

THE ROLE OF STATE ADMINISTRATIVE COURTS AS A MEANS OF ACCESS FOR THE PUBLIC TO OBTAIN JUSTICE IN STATE ADMINISTRATION MATTERS

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ABSTRACT

*The existence of state administrative courts, the problem that arises is the implementation of the function of state administrative courts which are designed to provide legal certainty for the community against policies that cause losses to others, but from this purpose of course the implementation of its functions is not always successful, there are still aspirations and perceptions related to justice that must be obtained by the community. As for the background above, the author presents several problem formulations, including. How is the function of state administrative courts as one of the accesses for citizens to obtain justice in cases related to state administration in Denpasar. What is the mechanism for plaintiffs (the community) to obtain justice in state administrative cases. The purpose of this study is to provide legal protection for the people as seekers of justice for arbitrary government actions and to understand the mechanism for plaintiffs (the community) to obtain justice in state administrative cases. This study uses an Empirical research type where Empirical Legal Research is research that focuses on the behavior of the legal community (law in action), empirical legal research is research that examines the inconsistency or gap between *dassollen* and *das sein*. The function of the state administrative court as one of the accesses for citizens to obtain justice in cases related to state administration in Denpasar is to regulate various interests of the state and society without neglecting its basic principle, namely to achieve justice. The mechanism for plaintiffs (society) to obtain justice in state administrative cases is for plaintiffs (society) with the reality of the failure of the PTUN system, giving rise to feedback, in the form of a lack of trust of justice seekers, to the access to justice offered.*

Keywords: Justice, Case, State Administration

1. INTRODUCTION

The State Administrative Court was established in order to demonstrate the government's determination to realize the protection of human rights and citizens' rights from government actions in the administrative field. The legal basis for the establishment of the State Administrative Court is Law Number 5 of 1986. The law has effectively come into force since the issuance of Government Regulation Number 7 of 1991 concerning the Implementation of Law Number 5 of 1986 in January 1991.

The idea behind the establishment of the State Administrative Court was to resolve disputes between the government and its citizens and the establishment of this institution aimed to legally control (judicial control) government actions that were deemed to violate administrative provisions (maladministration) or acts that were contrary to the law (abuse of power).

The term "Rule of Law", it turns out that there are differences in the use of terms among constitutional experts. Experts in Western Europe (Continental) such as Immanuel Kant and FJ Stahl use the term "Rechtsstaat", while AV Dicey uses the term "Rule Of Law". Both terms can formally have the same meaning, namely a state of law, but materially have different meanings caused by the historical background

and outlook on life of a nation. AV Dicey puts forward three meanings of "the rule of law", namely first, the supremacy of law; second, equality before the law; third, the guarantee of human rights in the Constitution. As for "rechtsstaat" according to FJ Stahl, it has the following elements: first, recognition and protection of human rights; second; separation and division of state powers (trias politica); third, government based on law (wetmatig bestuur); fourth, the existence of state administrative courts (PTUN) (Philipus M Hadjon:1987:80).

Given this reality, it can be understood that the existence of state administrative courts (PTUN) is necessary, as one of the channels for justice seekers who feel that their interests have been harmed because in exercising their powers, the state administrative agency or official concerned has been proven to have violated legal provisions (Manika, AS, & Citrawati,:2024:10-20).

In Indonesia, the state administrative court is known as the state administrative court as regulated in Law Number 5 of 1986 in conjunction with Law Number 9 of 2004. Based on Article 24 paragraph (3) of the Third Amendment to the 1945 Constitution which was ratified on November 10, 2001 in conjunction with Article 10 paragraph (2) of Law Number 4 of 2004 concerning Judicial Power, there are 4 levels of judicial institutions, namely: General Courts, Religious Courts, Military Courts, and State Administrative Courts. Each of these institutions has its own authority and function, so that these judicial institutions have absolute competences that differ from one another.

The form of implementation of government affairs can be in the form of material actions and various legal actions in the form of state administrative law decisions. The State Administrative Court plays a very important role in carrying out the control function of the actions of state administrative bodies or officials so that they do not act beyond their authority (Ali Abdullah:2014:5).

The absolute authority or competence of the State Administrative Court based on Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts only concerns state administrative decisions as referred to in Article 1 number 9 of Law Number 51 of 2009, namely in the form of: A written determination issued by a state administrative body or official containing state administrative legal actions based on applicable laws and regulations, which are concrete, individual and final, which have legal consequences for a person or civil legal entity.

The State Administrative Court (Peratun) as one of the judicial environments that aims to provide legal protection for the people as justice seekers against arbitrary government actions. Meanwhile, the function of the State Administrative Court is to supervise the actions of the government or state administration, so that in carrying out its functions it is always in line with the law, so as not to harm the rights of the people. The existence of this State Administrative Court is a step to deal with the possibility of conflict or dispute. The elaboration of the meaning of legal protection for its people by the State Administrative Court, one of which is the convenience in the form of Legal Aid Post (Posbakum) services (Fauzi, SI, & Ningtyas:2018:50-71).

Meanwhile, from the existence of administrative courts, the problem that arises is the implementation of the function of state administrative courts which are designed with the aim of providing legal certainty for the community regarding policies that cause losses to others, but from this aim, of course, the implementation of its function is not always successful, there are still aspirations and perceptions related to justice that must be obtained by the community.

Based on the background above, the author raises two problem formulations: How is the role of state administrative courts as one of the public's accesses to obtain justice in cases related to state administration, and what is the mechanism for plaintiffs (the public) to obtain justice in state administration cases. The purpose of this study is to provide legal protection for the people as justice seekers against arbitrary government actions and to understand the mechanism for plaintiffs (the public) to obtain justice in state administration cases.

2. RESEARCH METHODOLOGY

Type of research used The type of research used in this study is a type of normative legal research by examining norms in a regulation, and using primary legal materials in the form of regulations, and secondary legal materials in the form of journals and articles. The nature of this research is descriptive, Types of data are primary data, secondary data, Data Collection Techniques are library data techniques and field data collection and documentation, Qualitative data management and analysis techniques.

3. LITERATURE REVIEW

The previous journal writing related to the writing of this journal includes a journal entitled The Role of State Administrative Courts in Creating Good Governance Reviewed from the Perspective of State Administrative Law, by Wirda Eka Putri, Rahmat, and Junindra Martua, Faculty of Law, Asahan University. In addition, there is also a journal entitled Execution of Decisions of the State Administrative Court Which Have Permanent Legal Force, by Mohammad Afifudin Soleh, Faculty of Law, University of 17 August 1945, Surabaya.

4. RESULTS AND DISCUSSION

4.1 The Function of the State Administrative Court as a Way for Citizens to Obtain Justice in Cases Related to State Administration in Denpasar

The State Administrative Court (PTUN) is a judicial institution in Indonesia that functions to resolve disputes between citizens (society) and officials or state administrative bodies regarding decisions or actions in the realm of state administration. PTUN has an important role in maintaining and ensuring the creation of a transparent, accountable, and legally compliant government. The following are the main functions of the State Administrative Court:

a) Protecting Citizens' Rights

In the context of a state of law, the existence of the PTUN is proof of a commitment to protecting individual rights. The PTUN provides space for citizens to fight for their rights through a fair and transparent legal process. This is in line with the principle that all government actions must be based on law (Ilham, AN:2022:4507-4522). PTUN provides legal protection for citizens who feel aggrieved by the decisions or actions of state administrative officials. If a person or legal entity feels that their rights have been violated due to a State Administrative (TUN) decision, they can file a lawsuit with PTUN to request legal protection or cancellation of the decision.

b) Carrying out supervision of state administrative actions

Supervision of state administrative actions is an important aspect in ensuring that government decisions and actions are in accordance with the law and the principles of good governance. The State Administrative Court (PTUN) has a central role in this oversight function. Here are some key points regarding the supervision carried out by the PTUN. The PTUN acts as an institution that carries out legal control over government administrative actions. This includes Legality Test: PTUN tests the authority, procedure, and substance of state administrative decisions to ensure that the action does not violate the law (Philipus M Hadjon:1987:80). And Cancellation of Decisions: Citizens who feel aggrieved can file a lawsuit to cancel administrative decisions that are considered unlawful.

MThe PTUN supervision model continues to develop along with regulatory changes, such as the enactment of Law No. 30 of 2014 concerning State Administration. This model includes: Abuse of Authority: The PTUN has the authority to decide whether there has been abuse of authority by public officials, and Expansion of Objects of Dispute: There are efforts to expand the scope of disputes that can be examined by the PTUN, so that more cases can be handled effectively. Overall, supervision of state administrative actions through the PTUN is a crucial element in maintaining the integrity of government and protecting citizens' rights.

c) As a vehicle for realizing transparent and accountable governance

PTUN has an important role in creating a transparent and accountable government through the function of legal control and administrative dispute resolution. With the existence of PTUN, the government is required to be more careful in making decisions. This contributes to increased accountability because state administrative officials must be held accountable for their actions before the law, especially if the actions violate regulations. In addition, PTUN can impose sanctions on officials who abuse their power, thus encouraging more responsible behavior in decision making (Silalahi, SNS, Kornelis, Y., & Zukriadi:2024:1-10).

PTUN also plays a role in encouraging transparency in government decision-making, where the PTUN process requires the government to provide reasons and evidence underlying administrative decisions, so that the public can understand the basis of each decision. With the existence of a complaint mechanism at PTUN, the public is encouraged to be actively involved in the administrative process and demand their rights, creating a more open environment (Akbar, MK:2021:16). Overall, the PTUN plays a key role in realizing transparent and accountable governance through supervision of state administrative actions and protection of citizens' rights.

d) Resolving State Administrative Disputes

PTUN has the authority to examine, decide, and resolve disputes arising from administrative decisions issued by the government, both at the central and regional levels. PTUN handles disputes related to decisions or actions taken by state administrative officials, including decisions that are considered detrimental to individuals or legal entities. PTUN also has the authority to resolve disputes related to personnel issues in accordance with applicable laws and regulations (Ibrahim, MA, Rahman, GP, & Syahuri:2024:45-55).

Dispute Resolution Process, PTUN provides two paths for resolving TUN disputes, namely through Administrative Efforts where before filing a lawsuit with PTUN, the aggrieved party can make administrative efforts to resolve the problem internally. If administrative efforts are unsuccessful, the party can file a lawsuit with PTUN to obtain a legal decision (Safitri, ED, & Sa'adah, N.:2021:34-35). The main function of the PTUN is to resolve disputes arising from State Administrative Decision (KTUN) or administrative action. KTUN is a written decision issued by an official or state administrative agency that is concrete, individual, and final, and has legal consequences for a person or a legal entity. Disputes that can be submitted to the PTUN are usually related to administrative decisions issued by state agencies or officials, such as decisions in the field of licensing, appointment or dismissal of office, and other administrative decisions that affect the rights of individuals or groups. The PTUN plays a central role in resolving state administrative disputes by providing legal protection to citizens and encouraging transparency and accountability in government.

The function of the State Administrative Court as one of the public's accesses to obtain justice in cases related to State Administration in Denpasar cannot carry out its function optimally due to several obstacles, namely:

- 1) Inadequacy of the case acceptance subsystem, where in the case acceptance subsystem there is a failure of the PTUN system function in carrying out its role as access to justice caused by several factors, namely: due to the unclear meaning of several terms, to determine which cases fall within the competence of the PTUN and the unclear meaning of several legal terms, as well as measurements that directly affect the PTUN mechanism (Prasetyo, E). Inadequacy of the Case Management Subsystem where the failure of the PTUN system function in carrying out its role as access to justice, is caused by several factors, namely, the absence of supporting instruments for a summary justice system, resulting in failure to attempt to handle cases quickly or briefly, injustice in imposing sanctions on the disputing parties, the absence of a peace mechanism, in resolving disputes between the parties, limitations on the value of compensation, causing the sense of justice from the party seeking justice not to be accommodated, the content of the decision is not sharp, resulting in problems in the implementation of the decision, unclear understanding of legal terms, and unclear duties of the bailiff.
- 2) The inability of the PTUN Decision and Implementation Subsystem where several factors were found to be the cause of the failure of the PTUN system function, namely: There is no effective coercive instrument, causing uncertainty in the implementation of decisions and the absence of regulations in the PTUN decision implementation system, which provides a solution, if there is a change in legal conditions after the decision is rendered (Huroiroh, E., Sushanty, VR, & Roychan, W.:2022:50-76). Weak support from the Principles of State Administrative Law where the PTUN system experiences a failure in its function as access to justice, due to the lack of support from external factors such as: Inconsistency of the PTUN system with other judicial systems, especially with general courts, the existence of several principles/foundations of State Administrative Law that do not support the PTUN decision implementation system, the PTUN system is very vulnerable to changes in the state structure, as well as changes in the relationship between the central and regional governments. So that the effectiveness of the decision implementation system mechanism is very dependent on these changes, and the attitude, understanding, and legal perception of state administrative officials, who do not/less respect the existence of the PTUN, as access to state administrative justice and adjustments in the IT field.

4.2 Mechanism for Plaintiffs (Community) to Obtain Justice in State Administrative Cases

The mechanism for plaintiffs (the public) to obtain justice in state administrative cases is regulated in Law Number 5 of 1986 concerning State Administrative Courts, in which the judicial process can be described as follows (Mawalidin, J., & Basit, MA:2024:11-24):

- 1) Preliminary examination, in the State Administrative Court (PTUN) is an important stage carried out before the examination of the main dispute. This process aims to ensure that all administrative aspects have been fulfilled and to prepare the case before entering a more in-depth trial stage. The preliminary examination consists of several stages that must be passed, namely: Administrative Examination where at this stage, the PTUN clerk checks the completeness of the documents and administration submitted by the plaintiff. This is important to ensure that all formal requirements have been met before the case is continued. The next is the Dismissal Procedure where the head of the PTUN will conduct an examination to determine whether the lawsuit can be accepted or must be rejected (dismissal). If the object of the lawsuit does

not exist or does not meet the requirements, then the lawsuit can be immediately rejected at this stage.

- 2) Reading the lawsuit is one of the important stages in the process of examining a case at the State Administrative Court (PTUN). This process is regulated in Law Number 5 of 1986 concerning the State Administrative Court. As for the process of reading the lawsuit at the beginning of the trial, the Chief Justice of the Trial will read the contents of the lawsuit filed by the plaintiff. This includes all the important points contained in the lawsuit letter, so that both parties can understand the main issues being examined. Submission of Answer where after the reading of the lawsuit, the Judge will also read the response letter from the defendant if there is one. If the defendant does not submit an answer, they are given the opportunity to submit their answer directly at the hearing.
- 3) Reading of the Answer, is one of the important stages in the process of examining a case at the State Administrative Court (PTUN). This process follows the reading of the lawsuit and serves to provide an opportunity for the defendant to convey his response to the lawsuit filed. The following are details regarding the reading of the answer in the context of PTUN.
- 4) Reply, is an important stage in the trial process at the State Administrative Court (PTUN) which provides an opportunity for the plaintiff to respond to the answer submitted by the defendant. This process is regulated in Law Number 5 of 1986 concerning State Administrative Courts. The following is an explanation of the reply in the context of PTUN.
- 5) Duplicating, is an important stage in the trial process at the State Administrative Court (PTUN) which provides an opportunity for the defendant to respond to the reply filed by the plaintiff. This process is part of the question-and-answer stage in resolving state administrative disputes. The following is an explanation of duplicating in the context of PTUN.
- 6) Proof, in the State Administrative Court (PTUN) is an important process carried out to determine the truth of the facts that form the basis of a state administrative dispute. This process is regulated in Law Number 5 of 1986 concerning the State Administrative Court. The following is an explanation of proof in the PTUN.
- 7) The conclusion in the trial process at the State Administrative Court (PTUN) is the stage where both parties, namely the plaintiff and the defendant, are given the opportunity to convey their final opinions after the entire dispute examination process is complete. The purpose of the conclusion is to convey the final opinion, where the conclusion allows each party to summarize the arguments and evidence that have been presented during the trial, as well as to emphasize their position before the judge makes a decision. In addition, in the conclusion stage it is possible to strengthen the argument, namely at this stage, the parties can emphasize the key points of their arguments and emphasize the evidence that supports their claims.
- 8) Decision, in the State Administrative Court (PTUN) is the final result of the trial process that resolves state administrative disputes. This decision has binding legal force and becomes a guideline for the parties involved in the case. Based on Article 97 of Law Number 5 of 1986 concerning State Administrative Courts, there are several types of decisions that can be taken by the PTUN, including:
 - a. Lawsuit Dismissed: The court dismissed the lawsuit filed by the plaintiff.
 - b. Lawsuit Granted: The court accepted the lawsuit and decided in accordance with the plaintiff's request.
 - c. Claim Not Admissible: The claim is inadmissible for procedural or substantive reasons.
 - d. Dismissed Lawsuit: A lawsuit is considered dismissed for certain reasons, for example the plaintiff withdraws his lawsuit.

If the lawsuit is granted, the PTUN can determine obligations to the State Administrative Agency or Official who issued the disputed decision. These obligations can be in the form of:

- a. Revocation of Decision: Revocation of the relevant state administrative decision.
- b. Issuance of New Decision: Issuance of a new state administrative decision to replace a revoked decision.
- c. Issuance of Certain Decisions: In cases where a lawsuit is based on certain provisions, the PTUN may order the issuance of a decision in accordance with the law.

After the verdict is pronounced, a copy of the verdict must be sent to the parties within 14 working days. If the defendant does not fulfill the obligations under the verdict within the specified time, the verdict may lose its legal force. The parties have the right to file a legal action against the PTUN verdict, including an appeal where the plaintiff or defendant can file an appeal to the High State Administrative Court, and a cassation, where after an appeal, the dissatisfied party can also file a cassation to the Supreme Court. The PTUN verdict is very important because with the verdict, the rights of citizens are protected from unfair administrative actions, and the verdict serves to enforce the law and ensure that government actions are in accordance with applicable laws and regulations.

There is a mechanism for plaintiffs (the public) to obtain justice in state administrative cases which can be described as follows:

- a. Administrative Research
Administrative research is carried out by the Registrar's Office, which is the first stage to examine lawsuits that have been received and registered and received a registration number, namely after the Plaintiff/his attorney has completed the administration by paying the case deposit.
- b. Dismissal Process
After the Administrative Research, the Chairperson carries out a dismissal process, a process to examine whether the lawsuit filed by the plaintiff is worthy of being continued or not.
- c. Preparatory Check
Before the examination of the main dispute begins, the Judge must conduct a preparatory examination to complete the unclear lawsuit. The purpose of the preparatory examination is to mature the case.
- d. Trial
In the trial examination there are regular procedures and fast procedures (Articles 98 and 99 of Law No. 5 of 1986 in conjunction with Law No. 9 of 2004). The Chief Justice/Judge orders the clerk to summon the parties for the trial examination by registered letter.
- e. Decision after both parties have presented their conclusions, the Chief Judge of the Trial stated that the trial was postponed to provide an opportunity for the Panel of Judges to deliberate in a closed room to consider everything for the purpose of deciding the dispute (Julistriyanto, 2024).

5. CONCLUSION

- 1) The role of state administrative courts as one of the public's accesses to obtain justice in administrative cases is to regulate various state and community interests without neglecting the basic principle, namely to achieve justice as it should be, such as supervising the implementation of the law so that violations do not occur, and if violations occur, to restore them, they can be done through law enforcement.
- 2) The mechanism for plaintiffs (the public) to obtain justice in state administrative cases is regulated in Law Number 5 of 1986 concerning State Administrative Courts, where the judicial process can be described as follows: Preliminary Examination, Reading of the Lawsuit, Reading of the Answer, Reply, Duplicate, Evidence, Conclusion, and Decision.

Suggestion:

- 1) It is recommended that the Denpasar State Administrative Court further examine the need for improvements related to the function of the state administrative court as one of the accesses for citizens to obtain justice in cases related to state administration, especially in the City of Denpasar, which is expected to make it easier for the public to obtain justice.
- 2) It is recommended that the public who file a state administrative lawsuit follow all existing procedures in filing a state administrative lawsuit in order to maintain a conducive situation and smooth running of the state administrative court process.

REFERENCES

- Akbar, MK (2021). The Role of State Administrative Courts in Realizing Good Governance. "Dharmasisya" Journal of the FHUI Master of Law Program, 1(1), 16.
- Ali Abdullah, 2014, Theory & Practice of State Administrative Court Procedure Law Post-Amendment, p. 5
- Fauzi, SI, & Ningtyas, IP 2018. Optimizing the Provision of Legal Aid to Realize Access to Law and Justice for the Poor. Constitutional Journal, 15(1), 50–71.
- Huroiroh, E., Sushanty, VR, & Roychan, W. (2022). Disharmony of Absolute Competence of State Administrative Courts After the Enactment of the Law on State Administration. Sosio Yustisia: Journal of Law and Social Change, 2(2), 50-76.
- Ibrahim, MA, Rahman, GP, & Syahuri, T. (2024). The Role of the State Administrative Court in Resolving Trademark Disputes. Execution: Journal of Law and State Administration, 2(1), 45-55.
- Ilham, AN (2022). The Role of PTUN as Legal Protection for the Community Against Government Legal Actions in the Perspective of the Rule of Law. Dinamika, 28(9), 4507-4522.
- Julistriyanto, K. (2024). Mechanism for Settlement of Land Disputes at the State Administrative Court (Case Study of Kalasey Dua Decision No. 9/G/Ptun. Mdo). Lex Privatum, 13(5).
- Mawalidin, J., & Basit, MA (2024). Theory of Procedural Law of the Administrative Court and the Flow of Implementation of Administrative Court Hearings. Awig Awig, 4(2), 11-24.
- Manika, AS, & Citrawati, NNA (2024). Law for the Implementation of Equitable Regional Development from the Perspective of the Authority to Manage Mining, Mineral, and Coal Resources. Judge: Jurnal Hukum, 5(03), 10-20.
- Mawalidin, J., & Basit, MA (2024). Theory of Procedural Law of the Administrative Court and the Flow of Implementation of Administrative Court Hearings. Awig Awig, 4(2), 11-24.
- Philipus M Hadjon, 1987, Legal Protection for the People in Indonesia, A Study of the Principles, Their Application by the Courts in the General Court Environment and the Formation of the State Administrative Court, Bina Ilmu, Surabaya. p. 80
- Prasetyo, E. Expansion of the Authority of the State Administrative Court in Public Services (A Comparative Study).
- Safitri, ED, & Sa'adah, N. (2021). Application of Administrative Efforts in State Administrative Disputes. Journal of Indonesian Legal Development, 3(1), 34-45.
- Silalahi, SNS, Kornelis, Y., & Zukriadi, D. (2024). Analysis of the Function of the State Administrative Court and its Role in Regulating Relations Between

Government and Society in Environmental Management. Causa: Journal of Law and Citizenship, 5(7), 1-10.