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Licensing Disputes in The State Administrative Court System

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ABSTRACT Licensing is an administrative instrument used by the government to regulate public activities that may generate social, economic, and environmental impacts. In practice, however, the issuance of permits frequently results in disputes due to procedural defects, abuse of authority, and violations of general principles of good governance. This study aims to analyze the characteristics of licensing disputes, the legal framework governing judicial review, and the effectiveness of the Administrative Court in providing legal protection to citizens. The research applies a normative juridical method using statutory and conceptual approaches through the examination of administrative law doctrine and court decisions. The findings indicate that most licensing disputes originate from weak administrative verification, improper use of discretion, and non-compliance with the principles of legality and legal certainty. The Administrative Court functions as a supervisory mechanism by reviewing the legality of administrative decisions and restoring the rights of affected parties. Nevertheless, its effectiveness remains limited due to technical evidentiary difficulties and weak enforcement of judicial decisions by administrative authorities. Therefore, strengthening administrative oversight mechanisms and ensuring execution of court judgments are necessary to establish accountable governance.

KEYWORDS licensing dispute, administrative law, administrative court, legality principle, good governance

INTRODUCTION

Public licensing is an important instrument in modern governance as it serves as a tool for the state to control various activities that may have social, economic, or environmental impacts. Through the licensing mechanism, the state grants approval for a planned activity whether it be business, physical development, or the utilization of natural resources so that the issuance process is not merely administrative but also contains aspects of protecting the interests of the wider community (Philipus M. Hadjon, 2011).

In this context, the existence of the State Administrative Court becomes very important. State Administrative Court functions as a judicial oversight institution

over the actions of state administrative officials, particularly in testing the legality of state administrative decisions, including those related to licensing. Thus, State Administrative Court serves as a corrective mechanism when there are licensing decisions that are suspected of procedural defects, contrary to the principles of good governance, or causing direct harm to the community or business actors. Law No. 5 of 1986 on State Administrative Courts.

The urgency of discussing licensing disputes is increasing along with the growing public participation and the rising complexity of environmental management and spatial planning. Many cases show that the issuance of permits without due diligence such as without adequate field verification, without considering Environmental Impact Assessment, or amidst overlapping land claims can lead to disputes in State Administrative Courts. Maria Farida Indrati, Legislative Science. The Right to Build case in Sepinggian Baru, South Balikpapan, is a concrete example of how procedural errors in the issuance of land certificates lead to disputes and require legal assessment by State Administrative Courts. Based on this foundation, this article will delve deeper into the characteristics of licensing disputes, their legal and theoretical foundations, the effectiveness of State Administrative Courts as a supervisory mechanism, and the Right to Build case in Sepinggian Baru as an empirical illustration. The discussion is based on the group materials that serve as references for writing.

RESULTS AND DISCUSSION

Theoretical and Normative Foundations of Licensing Disputes in the Administrative Court

Licensing disputes in Indonesia arise as a consequence of the increasingly complex development activities and the growing demands of the public for transparent and accountable governance. Licensing is not merely an administrative procedure but has become a state control instrument to ensure that every activity that may have social, economic, and environmental impacts has undergone a proper assessment process and complies with legal provisions. Therefore, errors in the issuance of permits, whether in the form of procedural defects, lack of verification, or abuse of authority, can trigger legal conflicts that require resolution through the State Administrative Court (Ridwan HR, 2014).

As physical development, land utilization, and risk-based business activities increase, the potential for licensing disputes also grows. This is partly due to overlapping regulations, weak administrative oversight, and a lack of policy harmonization among agencies. In various cases, disputes arise because permits are issued without fulfilling mandatory procedures such as environmental impact assessments, public consultations, or accurate field reviews. These conditions

indicate that not all state administrative decisions are produced through careful decision-making processes and in accordance with the principles of good governance.

On the other, the public now has a higher legal awareness and has become more courageous in demanding their rights when they feel unfairly treated by officials' decisions. The Administrative Court is a forum for the public to challenge the validity of licensing decisions, as stipulated in the Law on Administrative Justice. Through this mechanism, the Administrative Court not only resolves disputes but also encourages the government to be more careful and professional in exercising its authority under Law No. 5 of 1986 on Administrative Justice.

One concrete example that illustrates the urgency of the Administrative Court in overseeing the issuance of permits is the case of the Building Use Rights Certificate in Sepinggian Baru, South Balikpapan. In this case, the land permit was deemed flawed due to allegations of land overlap, unclear legal grounds, and weak administrative verification. Issues like this emphasize the need for a strong oversight mechanism to ensure that state administrative decisions truly adhere to the principles of legality and legal certainty Mochammad Khoidin, "Land Disputes and the Role of Administrative Court in Administrative Oversight.

This means, the background to the emergence of licensing disputes is not only due to technical and administrative factors, but also relates to the integrity, professionalism, and accountability of state administrative officials. Further discussion in this article will outline the theoretical and legal basis for the resolution of licensing disputes, as well as how the State Administrative Court acts as a control mechanism against mistakes or abuse of authority in the licensing process.

Licensing disputes within the jurisdiction of the Administrative Court must be understood through an integrated theoretical and normative framework of administrative law. Fundamentally, every licensing decision constitutes a State Administrative Decision that must comply with the principle of legality, legal certainty, good governance, proportionality, and accountability.

The principle of legality requires that administrative authority originate from attribution, delegation, or mandate; consequently, any permit issued without clear statutory basis or in violation of mandatory procedures may be declared *ultra vires* and subject to annulment. Legal certainty further demands that licensing decisions provide clarity and predictability, preventing overlapping rights or regulatory inconsistencies that undermine public trust. In addition, the principles of good governance require transparency, public participation, procedural fairness, and substantive rationality in decision-making. Although administrative discretion (*freies ermessen*) allows interpretative space in regulatory implementation, such discretion must not result in abuse of power (*detournement de pouvoir*).

These theoretical principles operate within Indonesia's statutory framework, particularly Law Number 5 of 1986 on Administrative Court as amended, which defines the competence of Administrative Court to review concrete, individual, and

final administrative decisions; Law Number 30 of 2014 on Government Administration, which codifies sources of authority and prohibits abuse of power; Law Number 32 of 2009 on Environmental Protection and Management, which regulates environmental licensing standards; the Omnibus Law on Job Creation introducing risk-based licensing; and Government Regulation No. 24 of 1997 governing land registration procedures. Collectively, these norms establish the juridical parameters within which licensing decisions may be examined and, if necessary, invalidated through judicial review.

Judicial Practice and Effectiveness of Administrative Court in Licensing Disputes

In judicial practice, licensing disputes frequently arise from discrepancies between prescribed procedures and administrative implementation, particularly in land and environmental matters that involve multi-party interests and technical verification. The dispute concerning the issuance of a Right to Build certificate in Sepinggan Baru, South Balikpapan, exemplifies how procedural negligence such as unresolved ownership status, inaccurate boundary measurement, overlapping certificates, and inadequate verification of juridical data may generate administrative defects. In reviewing such cases, Administrative Court examines not merely formal compliance but also substantive adherence to due process and principles of good governance.

Where procedural and substantive defects are proven, the court may declare the administrative decision null and void, thereby restoring the aggrieved party's rights. This demonstrates Administrative Court's corrective and supervisory function within Indonesia's administrative justice system. Nevertheless, structural challenges remain, particularly regarding complex evidentiary processes in land disputes and the inconsistent execution of court decisions by administrative authorities. Thus, while Administrative Court operates effectively as a mechanism of legality control and institutional accountability, the realization of full administrative justice ultimately depends on the integrity and compliance of state officials in implementing judicial rulings.

CONCLUSION

The licensing disputes reflect the quality of governance. When administrative processes are not carried out properly, the community becomes the most disadvantaged party. The presence of the Administrative Court is crucial to ensure that administrative officials act in accordance with the law, the principle of legality, legal certainty, and the principles of good governance. The case of the Right to Build Certificate in Sepinggan Baru illustrates how procedural inaccuracies can lead to serious conflicts that require judicial intervention. To prevent such disputes from recurring, the government needs to enhance professionalism, strengthen

administrative verification mechanisms, and ensure the effective implementation of the Administrative Court decisions.

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