ANALYSIS OF THE DECISION OF THE STATE ADMINISTRATIVE COURT IN DECISION NUMBER: 214/G/2022/PTUN.PLG ON THE DISPUTE OF KONI MANAGEMENT OF MUSI BANYUASIN REGENCY

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ABSTRACT

This research aims to analyze the analytical factors of the decision of the state administrative court in decision Number: 214/G/2022/PTUN.PLG regarding the dispute between Koni administrators of Musi Banyuasin district, and find out what the judge took into consideration regarding the decision letter of the general chairman of KONI of Sumatra Province South Number: 189 Year Number: 214/G/2022/PTUN.PLG. The method used in this research is descriptive normative legal research. Based on the results of the research, the panel of judges is of the opinion that the main issue in this case is the Plaintiff's demand to declare the object of the dispute null or invalid. Pay close attention to the object of the dispute which meets the elements of a state administration decision or government administration decision, because it is a written determination in the form of a decision made. issued by the defendant, namely KONI of South Sumatra Province, which contains state administrative legal action in the form of confirming the personnel composition of the protective board. The judge's basic consideration is that the a quo dispute is a sports dispute, where sports disputes are regulated in the Law on Sports.

Keywords : Court Decision, Dispute, Koni Musi Banyuasin Regency

I. INTRODUCTION

National development through sports development in this reform era has become a strategic vehicle, especially improving the quality of human resources, as well as the formation of nation and character building. One tangible form of national sports development in the reform era is the passing of the Sports System Law previously No. 3 of 2005 concerning the National Sports System. The establishment of this national sports law brings fresh air as well as the direction of sports development that is clear, structured, coordinated and gets legal certainty nationally. The establishment of national sports laws in addition to providing opportunities or prospects, also provides challenges that are not light in national sports development.

Sports issues have grown complex, nuanced, and if not systematically managed can lead to opposite sides of its main goal. Olaragapun is synonymous with a culture of discipline, consistency, competition, friendship, unity and unity. Sports will shape

the character of a nation if sports are interpreted and lived correctly and well. On the other hand, sports are an effective learning vehicle for character education that can make each individual to build and grow positive character.

The success or advancement of sports achievements for the country or region can increase national identity and people's pride in the country. When a country's athletes manage to achieve brilliant results at the international level, it can boost national confidence and help build a positive image of the country in the eyes of the world. In addition, sport is an effective diplomacy platform. Good sporting achievements can strengthen international relations and promote dialogue between countries. Through sports competitions, countries can establish better relations with other countries, reduce political tensions, and strengthen ties between them while attracting tourists to visit the country. This can have a positive impact on the economy and help introduce the culture and attractiveness of the country or region to the world.¹

Given these positive impacts, the government plays an important role to encourage the progress or success of sports achievements both at the regional and national levels. The government has the responsibility to regulate and issue sports-related regulations in the country. This includes the establishment of laws, policies, and regulations applicable to sports organizations, including KONI.

The role of government in sports organizations differs from country to country, depending on the system of government, the structure of sports organizations, and national sports policies. However, in general, the government strives to support sports development, environment create an conducive to regional and national sports achievements, and ensure good governance in sports organizations such as KONI.

Based on Article 1 point (24) of Law Number 3 of 2005 concerning the National Sports System, it is stated, "A sports organization is a group of people who cooperate by forming an organization for the implementation of sports in accordance with the provisions of laws and regulations," further in article 1 number (25) states, "The parent organization of a sports branch is a sports organization that fosters, develops, and coordinates one branch / type of sport or combination sports organizations of one type of sport that are members of the international sports federation concerned."

Given the increasingly large and broad role of the state in almost all aspects of people²'s lives and the variety of challenges

¹Jerry Indrawan Muhammad Prakoso Aji, Sports as a Means of Unifying the Nation and Efforts for World Peace, Yuridika Journal of International

Relations Universitas Pembangunan Nasiona Veteran Indonesia, Vol. 10. No. 20, Year 2018, p. 73.

²Dr. Sri Suatmiati and Rapen Anstori, *The Role* of Village Assistants in Utilizing Village Fund Jurnal Ilmiah "Advokasi" Vol 12 No. 03, September, 2024

faced that are developing rapidly and demanding immediate resolution, the government needs *Freies Ermessen*.

Freies Ermessen is the authority given to the government to take action to solve an urgent important problem, which comes suddenly where there is no regulation. So the policy is taken without being based on general regulations that give authority to the state administration to make such policies³. Many conflicts arise due to the means used by administrative officials to carry out the will of the state which are sometimes considered unlawful or violate decency.4 Government decisions that are considered to violate the interests of individuals or civil law entities can be requested for cancellation to the State Administrative Court, of course, based on applicable procedures stipulated in the law. Therefore, the State Administrative Court was created to resolve disputes between the government and its citizens, namely disputes arising from government actions that are considered to violate the rights of its citizens.⁵

The State Administrative Court is one of the courts in Indonesia authorized to handle State Administrative disputes. Based on Law Number 5 of 1986 as amended by Law Number. 9 Year 2004 concerning State Administrative Court. The State Administrative Court is held to deal with the possibility of conflicts of interest, disputes, or disputes between the State Administrative Agency or Officer and citizens.⁶

The State Administrative Court has the duty and authority to examine, decide, and resolve State Administrative disputes submitted to it by the community or the object receiving the decision. State Administrative Disputes regulated in article 1 point 4 of Law Number: 5 of 1986 are disputes arising in the field of State Administration between persons or civil law entities and State Administrative Agencies or Officials both centrally and regionally as a result of the issuance of State Administrative Decrees (KTUN).⁷

Based on the understanding of the State Administrative Dispute mentioned above, it can be known that the cause and emergence of State Administrative disputes as a result of the issuance of a State Administrative Decree (KTUN). The definition of State Administrative Decisions is regulated in article 1 point 3 of Law Number 5 of 1986, namely in

Allocation Guidelines in Law Number 6 of 2014 to Realize Community Empowerment, Russian Juridical Law Master of Law Study Program Postgraduate Master of Law Universitas Muhammadiyah Palembang, Jidil 11, No. 5 of 2023, p. 881.

³S.F. Marbun, *State Administrative Courts and Administrative Efforts in Indonesia*, Liberty, Yogyakarta, 1997, p. 12.

⁴Victor Situmorang and Soedibyo, *Fundamentals of the State Administrative Court* (*PTUN*), Bina Aksara, Jakarta, 1987, p. 17.

⁵Yuslim, Procedural Law of the State Administrative Court, Sinar Grafika, Jakarta, 2015, p. 19.

⁶A. Siti Soetamin, Procedural Law of the State Administrative Court, PT. Refika Aditama, Bandung, 2009, p. 15.

⁷Faisal Abdullah, *Indonesian Civil Service Law*, Rangkang Education, Yogyakarta, 2012, p. 20.

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terms of written determinations issued by State Administrative Officers containing State Administrative legal actions based on applicable laws and regulations that are concrete, individual, final that cause legal consequences for a person or civil law entity. Management disputes without exception within an organization can arise from government actions in issuing a decision or policy that has an adverse impact. The government in issuing this matter should have strong considerations if decisions or policies that have a direct impact on citizens so as to avoid disputes that are likely to arise.

Sports management at the provincial level in South Sumatra is carried out by the South Sumatra Provincial government assisted by the South Sumatra Provincial Sports Committee, (as explained in Article 37 paragraph (1) of Law of the Republic of Indonesia Number 3 of 2005 concerning the National Sports System), Article 37 paragraph (1) which states: "sports management at the provincial level is carried out by the provincial government assisted by the provincial sports committee".

The source of funding for the Indonesian National Sports Committee (KONI) of South Sumatra Province comes from the APBN and APBD (as explained in Article 5 paragraphs (1) and (2) of Government Regulation Number 18 of 2007 concerning Sports Funding).

⁸Peter Mahmud Marzuki (I), *Characteristics of Law*, Juridika. Journal of Law, Faculty of Law, Airlangga University, Surabaya, Vol 23, No. 2. May – August 2008, p. 331.

Article 5 paragraph (1): "The source of sports funding from the Government comes from the State Budget". Article 5 paragraph (2): "The source of sports funding from local governments comes from the Regional Revenue and Expenditure Budget"

II. RESEARCH METHODS

The approach method used in this research is the legislative approach, prioritizing legal materials in the form of statutory regulations as reference material in conducting research, and using the case approach method, prioritizing all statutory regulations that are related to problems. Legal science as a science that prescriptive (value) and applied in science have characteristics that are sui generis and cannot be integrated into the social sciences. Legal research is a process of discovering legal rules, legal principles and legal doctrines that can be used to answer legal issues. This legal research is carried out as an academic study.⁸

III. RESULTS OF RESEARCH AND DISCUSSION

The modem legal state is characterized, among others, by the existence of legal protection of human rights, including legal protection of citizens from arbitrary actions of the ruler.⁹ In the life of the nation and bemegara, there is always an interaction between state officials and the community.

⁹Eko Hidayat, *Protection of Human Rights in the State of Islamic Law*, Juridika Journal of Sharia Economic Law State Islamic University Raden Intan Lampung, Vol. 8, No.2. Year 2016, p. 80.

Most of these interactions usually occur due to government and development tasks carried out by state officials in order to improve public welfare. The relationship between state administration officials as executors of government affairs and development with the community, there is often a conflict of interest involving both parties. This conflict of interest is usually caused by the decision of state officials.

Based on the principle of the rule of law, decisions of state officials that harm the interests of society, can be sued against decisions issued by state officials.The actions of the ¹⁰ State Administration Agency / officials are not always in accordance with the wishes of the community, even though these actions are carried out to carry out government affairs. The actions of a State Administrative Agency/Officer are often contrary to or detrimental to the interests of the community. Conflicts between the decisions of state administrative officials and the interests of individual communities often occur in the life of the nation and state.

Legal actions of State Administrative Agencies/Officials are outlined in the form of written Decrees, in order to carry out government duties. On the one hand, the decision is taken on the basis of the authority granted, but on the other hand, the implementation of the decision should not reduce the rights of citizens.¹¹

In this chapter, it focuses on two things, first, the Judge's Legal Considerations in PTUN Decision Number: 214/G/2022/PTUN. PLG in the case of the Decree of the Chairman of KONI South Sumatra Province Number: 189 of 2022 concerning the Inauguration of the Personnel Composition of the Protective Council, Board of Trustees, Honorary Board and Management of KONI Musi Banyuasin Regency for the 2022-2026 Service Period, May 20, 2022. Second, dated Legal Implications of the State Administrative Court Decision Number: 214/G/2022/PTUN. PLG.

1. Object of the Lawsuit

- a) That the object of the lawsuit in thea quo case is the Decree of the general chairman of KONI of South Sumatra Province Number: 189 of 2022 concerning the Inauguration of the Personnel Composition of the Protective Board, Board of Trustees, Honorary Board and Management of KONI Musi Banyuasin Regency for the 2022-2026 Service Period, May 20 2022;
- b) That in accordance with Article 1
 number 9 of Law of the Republic of
 Indonesia Number: 51 of 2009
 concerning the Second Amendment to

¹¹*Ibid*, p. 341.

¹⁰Hanif Nurcholis, *Theory and Practice of Government and Regional Autonomy*, Jakarta, Grasindo Cet 11, 2007, p. 340.

Law Number 5 of 1986 concerning State Administrative Courts, what is meant by State Administrative Decree is a written determination issued by an agency or state administration official which contains state administration legal actions based on applicable laws and regulations, which are concrete, individual and final in nature, which give rise to legal consequences for a person or civil legal entity.

- 2. Authority of the State Administrative Court
 - a) That sports management at the provincial level in South Sumatra is carried out by the South Sumatra Provincial government with assistance from the South Sumatra Provincial Sports Committee, (as explained in Article 37 paragraph (1) of Law of the Republic of Indonesia Number 3 of 2005 concerning the National Sports System). Article 37 paragraph (1): "sports management at the provincial level is carried out by the provincial government with assistance from the provincial sports committee";
 - b) Whereas the source of funding for the South Sumatra Province Indonesian National Sports Committee (KONI) comes from the APBN and APBD (as explained in Article 5 paragraphs (1) and (2) Government Regulation Number 18 of 2007 concerning Sports Funding). Article 5 paragraph (1): "The source of sports funding from the

Government comes from the State Revenue and Expenditure Budget"; Article 5 paragraph (2): "The source of sports funding from regional governments comes from the Regional Revenue and Expenditure Budget";

- c) That the object of the a quo lawsuit is one issued by a state administrative body or official so that the Palembang Administrative Court is tasked with deciding and resolving the a quo lawsuit at the first level (as explained in Articles 47, 50, Law of the Republic of Number: 5 of Indonesia 1986 concerning State Administrative Court), which reads: Article 47: "The court has the duty and authority to examine, decide and resolve State Administration disputes"; Article 50: "The State Administrative Court has the duty and authority to examine, decide and resolve State Administrative disputes at the first level";
- d) Whereas the Defendant is legally domiciled at Jalan Jendral Sudirman, Number 1048, Tel/Fax (0711) 356358 310313 Palembang, then the a quo lawsuit is filed with the Palembang Administrative Court (as explained in Article 54 paragraph (1) of Law of the Republic of Indonesia Number: 5 of 1986 concerning State Administrative Courts), which reads: Article 54

paragraph (1): "State Administrative dispute lawsuits are submitted to the competent Court whose jurisdiction includes the Defendant's domicile":

- That the Plaintiff e) has made administrative efforts. but the Defendant did not respond to the Plaintiff's administrative efforts so that the Plaintiff filed a lawsuit a quo at the Palembang Administrative Court with authority (as explained in Article 2 paragraph (1) of the Regulation of the Supreme Court of the Republic of 6 Indonesia Number of 2018 concerning Guidelines Settlement of Government Administrative Disputes after taking Administrative Efforts), which reads: Article 2 paragraph (1): "The court has the authority to receive, examine, decide and resolve government administrative disputes after taking administrative measures";
- f) That unlawful acts by government bodies and/or officials (Onrechtmatige Overheidsdaad) are government acts and therefore fall under the authority of the State administrative judiciary.
- g) Based on the description above, the object of thea quo lawsuit is the authority of the Palembang State Administrative Court to examine, decide and resolve a quo case;

Judge's Consideration of the Decree of the General Chairperson of KONI, South Sumatra Province Number: 189 of 2022 in Decision Number: 214/G/2022/PTUN.PLG.

In accordance with the principles of administrative law, a State Administrative Decree issued/issued by a State Administrative Agency/Official must not contain any juridical defects in terms of substantive formal-material procedural and authority and must not violate the General Principles of Good Government (AAUPB).

In the findings of the panel of judges, the Defendant has issued a Decree from the General Chairperson of the South Sumatra Province KONI Number: 189 of 2022 concerning the Inauguration of the Personnel Composition of the Protective Board, Board of Trustees, Honorary Board, and KONI Management of Musi Banyuasin Regency for the 2022-2026 Service Period on May 20 2022 which was signed by the General Chairperson of KONI South Sumatra Province.

Based on tests carried out on the legality of decisions on the Object of Dispute according to the official explanation of Article 53 paragraph (2) of Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning Administrative Justice which includes procedures, administration and substance. The panel of judges in determining the authority to judge and absolute competence, the Court refers to the provisions of Article 47 and Article 50 of Law Number 5 1986 concerning State Administrative of

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Courts in conjunction with Article 1 number 10 of Law Number 51 of 2009 concerning the Second Amendment to the Law Number 5 of 1986 concerning the State Administrative Court, which basically regulates that the State Administrative Court has the authority to examine, decide and resolve disputes arising in the field of state administration between individuals or civil legal entities and state administrative bodies or officials both at the central as well as in the regions, as a result of the issuance of state administrative decisions including employment disputes based on applicable laws and regulations.

Based on an examination of the facts and legal considerations above, the Panel of Judges is of the opinion that the main issue in this case is the Plaintiff's demand to declare the object of the dispute null and void, which after the Court has examined the object of the dispute has fulfilled the elements of an Administrative Decision. State or Government Administrative Decree, because it is a written determination in the form of a Decree issued by the Defendant, namely KONI of South Sumatra Province, which contains state administrative legal actions in the form of Confirmation of the Personnel Composition of the Protective Board, Board of Trustees, Honorary Board and Management of KONI Musi Banyuasin Regency Service Period 2022 -2026, which is concrete, individual for and on behalf of Defendant II Intervention, and is final because it no longer requires approval, either from superior agencies or other agencies, and has

given rise to legal consequences for the Plaintiff and Defendant II Intervention, then the The basis of the lawsuit, the test tools and the Court's assessment are statutory provisions and the General Principles of Good Governance in terms of authority, procedures and substance of publishing the object of the dispute, so that the Court concludes that this dispute is included in the State Administration dispute.

The Court looked at the Plaintiff's lawsuit, and from the answers of the Defendant and Defendant II, it was discovered that the a quo dispute was a sports dispute, where sports disputes are regulated in Law Number 11 of 2022 concerning Sports which determines the following in essence:

- Settlement of sports disputes is sought through deliberation and consensus carried out by the parent sports organization.
- In the event that deliberation and consensus as intended in paragraph (1) are not achieved, the parties to the dispute shall make a written agreement regarding the dispute resolution that will be chosen.
- 3. Dispute resolution as intended in paragraph (2) is carried out through:
 - a. mediation;
 - b. conciliation; or
 - c. arbitration.
- 4. In the event that mediation and conciliation as referred to in paragraph

(3) letters a and b are chosen by the

parties to the dispute, the parties can request assistance from the Central Government and/or Regional Government to facilitate the mediation and conciliation process.

- 5. Dispute resolution as referred to in paragraph (3) letter c is carried out by 1 (one) Sports arbitration body which is independent and whose decision is final and binding, and is formed based on the Olympic charter.
- The Central Government facilitates the establishment of a sports arbitration body as intended in paragraph (5) in accordance with the provisions of statutory regulations.

Apart from that, in KONI's 2020 Articles of Association and Bylaws, especially Articles 41 paragraph (1) to. paragraph (4) which basically determines the following:

- KONI has the Indonesian Sports Arbitration Board, hereinafter abbreviated to BAORI, to resolve all sports disputes involving KONI and its members and staff;
- 2. Disputes referred to in article 41 (1) are disputes, demands, disagreements, differences in interpretation, violations of AD/ART and other regulations stipulated by KONI or Members, conflicts over dual management and/or any disputes involving sports and involving KONI and /or Members and/or their staff without exception

("Disputes") which cannot be resolved by deliberation to reach a consensus and/or internally within the organization can be resolved through BAORI;

- BAORI is tasked with examining and deciding every dispute, dispute and claim related to sports activities and involving KONI and/or its members and/or staff;
- 4. In carrying out its duties, BAORI is independent;

The panel of judges is of the view that the above regulations are special regulations for resolving sports disputes so that the Court will be guided by the provisions of these special regulations in resolving sports disputes in accordance with the stages of resolution and statutory regulations.

The panel of judges also considered that, during the examination, the Court did not find the fact that the Plaintiff before filing a lawsuit at the Palembang State Administrative Court had gone through all the stages regulated in Article 102 of Law Number 11 of 2022 concerning Sports in conjunction with Article 41 paragraph (1) of the Budget. KONI's 2020 Basics and Bylaws, so based on these legal facts, the Court concluded that the Plaintiff had not gone through all the stages regulated in Article 102 of Law Number 11 of 2022 concerning Sports in conjunction with Article 41 paragraph (1) of KONI's Articles of Association and Bylaws In 2020, therefore, the

State Administrative Court does not have absolute authority to accept, examine, decide and resolve this dispute and states that the exception of the Defendant and Defendant II's intervention regarding Absolute Competence is legally justified to be accepted. The panel of judges was of the opinion that because the Defendant's and Defendant II's exceptions regarding Absolute Competence were accepted, the other exceptions did not need to be considered further.

IV. CONCLUSION

Based on the research results and discussion in this thesis research, the author can conclude as follows:

1. In the Palembang PTUN decision in Number: case 214/G/2022/PTUN.PLG, the Panel of Judges is of the opinion that the main issue in this case is the Plaintiff's demand to declare the object of the dispute null and void, which after the Court examined the object of the dispute has fulfilled the following elements. an element of a State Administrative Decree or Government Administrative Decree, because it is a written determination in the form of a Decree issued by the Defendant, namely KONI of South Sumatra Province, which contains legal acts of state administration in the form of Confirmation of the Personnel Composition of the Protective Board, Board of Trustees, Honorary Council and KONI Management of Musi Regency Banyuasin Service Period 2022-2026, which is concrete. individual for and on behalf of Defendant II Intervention, and is final because it no longer requires approval, either from superior agencies or other agencies, and has given rise to legal consequences for the Plaintiff and Defendant II Intervention, then the basis for the lawsuit, the test tools and the Court's assessment are the statutory provisions and the General Principles of Good Governance in terms of authority, procedure and substance of publishing the object of the dispute, so that the Court concludes that this dispute is included in the State administration dispute.

2. The judge's basis for consideration in decision number: 214/G/2022/PTUN.PLG is that the a quo dispute is a sports dispute, where sports disputes are regulated in Law Number 11 of 2022 concerning Sports as contained in Article 102 and in the Articles of Association and KONI's 2020 Bylaws, especially Article 41 paragraph (1) to. paragraph (4). The panel of judges is of the view that the above regulations are special regulations for resolving sports disputes so that the Court will be guided by the provisions of these special regulations in resolving sports disputes in accordance with the stages of resolution and

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statutory regulations. The panel of judges also considered that, during the examination, the Court did not find the fact that the Plaintiff before filing a lawsuit at the Palembang State Administrative Court had gone through all the stages regulated in Article 102 of Law Number 11 of 2022 concerning Sports in conjunction with Article 41 paragraph (1) of the Budget. KONI's 2020 Basics and Bylaws, so based on these legal facts, the Court concluded that the Plaintiff had not gone through all the stages regulated in Article 102 of Law Number 11 of 2022 concerning Sports in conjunction with Article 41 paragraph (1) of KONI's Articles of Association and Bylaws In 2020, therefore, the State Administrative Court does not have absolute authority to accept, examine, decide and resolve this dispute and states that the exception of the Defendant and Defendant II's intervention regarding Absolute Competence is legally justified to be accepted. The panel of judges was of the opinion that because the Defendant's and Defendant II's exceptions Competence regarding Absolute were accepted, the other exceptions did not need to be considered further.

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