

ANALYSIS OF THE LEGAL CONSIDERATIONS OF THE DECISION OF THE INFORMATION COMMISSION IN PUBLIC INFORMATION DISPUTES (Study of Decision Number 010/VI/KIPROV-LPG-PS/2024)

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Abstract

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The Information Commission serves as a quasi-judicial tribunal authorized to examine and adjudicate public information disputes through non-litigation administrative mechanisms. This study analyzes the jurisdiction of the Lampung Province Information Commission in Decision No. 010/VI/KIPROV-LPG-PS/2024 and evaluates whether its legal reasoning reflects the principles of legal certainty, substantive justice, and legal utility. The research employed a normative juridical (doctrinal) method supported by empirical observations, using primary and secondary legal materials analyzed through statutory, case, and conceptual approaches. The findings demonstrate that the Lampung Province Information Commission possessed both subject-matter and territorial jurisdiction to adjudicate the dispute. Nevertheless, although the statutory filing period was generally applied correctly, the decision failed to explain transparently the method used to calculate statutory deadlines and working days. From the perspective of justice, the rejection of the Applicant's legal standing based on the purpose of the information request and minor administrative address discrepancies reflects an overly formalistic approach that undermines substantive justice by preventing a consequence test of the requested information. In terms of legal utility, the decision provides procedural certainty but does not adequately promote transparency and public oversight of regional financial management. Therefore, clearer procedural standards, consistent consequence testing, and refined legal standing criteria are required to strengthen public information dispute resolution.

INTRODUCTION

The Republic of Indonesia is a state of law as affirmed in Article 1 paragraph (3) of the Constitution of the Republic of Indonesia of 1945. This means that all aspects of

the life of the nation and state must be based on the applicable law, as well as uphold the principles of justice, legal certainty and the protection of human rights. As a state of law, the administration of government must be carried out based on the principles of the rule of law, democracy, and respect for human rights(Jainah et al., 2020).

In the context of the state of law, the disclosure of public information is an integral part of efforts to guarantee the rights of citizens(Shelley, 1995). The right to obtain information is one of the basic rights that must be fulfilled by the State, because information has an important role in supporting public participation, supervision of the government, and making appropriate decisions(Dimyati et al., 2021).

In line with this principle, the State through Law Number 14 of 2008 provides guarantees to every citizen to access public information(Suharto, 2020). With this regulation, it is hoped that a balance will be created between government power and the rights of the community, so that there is no abuse of authority(Akmal, 2023). However, in practice, there are still various obstacles in the application of the principle of the State of Law, especially related to the disclosure of public information. Therefore, it is important to continue to encourage effective legal implementation so that the principles of transparency and accountability can be realized in real terms in the administration of government(Oliinyk et al., 2022).

Public information disclosure is one of the fundamental principles in the implementation of a democratic state of law(Abidin et al., 2023). This principle is closely related to the fulfillment of human rights, especially the right to information, which is an important part of realizing a transparent, accountable, and participatory government(Muallidin et al., 2022). In the context of the modern state, information disclosure not only serves as a means of fulfilling the rights of citizens, but also as an instrument of social control over the administration of government(Majid et al., 2018).

The right to obtain information is part of the human rights recognized in Article 28F of the Constitution of the Republic of Indonesia of 1945 which states that everyone has the right to communicate and obtain information in order to develop their personal and social environment, and has the right to seek, obtain, possess, store, process, and convey information using all types of available channels(Donnely, 2020). This provision shows that information disclosure is an important element in the life of the nation and state(Othman & Idris, 2016).

As an implementation of the constitutional mandate, the government stipulated Law Number 14 of 2008 concerning Public Information Disclosure which aims to ensure the right of citizens to know the public policy-making process, encourage public participation, realize transparent state administration, and improve information management and services within public bodies. This law emphasizes that basically every public information is open and accessible to every user of public information, except for information that is excluded according to the provisions of laws and regulations(Singer, 2008).

In practice, the implementation of public information disclosure still faces various obstacles. Not a few public bodies have not fully implemented their obligations to provide information quickly, on time, at a low cost, and simply. In addition, there are often rejections of requests for information, delays in providing information, and incomplete information. Such conditions give rise to public information disputes between the information requester and public bodies.

To resolve these disputes, the Information Commission was established as an independent institution that functions to implement the Public Information Disclosure Law and its implementing regulations, establish technical guidelines for public information service standards, and resolve public information disputes through mediation and/or non-litigation adjudication. In carrying out the function of non-litigation adjudication, the Information Commission has the authority to assess the facts, interpret legal provisions and make decisions that are binding on the parties.

In exercising its authority, the Information Commission has a quasi-judicial role because it is authorized to examine, adjudicate, and decide public information disputes. Therefore, every decision produced must be based on strong, logical legal considerations, and in accordance with the provisions of laws and regulations. Legal considerations are a very important part of a decision because it is the basis for the argument that explains why a decision is taken.

However, in practice, various problems are still found related to the quality of legal considerations in the decision of the Information Commission. Some decisions show that there are legal considerations that are less systematic, less in-depth, and have not fully integrated legal principles such as legal certainty, justice, and public information disclosure. This has the potential to cause legal uncertainty and difficulties in the implementation of the decision by the parties.

In addition, the determination of the status of information as open or excluded information is also often the main problem in public information disputes. In this case, an in-depth analysis is required through a consequence test as stipulated in the Public Information Disclosure Law. However, in practice, not all decisions clearly outline the consequence test process in their legal considerations.

The settlement of public information disputes is the process of resolving disputes between information requesters and public bodies related to the right to obtain information. This dispute usually occurs when a request for information is denied, not responded to, or not properly provided by a public body. In Indonesia, the mechanism for resolving public information disputes is regulated in Law Number 14 of 2008. The law explains that every citizen has the right to file an objection and resolve disputes if the right to information is not fulfilled.

The first step that can be taken by the information applicant is to file an objection to the superiors of the Information and Documentation Management Officer (PPID) at the relevant public body. This objection is filed if the request for information is rejected, the information is not provided, the request is not responded to, the fee charged is not reasonable and the information provided is not in accordance with the request.

If the objection does not receive a satisfactory response, the applicant can submit a dispute to the Information Commission. The Information Commission is authorized to resolve disputes through Mediation, which is a peaceful settlement or a non-litigation file, which is a decision of the Information Commission.

If one of the parties does not accept the decision of the Information Commission, it can file a lawsuit to the State Administrative Court (PTUN) for government public bodies and to the District Court for non-governmental public bodies.

As a last resort, parties who are dissatisfied with the court's decision can file an appeal to the Supreme Court of the Republic of Indonesia.

However, in the practice of resolving public information disputes, the Legal Considerations of the Information Commission are often a concern, especially related to

the suitability between the legal basis, the facts of the trial and the verdict. Inappropriate or less comprehensive legal considerations have the potential to cause legal uncertainty, objections from the parties, and even the filing of a lawsuit to the court.

In this study, the legal facts analyzed are the basis for the legal considerations of the panel of commissioners, the application of provisions in Law Number 14 of 2008, the application of the Central Information Commission Regulation on Public Information Dispute Resolution Procedures, Assessment of the status of public information, and the conformity of the decision with the principles of legal certainty, justice and utility.

One of the interesting cases to be studied is Decision Number 010/VI/KIPROV-LPG-PS/2024. This decision is related to a public information dispute decided by the Lampung Provincial Information Commission. The case is important to study because it contains legal considerations regarding the position of the parties, the absolute authority of the Information Commission, the status of the information requested, and the obligations of public bodies in fulfilling the right of access to public information.

In decision Number 010/VI/KIPROV-LPG-PS/2024, the Lampung Provincial Information Commission decided on a public information dispute between the information applicant and a public body after going through the stages of examining the authority, legal standing of the parties, and the substance of the information requested. The decision contains legal considerations regarding whether the requested information is included in information that must be disclosed to the public in accordance with Law Number 14 of 2008 concerning Public Information Disclosure. These legal considerations are the main legal facts that are analyzed to assess their conformity with laws and regulations and the principle of legal certainty.

It is important to analyze this decision to find out whether the legal considerations used are in accordance with the provisions of Law Number 14 of 2008, as well as whether they reflect the principles of legal certainty, justice, and public information disclosure. In addition, this research also aims to identify weaknesses and strengths in the legal considerations used, so that it can contribute to improving the quality of judgments in the future.

Based on this description, there is a gap between normative provisions regarding public information disclosure and the practice of resolving public information disputes, especially in terms of legal considerations of decisions. This gap is an important basis for the author to conduct further research.

Thus, this research is important to be carried out in order to provide a juridical analysis of legal considerations in Decision Number 010/VI/KIPROV-LPG-PS/2024, so that it can contribute to the development of legal science and improve the practice of resolving public information disputes in Indonesia

RESEARCH METHODS

This study uses normative juridical approaches and empirical juridical approaches. The normative juridical approach is used as the main approach by examining laws and regulations, legal principles, legal theories, and decisions that are the object of research, namely the Decision of the Lampung Provincial Information Commission Number 010/VI/KIPROV-LPG-PS/2024. The analysis is carried out through a statute *approach*, a *case approach*, and a *conceptual approach* to assess the authority of the Information Commission and the suitability of *legal reasoning* in the decision with the principles of legal certainty, justice, and legal utility.

The empirical juridical approach is used as a complement to obtain primary data on the application of the Information Commission's legal considerations in practice. Empirical data was obtained through interviews with parties related to the resolution of public information disputes. All data, both legal materials and field data, are analyzed qualitatively to provide a comprehensive understanding of the authority of the Information Commission and the quality of legal considerations in resolving public information disputes.

RESULTS AND DISCUSSION

The results of the study show that the authority of the Lampung Provincial Information Commission in examining and deciding Public Information Disputes based on Decision Number 010/VI/KIPROV-LPG-PS/2024 has fulfilled the elements of authority as per Philipus M. Hadjon's theory, namely authority based on substance (*ratione materiae*), territory (*ratione loci*), and time (*ratione temporis*). These three aspects are indicators to assess the legality of the actions of the Information Commission as a *quasi-judicial institution* in carrying out the function of non-litigation adjudication of public information disputes.

From the aspect of *ratione materiae*, the Lampung Provincial Information Commission has absolute competence to examine and decide public information disputes based on Article 26 paragraph (1) of Law Number 14 of 2008 concerning Public Information Disclosure. The object of the dispute in the form of information regarding regional financial management requested to the Regional Financial and Asset Management Agency of Pesawaran Regency is information that falls within the scope of the authority of the Information Commission. Therefore, the examination of the case by the Board of Commissioners is in accordance with the basis of the attribution of authority given by law.

Relative authority (*ratione loci*) has also been fulfilled because Pesawaran Regency does not yet have an independent District Information Commission. Based on the institutional structure regulated in the Public Information Disclosure Law, the authority to resolve public information disputes in the area is legally exercised by the Lampung Provincial Information Commission. Thus, there is no defect in authority from the territorial aspect so that the examination of the case has fulfilled the principle of relative competence in state administrative law.

The aspect of time authority (*ratione temporis*) is the main basis for the Panel of Commissioners to make a decision not to accept the application because it is considered to have exceeded the grace period for submitting a dispute as stipulated in Article 35 paragraph (1) of the Public Information Disclosure Law. Normatively, the application of the time limit provisions is in accordance with positive law because the application is submitted far beyond the specified time period. However, the decision has not explained in detail the method of calculating the working days used, so it still leaves room for legal uncertainty in the procedural aspect.

The lack of explanation of the method of calculating working days shows that the quality of *legal reasoning* has not fully met the principle of legal certainty. As an institution that performs a *quasi-judicial function*, the Information Commission should explicitly explain the basis for calculating deadlines, including the effect of national holidays and collective leave on the deadline for submitting disputes. The transparency of the calculation method is important to ensure the predictability of the decision and

prevent differences in interpretation in the future.

The research also found that legal considerations regarding the Applicant's *legal standing* were one of the main reasons for not accepting the application. The Board of Commissioners is of the opinion that the purpose of requesting information to complete the report of alleged corruption crimes is not in accordance with the normative objectives of the Public Information Disclosure Law. These considerations raise juridical problems because Article 4 paragraph (3) of the Public Information Disclosure Law gives everyone the right to request public information with or without stating the reason for their request.

From the perspective of the principle *of maximum access, limited exemption*, the subjective motive of the applicant should not be used as a condition to determine the existence or absence of legal standing. Interpretations that make the purpose of the application as the basis for aborting legal *standing* have the potential to add new requirements that are not regulated in the law (*extra legem*). This condition can reduce the guarantee of protection for the public's right to obtain public information as part of the principle of open government.

On the other hand, the Board of Commissioners also considered that the request for information was submitted to the Head of BPKAD, not to the Main PPID of Pesawaran Regency. Administratively, these provisions must be complied with. However, based on the General Principles of Good Governance, in particular the principles of good service and the principle of prudence, public bodies should forward applications to the competent authorities without imposing all administrative consequences on the applicant.

The fact that the Head of BPKAD continues to provide a substantive response to the request for information shows an implicit acknowledgment of the existence of the request. Therefore, the use of administrative errors regarding the address of the application as a reason to abort the Applicant's legal standing creates a disharmony between procedural legal certainty and substantive justice. Such an approach has the potential to reduce the protection of the constitutional rights of the public in obtaining public information.

Due to the non-fulfillment of the formal requirements, the Board of Commissioners did not continue the examination of the subject matter of the dispute regarding the status of the information requested. From the point of view of procedural law, this approach is in accordance with the principle of gradual examination, which is that formal requirements must be met before the material examination is carried out. However, the consequence of this approach is that the substance of disputes over information disclosure has never received a thorough legal assessment.

The research found that the information requested was related to the management of regional finances which were excluded based on the Decree of the Regent of Pesawaran. However, this exception has not been supported by the implementation *of the consequence test* which is carried out in writing and periodically as required in the Public Information Disclosure Law. This condition shows that the practice of information exclusion is still oriented towards general administrative decisions without being supported by a concrete assessment of the impact of information disclosure.

The absence of a material test of the status of the information raises the risk that the public body may take refuge behind the procedural weaknesses of the applicant without ever being tested whether the denial of the information is really legal under the law. If this condition continues, the function of public supervision over the administration

of government has the potential to be weakened, so that the main goal of the Public Information Disclosure Law to create a transparent government is not optimally achieved.

An analysis based on Gustav Radbruch's theory of legal objectives shows that this ruling has met the value of legal certainty because the Assembly has consistently applied provisions regarding deadlines and procedures for filing disputes. However, this legal certainty has not been fully supported by transparent arguments regarding the method of calculating working days, so there is still room to strengthen the quality of *legal reasoning* of decisions.

From the aspect of justice, the verdict emphasizes procedural justice rather than substantive justice. The rejection of the application due to *legal standing* reasons and administrative errors caused the substance of the information requested to have never been tested, even though the information was related to the supervision of regional financial management. Such a legalistic approach has the potential to reduce the protection of the public's right to public information and is less in line with the philosophical goal of information disclosure.

From the aspect of legal utility, the decision provides benefits in the form of certainty regarding the procedures and deadlines for resolving public information disputes. However, these benefits are still limited because they have not made an optimal contribution to increasing transparency and accountability in regional financial management. Therefore, the quality of the Information Commission's legal considerations needs to be strengthened through more comprehensive argumentation, transparency in the calculation of deadlines, and a more balanced emphasis between legal certainty, substantive justice, and legal usefulness so that the goal of public information disclosure can be realized more effectively.

CONCLUSION

The Lampung Provincial Information Commission has the legal authority to examine and decide Public Information Disputes based on Decision Number 010/VI/KIPROV-LPG-PS/2024, both from the aspects of absolute authority (*ratione materiae*), relative authority (*ratione loci*), and time authority (*ratione temporis*). The application of the provisions regarding the deadline for submitting disputes is in accordance with Law Number 14 of 2008 concerning Public Information Disclosure, but the legal considerations of the Panel of Commissioners have not transparently described the method of calculating working days so that there is still room for legal uncertainty. From the perspective of legal objectives, the consideration of the Applicant's legal standing based on the motive for the information request and administrative errors in the submission of the application shows an approach that emphasizes formal-procedural aspects rather than substantive justice. As a result, the examination does not continue with the material testing of the status of the information requested, including the implementation of consequence tests as required in the Public Information Disclosure Law. Although the decision provides procedural certainty, the value of its benefits is not optimal because it has not been able to support transparency and public supervision of regional financial management.

The Lampung Provincial Information Commission needs to strengthen the quality of *legal reasoning* by explicitly outlining the method of calculating deadlines and working days in each decision in order to increase legal certainty and consistency in the application of the procedural law on public information disputes. In addition, the Regional Financial

and Asset Management Agency (BPKAD) and the Information and Documentation Management Officer (PPID) need to implement a written, periodic, and case-based consequence test mechanism before designating information as excluded information. In addition, policymakers need to improve the provisions regarding the applicant's legal position in the Information Commission Regulation so as not to give rise to different interpretations regarding the relevance of the purpose of the information request, so that the balance between legal certainty, substantive justice, and legal usefulness in resolving public information disputes can be realized more optimally.

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