuan dan menyusun dokumen terkait lelang SJBE sesuai dengan peraturan yang berlaku, serta menguraikan penyebab pembatalan lelang dalam surat keputusan.

.....The Provincial Government of DKI Jakarta wants to implement the Electronic Road Pricing (ERP) as a traffic control strategy to overcome congestion problems through vehicle restrictions. The construction of the ERP uses the PPP scheme by carrying out the auction stage. However, The Procurement Committee of Goods/Services for ERP Development of DKI Jakarta Province (Auction Committee) canceled the auction, because it found an error in the selected document and issued an Announcement of Cancellation of Auction on August 2, 2019. PT Bali Towerindo Sentra Tbk. felt aggrieved by the cancellation of the auction, so he sued the Auction Committee to the State Administrative Court of Jakarta with the result of the decision, namely granting the request for postponement of the re-auction. At the appeal stage, the State Administrative High Court Jakarta upheld the decision of the State Administrative Court of Jakarta. However, the Supreme Court overturned the two decisions at the cassation level and granted the Auction Committee request. The discussion in this research focuses on the cancellation of government project tenders related to the construction of the ERP in the case of PT Bali Towerindo Sentra Tbk. as a representative of the Smart ERP Consortium. This research uses a juridical-normative research method

which is arranged in a descriptive-analytical manner. The result of this research is that the Auction Committee has the authority to cancel the auction based on the laws and regulations. The ERP construction auction was canceled so the DKI Jakarta Provincial Government held a re-tender and PT Bali Towerindo Tbk. and the Smart ERP Consortium can re-participate in the re-auction. The procurement of ERP development uses non-APBD funding sources by using the income from the operation of the ERP. PT Bali Towerindo Sentra Tbk. should pay more attention to the substance of the legislation related to auction cancellation. In addition, the author hopes that the SJBE Committee can be more detailed in making provisions and compiling documents related to the SJBE auction in accordance with applicable regulations, as well as outlining the reasons for canceling the auction in the decision letter.