

## ABSTRAK

Setiap permohonan perselisihan hasil pemilihan kepala daerah yang diajukan ke Mahkamah Konstitusi harus memenuhi syarat-syarat prosedural yang ditentukan dalam undang-undang pemilihan kepala daerah dan peraturan Mahkamah Konstitusi yang berlaku. Salah satu syarat prosedural yang harus dipenuhi yaitu kewenangan Mahkamah Konstitusi untuk memeriksa, mengadili dan memutus permohonan perselisihan hasil pemilihan kepala daerah.

Objek permohonan dalam perkara permohonan perselisihan hasil pemilihan Bupati dan Wakil Bupati Kabupaten Halmahera Selatan, yaitu Surat Keputusan Komisi Pemilihan Umum Kabupaten Halmahera Selatan Tentang Penetapan Perolehan Perhitungan Suara Pemilihan Bupati dan Wakil Bupati Halmahera Selatan telah dibatalkan oleh Komisi Pemilihan Umum Provinsi Maluku Utara. Namun demikian, Hakim Mahkamah Konstitusi menyatakan bahwa Mahkamah tetap berwenang untuk mengadili permohonan perselisihan hasil pemilihan kepala daerah Kabupaten Halmahera Selatan, karena ada ketidakpastian hukum dalam perselisihan hasil pemilihan kepala daerah Kabupaten Halmahera Selatan.

Adapun pokok permasalahan dalam penelitian ini adalah bagaimana proses penyelesaian perselisihan hasil pemilihan kepala daerah di Kabupaten Halmahera Selatan tahun 2015 oleh Mahkamah Konstitusi? Dan bagaimana tinjauan yuridis kewenangan Mahkamah Konstitusi dalam perselisihan hasil Pemilihan kepala daerah Kabupaten Halmahera Selatan tahun 2015? Penelitian ini menggunakan metode penelitian normatif dengan pendekatan perundang-undangan dan pendekatan kasus.

Berdasarkan hasil analisis dapat disimpulkan, bahwa secara yuridis surat keputusan KPU Kabupaten Halmahera Selatan yang telah dibatalkan oleh KPU Provinsi Maluku Utara tidak mempunyai kekuatan hukum dan tidak bisa dijadikan objek permohonan perselisihan hasil pemilihan kepala daerah ke Mahkamah Konstitusi. Oleh sebab itu Mahkamah Konstitusi seharusnya tidak berwenang untuk mengadili permohonan perselisihan hasil pemilihan kepala daerah Kabupaten Halmahera Selatan.

Berdasarkan hasil penelitian disarankan, agar Undang-Undang tentang Pemilihan Gubernur, Bupati dan Walikota perlu direvisi khususnya terkait dengan ketentuan tentang objek permohonan perselisihan hasil pemilihan kepala daerah dan kewenangan KPU pusat dan/atau KPU Provinsi untuk membatalkan keputusan KPU Provinsi atau KPU Kabupaten tentang penetapan hasil pemilihan.

Kata Kunci: Kewenangan Mahkamah Konstitusi, Perselisihan Pilkada, Kabupaten Halmahera Selatan

## ABSTRACT

Each petition concerning the disputes about the results of the local elections submitted to the Constitutional Court must first meet the procedural requirements specified in the corresponding legislation concerning the local elections and the Constitutional Court. One of the primary procedural requirements that must be fulfilled concerns the authority of the Constitutional Court to examine, deliberates, and gives verdict on the disputes the results of the local elections brought before it.

The object for the petition in the case of the disputes concerning the results of the election of Regent and Vice Regent in Southern Halmahera Regency, namely the Decree of the General Election Commission of Southern Halmahera Regency on The Confirmation of Voting Results for The Election of Regent and Vice Regent of Southern Halmahera Regency has been canceled by the General Election Commission of Northern Mollucas Province. However, the Constitutional Court stated that it still retains its authority to adjudicate the disputes concerning the results of the local elections in Southern Halmahera Regency, because there is a legal uncertainty that arises during dispute concerning the results of the local elections in Southern Halmahera Regency.

The principal problem in this research is how the dispute resolution process for the results of the local elections in Southern Halmahera Regency in 2015 was conducted by the Constitutional Court? And how to juridically review the authority of the Constitutional Court to adjudicate the dispute over the results of the election of regional heads of Southern Halmahera Regency in 2015? This study uses normative research approach to legislation and case approach.

Based on the results of the analysis it can be concluded that, juridically, the decree of the General Election Commission of The Southern Halmahera Regency, that has since been canceled by the General Election Commission of Northern Mollucas Province should be considered does not have legal binding force, and as such it can not be a legal object in the petition that disputes the results of a local elections to the Constitutional Court. Therefore, the Constitutional Court does not have the authority to deliberate on the petition that disputes the results of the local elections in The Southern Halmahera Regency .

Based on the results of the study, it can be suggested that, the Law on the Election of Governors, Regents and Mayors need to be revised, especially the clauses concerning the provision of the object of the petition that disputes the results of a local elections and the authority of the National and/or Provincial Election Commission to override the decision of the Provincial or Regency Election Commission concerning the confirmation of election results.

Keywords : Constitutional Court's Authority, Dispute on Local Election Results, Southern Halmahera Regency.