



Legality of the Village Head's Actions in Dismissing Village Officials.

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Abstract

Background: Dismissal of Village Officials causes quite a few problems, because the village head makes unilateral dismissal decisions and ignores various statutory provisions.

Research Objectives: The aim of this research is to examine and analyze the legality of the village head's actions in dismissing village officials, and the legal consequences of the village head's actions in dismissing Village Officials who do not have legality.

Research Method: The research method in this writing is normative legal research. The approaches used in this research are the statutory regulatory approach, conceptual approach, and case approach. The sources of legal materials used are primary legal materials, secondary legal materials and tertiary legal materials. Techniques for collecting legal materials through literature study and analysis of legal materials are qualitative.

Research Results: The act of dismissing village officials is within the authority of the village head, however, when the village head is going to dismiss village officials, the village head is obliged to consult with the sub-district head, the sub-district head will carry out a review to provide recommendations to the village head to dismiss or not dismiss village officials. Without consulting with the sub-district head as stipulated in the provisions of the statutory regulations, the village head's action in dismissing village officials has no legality, because it does not comply with the procedures and substance stipulated in the provisions of the statutory regulations. The legal consequences of the village head's action in dismissing village officials that do not have legality are void, so they are not binding from the time the decision in question is made, and do not require cancellation from the official who issued or the superior of the official who issued the decision in question, or a court decision to cancel the decision in question. However, the decision in question is void from the moment it is made and does not have binding legal force.

Keywords: Legality, Dismissal, Village Apparatus, Village Head

A. Introduction

The Republic of Indonesia as a legal state based on Pancasila and the 1945 Constitution (hereinafter abbreviated as the 1945 Constitution of the Republic of Indonesia) aims to create a prosperous, safe, peaceful and orderly state and national life system through governmental actions by government organs from various government units including village government units.

Village government is an institution that autonomously has traditions, customs and laws that are relatively independent of the administration of its government. By historically, the existence of villages was the forerunner to the formation of the Indonesian State. The village has a device like a country, namely territory, citizens, rules and government. Villages have become the center of livelihood for local communities, which have autonomy in managing power and governance over residents, local institutions and economic resources.

Sociologically, the existence of Village Government as a Government unit that is closer to the community and has been firmly rooted in the Government system of the Unitary State of the Republic of Indonesia, and is a real, democratic and autonomous form of Government in regulating and managing the lives of the people in a "village." The existence of the Village Government in question received legal recognition through the enactment of Law Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia Number 7 of 2014, Supplement to the State Gazette of the Republic of Indonesia of 2014 Number 5495, hereinafter abbreviated to Law No. 6 of 2014) .

In administering village government, villages have their own authority to carry out government affairs and community interests which are the authority of the village which has been regulated in statutory regulations, which include various authorities in the field of village government administration processes, implementation of village development, development of village community, and empowering village communities based on community initiatives, original rights and customs of the local village.

Village Government is defined in Article 1 point 2 of Law no. 6 of 2014 is the implementation of government affairs and the interests of local communities in the government system of the Unitary State of the Republic of Indonesia. Village governance is carried out by the village government and the village consultative body.

Village governance is carried out by the village government and the village consultative body (hereinafter abbreviated as BPD).¹ The village government consists of the village head and apparatus, as stipulated in the provisions of Article 25 of Law no. 6 of 2014 which regulates that the Village Government as referred to in Article 23 is the Village Head or referred to by another name and who is assisted by Village officials or referred to by another name.

Village Apparatus is a staff element that assists the Village Head in formulating policies and coordination which is contained in the Village Secretariat, and an element supporting the Village Head's duties in implementing policies which is contained in the form of technical implementers and regional elements. Village officials are appointed by the village head as stipulated in Article 49 paragraph (2) of Law no. 6 of 2014 which regulates that:

- (1) The Village Apparatus as intended in Article 48 is tasked with assisting the Village Head in carrying out his duties and authority.
- (2) The Village Apparatus as referred to in paragraph (1) is appointed by the Village Head after consultation with the District Head on behalf of the Regent/Mayor.
- (3) In carrying out their duties and authority, Village officials as referred to in paragraph (1) are responsible to the Village Head.

¹ C Sahertian, JJ Pietersz, Y Pattinasarany, Validity of the West Seram Regency Government Policy Regarding the Simultaneous Election of Traditional Village Heads, TATOHI: Journal of Legal Studies, 2021, Page. 1065

Based on the arrangement in question, it shows that village officials are appointed by the village head after consultation with the sub-district head on behalf of the Regent/Mayor. This shows that the authority to appoint village officials rests with the village head, but the exercise of authority to villages in appointing village officials is in consultation with the sub-district head.

If village officials violate the prohibition, they will be subject to administrative sanctions in the form of a verbal or written warning and if the warning is not implemented then either temporary or permanent dismissal will be carried out. Sanctions, both warnings and dismissals, are carried out by the village head. This means that the authority to dismiss the village head is exercised by the village head. This is as regulated in the provisions of Article 53 paragraph (3) of Law no. 6 of 2014 which regulates that the dismissal of the village head as intended in paragraph (1) is determined by the village head after consultation with the sub-district head on behalf of the Regent/Village Head.

Furthermore, in the provisions of Article 68 PP no. 43 of 2014 regulates that:

(1) The Village Apparatus stops because:

- a. die;
- b. own request; or
- c. dismissed.

(2) Village officials who are dismissed as referred to in paragraph (1) letter c because:

- a. age has reached 60 (sixty) years;
- b. permanent absence;
- c. no longer meets the requirements as a Village official; or
- d. violates prohibitions as a Village official.

Based on the arrangements as mentioned, it shows that the authority to appoint and dismiss village officials rests with the village head, in other words the village head has the authority to appoint and dismiss the village head after consultation with the sub-district head.

The arrangements as mentioned are the basis for the village head's authority to act in appointing and dismissing village officials. Authority is the basis for the legality of actions or actions carried out by bodies or officials or state administrators, including the village head, appointing and dismissing village officials. Every state administrator in carrying out his duties must have the authority granted by statutory regulations as a legal basis for carrying out actions/deeds in the process of administering the State. Legal rules serve as guidelines for behavior and assessment guidelines in the life of society, nation and state. The rule of law provides legal certainty in acting, including dismissal of village officials. Certainty in law is that every legal norm is formulated with sentences that do not contain different interpretations.² Legal certainty requires that law enforcement procedures must be clear and in accordance with legal regulations.³ A regulation is created and promulgated with certainty because it regulates clearly and logically.⁴ Ridwan HR said that every state and government administration must have legitimacy, namely the authority granted by statutory regulations. Thus, the substance of the principle of legality is authority.⁵

Authority is the basis for the legality of actions or decisions made by state officials, including village heads. Legality is one of the principles in the implementation of government administration, as stipulated in the provisions of Article 5 of Law no. 30 of 2014 which regulates that the implementation of Government Administration is based on:

² Supriyono, 'Creating a Sense of Justice, Legal Certainty and Benefits in Community Life' (2016) 16 (2) Phenomenon Scientific Journal 1567, 1570

³ Yohanes Pattinasarany, Legal Certainty of Cassation in State Administration Cases Issued by Regional Officials, Legal Reflection Legal Science Journal, Volume 6 Number 2, April 2022, Page. 206

⁴ R. Tony Prayogo, 'Application of the Principle of Legal Certainty in Supreme Court Regulation Number 1 of 2011 concerning the Right to Judicial Review and in Constitutional Court Regulation Number 06/PMK/2005 concerning Procedure Guidelines in Legal Review' (2016) Indonesian Legislation Journal 191.

⁵ Ridwan HR, State Administrative Law, RajaGrafindo Persada, Jakarta, 2007, Page. 100

- a. principle of legality;
- b. the principle of protecting human rights; And
- c. AUPB.

The principle of legality is that the implementation of Government Administration prioritizes the legal basis of a Decision and/or Action made by a Government Agency and/or Official.

The village head in carrying out government actions must be based on the authority granted in the provisions of the laws and regulations so that the village head's actions have legality, including appointing or dismissing village officials. However, the use of authority by bodies or officials, including the village head, in appointing or dismissing the village head must be in accordance with the procedures for the use of said authority. This means that in addition to the provisions of statutory regulations governing the granting of authority, statutory regulations also regulate procedures for the use of said authority, including regulating the village head's authority to dismiss village officials which must be in accordance with the procedures as stipulated in Article 69 PP No. 43 of 2014 which regulates that the dismissal of Village officials is carried out using the following mechanism:

- a. the Village head consults with the sub-district head or other designation regarding the dismissal of Village officials;
- b. sub-district head or other designation provides written recommendations containing the dismissal of Village officials in consultation with the Village head; And
- c. The written recommendation of the sub-district head or other designation is used as the basis by the Village head in dismissing Village officials with the decision of the Village head.

Furthermore, the provisions of Article 5 of Minister of Home Affairs Regulation Number 83 of 2015 concerning the Appointment and Dismissal of Village Officials (hereinafter abbreviated to Permendagri No. 83 of 2015) regulate that:

- (1) The Village Head dismisses the Village Apparatus after consulting with the Subdistrict Head.
- (2) The Village Apparatus stops because:
 - a. Die;
 - b. Own request; And
 - c. Dismissed.
- (3) Village officials are dismissed as intended in paragraph (1) letter c because:
 - a. Age has reached 60 (sixty) years;
 - b. Declared a convict based on a court decision that has permanent legal force;
 - c. Permanently unable to do so;
 - d. No longer meets the requirements as a Village Apparatus; And
 - e. Violating prohibitions as a village official.
- (4) The dismissal of Village Officials as referred to in paragraph (1) letters a and b, is determined by the decision of the Village Head and submitted to the Camat or other designation no later than 14 (fourteen) days after it is determined.
- (5) Dismissal of Village Apparatus as referred to in paragraph (1) letter c must be consulted first with the Head of District or other designation.
- (6) The sub-district head's written recommendation or other designation as intended in paragraph (4) is based on the requirements for the dismissal of Village officials.

Based on the arrangements as intended, the village head has the authority to dismiss village officials, but the implementation of the dismissal of village officials is carried out by the village head after consulting with the sub-district head. This means that the dismissal of village officials by the village head requires consultation with the sub-district head. A village official is dismissed if he is 60 (sixty) years old, or is declared a convict based on a court decision that has permanent legal force, or is permanently disabled, or no longer meets the requirements as a village official; or Violating prohibitions as a village official.

The dismissal of Village Officials as referred to is determined by the decision of the Village Head after prior consultation with the District Head. However, what happens is that villages often dismiss them without consulting the sub-district head, giving rise to problems between village officials and the village head.

Based on the Republic of Indonesia Ombudsman Report Completion Management Information System (Simple), since 2016-2023, the Indonesian Ombudsman has received 3,661 public reports/complaints related to problems in villages, of which 375 reports or 40% of the reports received were reports regarding problems in the appointment and dismissal of village officials by the village head, one of them is the dismissal of village officials without recommendation subdistrict head. One of them occurred in Nyalabu Daya village, the Head of Nyalabu Daya village dismissed Nyalabu Daya village officials without being based on the arrangements as stated as the basis for procedures for dismissing village officials. The Head of Nyalabu Daya Village, when he served as village head, dismissed village officials arbitrarily without consulting with the sub-district head to get recommendations from the sub-district head.

When the Head of Nyalabu Daya Village served as village head, he dismissed village officials including (1) SANJATO as Head of the Government Section, (2) ACH RIFAI as Head of East Hamlet; (3) MOH MUZAMMIL as Head of Planning Affairs; (4) MARLUKAT as Head of Service Section; (5) DJAMALI was appointed Head of the Welfare Section; (6) BUDI IRAWAN as Head of Financial Affairs; (7) ACH BAISUNI as Head of West Hamlet. The dismissal of village officials as mentioned above was determined by the Decree of the Head of Nyalabu Daya Village Number: 141/18/432.504.17/2020 concerning the Dismissal of Nyalabu Daya Village Apparatus, Pamekasan District for 2020 on April 3 2020.

Likewise, in the case of the dismissal of village officials by the head of the Tua Darunu Law village, Wori District, North Minahasa Regency, Felisia Paparang, as a Darunu Old Law village official, was dismissed through the Darunu Old Law Decree Number 17 of 2021 dated September 6 2021 concerning the dismissal of village officials for name Felisia Paparang, without any consultation with the sub-district head of Wori sub-district.

Based on the background description stated above, the problems that will be studied in this paper are:

- a. Is the village head's action in dismissing village officials legal?
- b. What are the legal consequences if the village head's action in dismissing Village Officials is not legal?

B. Research Methods

In accordance with the substance of the problem of this research, the type of this research is normative legal research, namely research that primarily examines positive legal provisions, legal principles, legal principles and legal doctrine in order to answer the legal problems faced, related to the Legality of the Village Head's Actions. In Dismissing Village Officials.

In this research, the problem approaches used are the statutory approach and the conceptual approach. To obtain legal arguments to answer related issues regarding the Legality of the Village Head's Actions in Dismissing Village Officials. The legal materials used in this research are primary legal materials and secondary legal materials. The primary legal materials and secondary legal materials that have been collected (inventoried) are then grouped and studied using a statutory regulations approach to obtain an overview of the level of synchronization of all legal materials. The legal materials that have been classified are studied, studied and compared with legal theories and principles put forward by experts, to finally be analyzed normatively.

C. Results and Discussion

I. LEGALITY OF THE VILLAGE HEAD'S ACTION TO DISMISS VILLAGE APPARATUS.

a. Arrangements for the Dismissal of Village Heads.

Village officials are staff elements tasked with assisting the Village Head in carrying out his duties and authority. In carrying out their duties and authority, Village officials are responsible to the Village Head. Village apparatus consists of the Village Secretariat, regional implementers and technical implementers, as stipulated in Article 48 of Law no. 6 of 2014 regulates that Village Apparatus consists of:

- a. Village secretariat;
- b. regional executor; And
- c. technical implementer.

Such substance is also regulated in Article 61 PP No. 43 of 2014 that:

- (1) Village Apparatus consists of:
 - a. Village secretariat;
 - b. regional executor; And
 - c. technical implementer.
- (2) Village officials serve as assistant elements to the Village head.

Based on the regulations referred to, it shows that the village apparatus as an element of the village head's staff consists of the village secretariat, regional implementers and technical implementers.

The Village Secretariat is led by the Village Secretary assisted by elements of secretariat staff who are tasked with assisting the Village Head in the field of government administration. The Village Secretariat consists of a maximum of 3 (three) areas of affairs. Meanwhile, the regional implementer is an assistant element to the village head as a regional task force. The number of regional implementers is determined proportionally between the required regional implementers and the Village's financial capacity. Meanwhile, the technical implementer is an assistant element to the Village Head who carries out operational duties. Technical implementation consists of a maximum of 3 (three) sections.

Village officials as elements of the village head's staff are appointed by the village head. This is stipulated in Article 49 paragraph (2) of Law no. 6 of 2014 which regulates that:

- (1) The Village Apparatus as intended in Article 48 is tasked with assisting the Village Head in carrying out his duties and authority.
- (2) The Village Apparatus as referred to in paragraph (1) is appointed by the Village Head after consultation with the District Head on behalf of the Regent/Mayor.
- (3) In carrying out their duties and authority, Village officials as referred to in paragraph (1) are responsible to the Village Head.

Village officials are appointed by the village head from among village residents who meet the requirements set out in Article 50 of Law no. 6 of 2014 which regulates that:

- (1) Village officials as intended in Article 48 are appointed from Village residents who meet the following requirements:
 - a. have at least a general high school education or equivalent;
 - b. aged 20 (twenty) years to 42 (forty two) years;
 - c. registered as a Village resident and resided in the Village for at least 1 (one) year prior to registration; And
 - d. other requirements specified in Regency/City Regional Regulations.
- (2) Further provisions regarding Village apparatus as intended in Article 48, Article 49 and Article 50 paragraph (1) are regulated in Regency/City Regional Regulations based on Government Regulations.

The material for regulating the requirements for the appointment of village heads as regulated in the provisions of Article 50 of Law no. 6 of 2014 is also regulated in the provisions of 65 PP No. 43 of 2014 regulates that:

- a. Village officials are appointed from Village residents who meet the following requirements:
 1. have at least a general high school education or equivalent;
 2. aged 20 (twenty) years to 42 (forty two) years;
 3. registered as a Village resident and resided in the Village for at least 1 (one) year before registration; And

4. other requirements specified in district/city regional regulations.
- b. Other conditions for appointing Village officials stipulated in district/city regional regulations must take into account the rights of origin and socio-cultural values of the community.

The requirements regulated in the provisions of Article 50 of Law no. 6 of 2014, and Article 65 PP no. 43 of 2014, further regulated in the provisions of Article 2 and Article 3 of Ministerial Regulation No. 83 of 2015.

Article 2 regulates that:

1. Village officials are appointed by the Village Head from Village residents who have fulfilled general and specific requirements.
2. General requirements as intended in paragraph (1) are as follows:
 - a. Have at least a general high school education or equivalent;
 - b. Aged 20 (twenty) years to 42 (forty two) years;
 - c. Registered as a Village resident and resided in the Village for at least 1 (one) year prior to registration; And
 - d. Fulfill complete administrative requirements.
3. Special Requirements as intended in paragraph (1) are requirements that are special in nature by taking into account the rights of origin and socio-cultural values of local communities and other requirements.
4. The special requirements as intended in paragraph (3) are stipulated in Regional Regulations.

Article 3 regulates that:

Completeness of administrative requirements as intended in Article 2 paragraph (2) letter d, among others, consists of:

- a. Resident Identity Card or Certificate of residence for at least 1 (one) year prior to registration from the local Rukun Tetangga or Rukun Warga;
- b. Statement of devotion to God Almighty made by the person concerned on stamped paper;
- c. Statement Letter upholding and implementing Pancasila, the 1945 Constitution of the Republic of Indonesia, defending and maintaining the integrity of the Unitary State of the Republic of Indonesia and Bhinneka Tunggal Ika, made by the person concerned on paper with sufficient seal or stamp;
- d. Educational certificates from elementary level up to the final diploma which are legalized by the authorized official or a statement letter from the authorized official;
- e. Birth Certificate or Certificate of Birth Identification;
- f. Healthy body certificate from the Community Health Center or authorized health apparatus; And
- g. Application letter to become a Village Apparatus made by the person concerned on sealed or stamped paper.

A person who will be appointed as a village official by the village head must fulfill the requirements set out in the provisions as mentioned above. Appointment is a series of activities carried out by the Village Head to fill Village Apparatus positions through position transfers between Village Apparatus or through a process of networking, screening, consultation and appointment as Village Apparatus.

When village officials are appointed, the existence of village officials is meant to help the village head in carrying out his duties and authority, because the existence of village officials is a statistic that helps the village head in carrying out the village head's duties and responsibilities. Village officials are assistants to the village head. In carrying out the duties of village officials, it is prohibited to:

- a. detrimental to the public interest;
- b. make decisions that benefit oneself, family members, other parties, and/or certain groups;
- c. abuse their authority, duties, rights and/or obligations;
- d. carry out discriminatory actions against certain citizens and/or community groups;

- e. carrying out actions that disturb a group of Village residents;
- f. commit collusion, corruption and nepotism, receive money, goods and/or services from other parties that can influence decisions or actions to be taken;
- g. become a political party administrator;
- h. being a member and/or administrator of a prohibited organization;
- i. holding concurrent positions as chairman and/or member of the Village Consultative Body, member of the People's Representative Council, Regional Representative Council, Provincial or Regency/City Regional People's Representative Council, and other positions specified in the laws and regulations;
- j. participate and/or be involved in general election campaigns and/or regional head elections;
- k. violating the oath/promise of office; and l. leaving duties for 60 (sixty) consecutive working days without clear and unjustified reasons.

Village officials in carrying out their duties violate the prohibitions as stated, of course they will be given sanctions. Sanctions for village officials are stipulated in the provisions of Article 52 of Law no. 6 of 2014 which regulates that:

- (1) Village officials who violate the prohibition as intended in Article 51 are subject to administrative sanctions in the form of a verbal warning and/or written warning.
- (2) In the event that the administrative sanctions as intended in paragraph (1) are not implemented, a temporary dismissal action will be taken and may be continued with dismissal.

Regulations regarding sanctions as stipulated in the provisions mentioned above are also regulated in the provisions of Article 68 PP No. 43 of 2014 that:

- a. The Village Apparatus stopped because:
 1. died;
 2. own request; or
 3. dismissed.
- b. Village officials who are dismissed as referred to in paragraph (1) letter c because:
 1. Age has reached 60 (sixty) years;
 2. permanent absence;
 3. no longer meets the requirements as a Village official; or
 4. violate the prohibitions as a Village official.

Sanctions for village officials are also regulated in Article 5 of Permendagri Number 67 of 2017 which stipulates that:

- (1) The Village Head dismisses the Village Apparatus after consulting with the Subdistrict Head.
- (2) The Village Apparatus stops because:
 - a. Die;
 - b. Own request; And
 - c. Dismissed.
- (3) Village officials are dismissed as intended in paragraph (2) letter c because:
 - a. Age has reached 60 (sixty) years;
 - b. Declared a convict who is threatened with imprisonment for a minimum of 5 (five) years based on a court decision that has permanent legal force.
 - c. Permanently absent
 - d. No longer meets the requirements as a device;
 - e. Violating Prohibitions as a Village Official.

- (4) The dismissal of Village Apparatus as referred to in paragraph (2) letter a and b, is determined by the decision of the Village Head and submitted to the Subdistrict Head or other designation no later than 14 (fourteen) days after it is determined.
- (5) Dismissal of Village Apparatus as referred to in paragraph (2) letter c shall be consulted first with the Head of District or other designation.
- (6) The sub-district head's written recommendation or other designation as intended in paragraph (5) is based on the requirements for the dismissal of Village Officials.

The provisions as described previously form the legal basis as a guideline for appointing and dismissing village officials. The provisions as mentioned above are a form of legal rules which form the basis for actions or actions by the village head in appointing and dismissing village officials. In other words, the village head in appointing and dismissing village officials must comply with the legal rules as stated, as a consequence of the establishment of Indonesia as a legal state as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

Indonesia, as a rule of law, requires or requires that every act or action or decision made or determined by bodies or officials, including village heads, must be based on the rule of law. Said by H.W.R. Wade, that in a rule of law, everything must be done according to the law (everything must be done according to law), the law determines that the government must obey the law, not that the law must obey the government.

Burkens said that the rule of law is a state that places law as the basis of state power and the exercise of this power in all its forms is carried out under the authority of law. In every legal country, including Indonesia, legal rules are the basis or guideline for every action or deed in the life of the nation and state, including those carried out by village heads in dismissing village officials. The provisions referred to provide legal certainty regarding the appointment and dismissal of village officials which must be carried out by the village head. Law as an instrument whose existence is very necessary and inherent in every social life of society. Law is needed to create and maintain a harmonious order of living together. Without the rule of law, people's lives will certainly not be orderly.

The existence of legislation as a legal instrument to provide, regulate, limit, guarantee the rights of citizens, as well as a tool to test the legality of actions or deeds carried out by the community, government and state administrators. All administration carried out by the state through the mediation of its government must be in accordance with and according to channels that have been determined in advance by law.

Legal norms formed in statutory regulations as a form of written legal rules can be in the form of an order or prohibition which aims to prevent each individual member of society from carrying out an action that is necessary to maintain the harmony of life together or vice versa so that society does not take an action that could damage the order. community life. An action or decision by a body or official, including the village head, must be based on the provisions of laws and regulations or general principles of good governance.

Thus, the various provisions as described above become the basis for legal regulations in the appointment and dismissal of village officials by the village head. The provisions referred to serve as guidelines for the village head to carry out actions to appoint and dismiss village officials by the village head. This means that the village head, when carrying out actions to appoint and dismiss the village head, must be based on the provisions of the statutory regulations as a form of written law which serves as a guideline for acting as a consequence of the determination of the rule of law. In a legal state, law is a guideline or basis or direction for actions or actions by state bodies or administrators or officials, including village heads, in appointing and dismissing village officials. These provisions provide legal certainty for village heads to appoint and dismiss village officials.

I. Authority to Dismiss Village Officials.

Every government administrator, including village government, village heads and village officials, must carry out government actions or decisions based on the authority stipulated in statutory regulations so that the actions or decisions in question have legal legality. In other words, every action or decision carried out by an official or agency or state administrator, including the village head, must have legality or legitimacy. Legality or legitimacy is one of the main principles in every action or decision made by bodies or officials or state administrators, including village heads.

The authority possessed by the village is the basis for action to take action to dismiss village officials, if village officials are deemed to no longer comply with what is stipulated in the provisions of the laws and regulations to carry out dismissal actions.

Every state administrator, including village heads, in carrying out their duties must have the authority granted by statutory regulations as a basis for legality to carry out actions/deeds in the process of administering the State, as stated by Ridwan HR, that every state and government administration must have legitimacy, namely authority. provided by statutory regulations. Thus, the substance of the principle of legality is authority.

Authority is the basis that legalizes or validates an action or decision made by an official or agency or state administrator. This means that every legal action in the administration of state and government must have legitimacy, namely the authority granted by statutory provisions.

The term authority or authority is equated with "authority" in English and "bevoegdheid" in Dutch. "authority" in black's law dictionary is defined as legal power; a right to command or to act; the right and power of public officers to require obedience to their orders legally issued within the scope of their public duties. (authority or authority is legal power, the right to command or act, the right or power of public officials to comply with legal rules within the scope of carrying out public obligations).

P. Nicolas stated that authority is the ability to carry out certain legal actions, namely actions intended to give rise to legal consequences, and includes the emergence and disappearance of legal consequences. According to him, rights contain the freedom to carry out or not carry out certain actions or require other parties to carry out certain actions, while obligations contain the obligation to or not to carry out certain actions. Authority is the power of Government Agencies and/or Officials or other state administrators to act in the realm of public law.

As has been mentioned, actions or decisions carried out by state bodies or officials or administrators, including villages, must be based on the authority stipulated in the provisions of statutory regulations. This is the basis for the legality of actions or decisions made by state bodies or officials or administrators, including the village head in question.

In state administrative law, the principle of legality is in the form of *wetmatigheid van bestuur*, which means that every government action must have its legal basis in a statutory regulation. This principle is the content of the formulation of norms in the provisions of Article 5 paragraph (1) of Law Number 30 of 2014 concerning Government Administration (hereinafter abbreviated to Law No. 30 of 2014) which regulates that the implementation of government administration is based on:

- (a) principle of legality
- (b) the principle of protection of human rights, and
- (c) AUPB.

In the explanation of Article 5 paragraph (1) Letter a of Law no. 30 of 2014 explains that what is meant by the principle of legality is that the implementation of Government Administration prioritizes the legal basis of a Decision and/or Action made by a Government Agency and/or Official. This shows that the principle of legality is one of the legal principles or principles which requires that every legal action or government decision made by a body or official or state administrator, including the village head, must be based on statutory regulations.

Legislative regulations regulate every government decision or action that must be carried out by a body or official or state administrator, including the village head, in carrying out actions or decisions to dismiss village officials, as stipulated in the provisions of Article 8 of Law no. 30 of 2014 which regulates that:

- a. Every decision and/or action must be determined and/or carried out by the authorized government agency and/or official.
- b. Government Agencies and/or Officials in using Authority must be based on:
 1. statutory regulations; And
 2. AUPB.
- c. Government Administrative Officials are prohibited from abusing their Authority in determining and/or carrying out Decisions and/or Actions

Furthermore, in the provisions of Article 9 of Law no. 30 of 2014 which regulates that:

- (1) Every Decision and/or Action must be based on the provisions of statutory regulations and AUPB.
- (2) The statutory regulations as intended in paragraph (1) include:
 - a. statutory regulations that form the basis of Authority; And
 - b. statutory regulations which are the basis for determining and/or carrying out Decisions and/or Actions.
- (3) Government Agencies and/or Officials in determining and/or carrying out Decisions and/or Actions are required to include or indicate the provisions of the laws and regulations which form the basis of Authority and the basis for determining and/or carrying out Decisions and/or Actions.
- (4) The absence or lack of clarity of statutory regulations as intended in paragraph (2) letter b, does not prevent the competent Government Agency and/or Official from determining and/or carrying out Decisions and/or Actions as long as they provide public benefits and are in accordance with the AUPB.

Legislation determines or grants acting authority to bodies or officials including village heads in carrying out government actions at the village level including dismissing village officials. Therefore, based on the provisions as mentioned above, it shows that the legality of a government decision or action, including the village head, in carrying out the action of dismissing village officials must be based on the authority, procedures and substance stipulated in statutory regulations.

Legislative regulations stipulate the authority, procedures and substance of actions that must be carried out by bodies or officials including village heads in dismissing village officials, as stipulated in Article 52 of Law no. 30 of 2014 that:

- (1) Conditions for the validity of a decision include:
 - a. determined by authorized officials.
 - b. made according to procedure.
 - c. the substance corresponds to the object of the decision.
- (2) the validity of the decision as intended in paragraph (1) is based on the provisions of statutory regulations and AUPB.

Likewise in Article 64 paragraph (1) of Law no. 30 of 2014 regulates that decisions can only be revoked if there are defects:

- a. authority.
- b. procedures, and/or
- c. substance

In accordance with the regulations as mentioned, it shows that the tools for testing the legality or validity of actions or decisions made by State administrators, including those carried out by village heads, are authority, procedure and substance. This means that the legality or validity of a government action or decision, including the decision or action to dismiss village officials by the village head, can be tested from the aspects of authority, procedure and substance as stipulated in the provisions of Law no. 30 of 2014.

With regard to the authority to dismiss village officials, the author tries to start with the appointment of village officials. In the provisions of Article 49 paragraph (2) Law no. 6 of 2014 which regulates that Village Apparatus as referred to in paragraph (1) are appointed by the Village Head after consultation with the District Head on behalf of the Regent/Mayor.

Furthermore, in the provisions of Article 66 PP no. 43 of 2014 regulates that the appointment of Village officials is carried out using the following mechanism:

- a. the Village head carries out screening and screening or selection of prospective Village officials;
- b. the Village head consults with the sub-district head or other designation regarding the appointment of Village officials;
- c. sub-district head or other designation provides written recommendations containing prospective Village officials who have been consulted with the Village head; And
- d. The written recommendation of the sub-district head or other designation is used as the basis by the Village head in appointing Village officials with the decision of the Village head.

Furthermore, in the provisions of Article 2 paragraph (1) Permendagri no. 83 of 2015 regulates that Village Apparatus are appointed by the Village Head from Village residents who have met general and specific requirements.

Based on the provisions as mentioned, it shows that the authority to appoint village officials rests with the village head. In other words, the village head has the authority to appoint the village head who serves as a staff member who assists the village head in carrying out his duties and authority. This raises a legal question, if the appointment of village officials is within the authority of the village head, then who has the authority to dismiss village officials? To answer the question in question, the author will outline the various provisions governing the authority in question.

In the provisions of Article 53 paragraph (3) of Law no. 6 of 2014 regulates that the dismissal of Village officials as referred to in paragraph (1) is determined by the Village Head after consultation with the District Head on behalf of the Regent/Mayor.

Furthermore, in the provisions of Article 69 PP no. 43 of 2014 regulates that the dismissal of Village officials is carried out using the following mechanism:

- a. the Village head consults with the sub-district head or other designation regarding the dismissal of Village officials;
- b. sub-district head or other designation provides written recommendations containing the dismissal of Village officials in consultation with the Village head; And
- c. The written recommendation of the sub-district head or other designation is used as the basis by the Village head in dismissing Village officials with the decision of the Village head.

Apart from that, in the provisions of Article 5 paragraph (1) Permendagri no. 83 of 2015 regulates that the Village Head dismisses Village Officials after consulting with the Subdistrict Head.

Based on the arrangements as mentioned, it shows that legally, statutory regulations give the authority to the village head to dismiss village officials. This means that the authority to take action to dismiss village officials is carried out by the village head. The village head has the authority to appoint and dismiss village officials.

For this reason, the action of dismissing village officials, including in Nyalu village which was carried out by Nyalabu Daya village, as well as in Darunu old law village which was carried out by Darunu old law village, is considered an action of dismissal based on authority. This means that the village has the authority to dismiss village officials. Therefore, the action of dismissing Nyalabu Daya village officials by the Head of Nyalabu Daya village, and Darunu old law village is an action based on the authority of the village head as regulated in statutory regulations.

However, to assess the legality or legality of the action of dismissing village officials by the village head, it is not only about authority but must also be seen from the procedural aspect, as stipulated in Article 52 of Law no. 30 of 2014 that

- (1) Conditions for the validity of a decision include:
 - a. determined by authorized officials.
 - b. made according to procedure.
 - c. the substance corresponds to the object of the decision.
- (2) the validity of the decision as intended in paragraph (1) is based on the provisions of statutory regulations and AUPB.

Thus, based on the provisions as stated, the authority to dismiss village officials is the authority of the village head. However, authority is not the only aspect or element of testing legality, but there are also procedural aspects and substantive aspects as stipulated in the provisions of Article 52 of Law no. 30 of 2014 that the conditions for the validity of a decision include being determined by an authorized official, made according to procedures, and the substance is in accordance with the object of the decision. For this reason, the author will analyze the dismissal of village officials carried out by the village head from a procedural aspect.

II. Procedure for Dismissal of Village Officials

As explained previously, in Article 52 of Law no. 6 of 2014 regulates that:

- (1) Village officials who violate the prohibition as intended in Article 51 are subject to administrative sanctions in the form of a verbal warning and/or written warning
- (2) In the event that the administrative sanctions as intended in paragraph (1) are not implemented, a temporary dismissal action will be taken and may be continued with dismissal.

Furthermore, Article 69 PP no. 43 of 2014 regulates that the dismissal of Village officials is carried out using the following mechanism:

- a. the Village head consults with the sub-district head or other designation regarding the dismissal of Village officials;
- b. sub-district head or other designation provides written recommendations containing the dismissal of Village officials in consultation with the Village head; And
- c. The written recommendation of the sub-district head or other designation is used as the basis by the Village head in dismissing Village officials with the decision of the Village head.

Furthermore, Article 5 of Minister of Home Affairs Regulation no. 83 of 2015 regulates that:

1. The Village Head dismisses the Village Apparatus after consulting with the Subdistrict Head.
2. Village officials stop because:
 - a. Die;
 - b. Own request; And
 - c. Dismissed.
3. Village officials are dismissed as intended in paragraph (1) letter c because:
 - a. Age has reached 60 (sixty) years;
 - b. Declared a convict based on a court decision that has permanent legal force;
 - c. Permanently absent;
 - d. No longer meets the requirements as a Village Apparatus; And
 - e. Violating prohibitions as a village official.
4. The dismissal of Village Officials as referred to in paragraph (1) letters a and b, is determined by the decision of the Village Head and submitted to the Camat or other designation no later than 14 (fourteen) days after it is determined.
5. Dismissal of Village Officials as referred to in paragraph (1) letter c must be consulted first with the Head of District or other designation.
6. The sub-district head's written recommendation or other designation as intended in paragraph (4) is based on the requirements for the dismissal of Village officials.

Furthermore, Article 5 of the Minister of Home Affairs Regulation Number 67 of 2017 concerning Amendments to the Regulation of the Minister of Home Affairs Number 83 of 2015 concerning the Appointment and Dismissal of Village Officials, (hereinafter abbreviated to Ministerial Regulation 67 of 2016), regulates that:

- (1) The Village Head dismisses Village officials after consulting with the sub-district head.
- (2) The Village Apparatus stops because:
 - a. die;
 - b. own request; And
 - c. dismissed.
- (3) Village officials are dismissed as intended in paragraph (1) letter c because:
 - a. the age has reached 60 (sixty) years.
 - b. declared a convict who is threatened with imprisonment for a minimum of 5 (five) years based on a court decision that has permanent legal force
 - c. permanent absence;
 - d. no longer meets the requirements as a Village official; And
 - e. violates prohibitions as a Village official.
- (4) The dismissal of Village officials as referred to in paragraph (1) letters a and b, is determined by the decision of the Village head and submitted to the sub-district head or other designation no later than 14 (fourteen) days after it is determined.
- (5) The dismissal of Village officials as referred to in paragraph (1) letter c must be consulted first with the sub-district head or other designation.
- (6) The sub-district head's written recommendation or other designation as intended in paragraph (4) is based on the requirements for the dismissal of Village officials.

Furthermore, Article 6 of Minister of Home Affairs Regulation no. 67 of 2017 regulates that:

- (1) Village officials are temporarily suspended by the Village head after consulting with the sub-district head.
- (2) Temporary suspension of Village officials as intended in paragraph (1) because:
 - a. named as a suspect in criminal acts of corruption, terrorism, treason, and/or criminal acts against state security.
 - b. declared as a defendant who is threatened with imprisonment for a maximum of 5 (five) years based on the case register at court;
 - c. caught red-handed and detained;
 - d. violates the prohibitions as a Village official which are regulated in accordance with the provisions of statutory regulations.
- (3) Village officials who have been temporarily dismissed as referred to in paragraph (2) letters a and b, are adjudged acquitted or not proven guilty based on a court decision that has obtained permanent legal force, are returned to their original positions.

Based on the arrangements as mentioned, it shows that the village head has the authority to dismiss village officials, whether dismissing due to death or at his own request, or being dismissed. The procedure for dismissing village officials by the village head due to death and at his own request, is carried out when the village official dies or resigns himself from the village apparatus, the village head issues or publishes a Village Head Decree to dismiss the village official in question, and the village head conveys the decision in question to the sub-district head. no later than 14 (fourteen) days after the village head's decision regarding the action to dismiss is stipulated. Meanwhile, if the village head is going to dismiss a village official NOT because the village official has died or resigned, then the village head is obliged or must be consulted or consulted carefully before dismissing the village official in question. Consultation is an obligation or necessity, meaning that without consulting the subdistrict head, the head.

Villages cannot or must not dismiss village officials. The consultation referred to is a requirement, because by consulting with the sub-district head, the sub-district head will provide recommendations, meaning that the village head will get a recommendation from the sub-district head to dismiss village officials.

The Village Head consulting with the sub-district head is an obligation or necessity, this is as stipulated in the provisions of Article 5 paragraph (5) of Permendagri No. 67 of 2017 which regulates that the dismissal of Village officials as referred to in paragraph (1) letter c must be consulted first with the sub-district head or other designation.

The word Mandatory in the provisions referred to is a necessity, meaning it cannot be ignored, it is not an option, so that before the village head dismisses village officials, the village head must first consult with the sub-district head, so that consultation with the sub-district head is a prerequisite for dismissal. Without consulting the sub-district head, the action of dismissing village officials by the village head is considered procedurally flawed.

However, there are various cases of dismissal of village officials by the village head without consulting the sub-district head, the village head dismisses village officials at will. In fact, the village head has received a recommendation from the sub-district head to dismiss village officials. Before issuing a decision letter to dismiss village officials, the village head first asks for a recommendation from the sub-district head.

The emergence of the problem of dismissing village officials cannot be separated from the role of the sub-district head. In making recommendations, the sub-district head should first conduct research on the village head's request. However, the village head often colludes with the sub-district head, in the end a magic letter (recommendation) is easily obtained by the village head.

Violations of dismissal of village officials lie at the recommendation of the sub-district head. The sub-district head is the final filter for dismissal of village officials by the village head. When the dismissal of village officials does not comply with the rules, the sub-district head does not provide recommendations. This means that the sub-district head first reviews the village head's request to dismiss village officials. Dismissing village officials according to regulations is the authority of the village head. However, it is a problem that village officials are dismissed by the village head ignoring the sub-district head's recommendations.

Finally, many village officials filed a lawsuit with the Medan State Administrative Court (PTUN). One of them happened in Nyalabu Daya village, the head of Nyalabu Daya village dismissed Nyalabu Daya village officials without consulting with the sub-district head to get recommendations from the sub-district head. When the Head of Nyalabu Daya Village served as village head, he dismissed village officials including (1) SANJATO as Head of the Government Section, (2) ACH RIFAI as Head of East Hamlet; (3) MOH MUZAMMIL as Head of Planning Affairs; (4) MARLUKAT as Head of Service Section; (5) DJAMALI was appointed Head of the Welfare Section; (6) BUDI IRAWAN as Head of Financial Affairs; (7) ACH BAISUNI as Head of West Hamlet.

The dismissal of village officials as mentioned above was determined by the Decree of the Head of Nyalabu Daya Village Number: 141/18/432.504.17/2020 concerning the Dismissal of Nyalabu Daya Village Apparatus, Pamekasan District for 2020 on April 3 2020.

The dismissed village officials filed a lawsuit with the Surabaya State Administrative Court, and the Surabaya State Administrative Court issued PTUN Surabaya Number: 75/G/2020/PTUN.SBY dated 24 September 2020 which granted the plaintiffs' lawsuit. The decision requires the Defendant to revoke the Decree of the Head of Nyalabu Daya Village Number: 141/12/432.504.17/2020 concerning the dismissal of Nyalabu Daya Village Officials, Pamekasan District in 2020 in the name of SANJATO, ACH RIFAI, MUZAMMIL, MARLUKAT, DJAMALI, BUDI IRAWAN, ACH BAISUNI, on April 3 2020. Requires the Defendant to rehabilitate, restore the honor and dignity of the Plaintiffs in accordance with the provisions of the applicable Laws and Regulations.

However, the defendant filed an appeal to the Surabaya State Administrative High Court, but the Surabaya TUN High Court Number: 75/G/2020/PTUN.SBY on January 4 2021, still upheld the Surabaya TUN court's decision, namely in favor of the plaintiffs, in the High Court's decision. The Surabaya TUN in question ordered the dismissal decree to be legally invalid and must be revoked by the Head of Nyalabu Daya Village, while the decree was declared to have no legal force and a new decree had to be issued to return the dismissed apparatus to its original position.

Likewise, in the case of the dismissal of village officials by the head of the Tua Darunu Law village, Wori District, North Minahasa Regency, Felisia Paparang, as a Darunu Old Law village official, was dismissed through the Darunu Old Law Decree Number 17 of 2021 dated September 6 2021 concerning the dismissal of village officials for name Felisia Paparang, without any consultation with the sub-district head of Wori sub-district. Village officials on behalf of Felisia Paparang filed a lawsuit at the Manado State Administrative Court, which decided in the PTUN decision dated April 28 2022 Number: 63/G/2021/PTUN.Mdo, there are five main points that must be carried out by the defendant (Old Law official), namely ; (a), declaring the Old Darunu Law Decree Number 17 of 2021 dated September 6 2021 null and void regarding the dismissal of village officials in the name of Felisia Paparang; (b), requiring the defendant to revoke Darunu Old Law Decree Number 17 of 2021 dated September 6 2021 concerning the dismissal of village officials in the name of Felisia Paparang; (c), requiring the defendant to return the plaintiff to his original position as an official of Darunu village, Wori District; and (d), sentence the defendant to pay court costs of Rp. 430,200 (Four Hundred and Thirty Thousand and Two Hundred Rupiah).

Thus, the action to dismiss village officials must be in accordance with the procedures stipulated in statutory regulations. Procedure is an element besides authority and substance in testing the legality or validity of government actions or decisions carried out by state bodies or officials or administrators, including village heads, in dismissing village officials. Therefore, in dismissing the village head, the village head must comply with procedures, namely, he must consult with the sub-district head to obtain recommendations for dismissing village officials who will be dismissed by the village head. In relation to the case discussed above, the village head dismissed village officials not in accordance with procedures, so the village head's actions were considered procedurally flawed. For this reason, the author will analyze the substantive aspect of the dismissal of the village head as an element in testing the legality of government decisions or actions as stipulated in Article 52 of Law no. 30 of 2014 that the conditions for the validity of a decision include (a) being determined by an authorized official. (b) made according to procedures. (c) the substance is in accordance with the object of the decision.

III. Substance of Dismissal of Village Head.

As previously explained, the dismissal of the village head is the authority of the village head, so that all actions to dismiss village officials carried out by the village head are actions based on authority. This means that there was abuse committed by the village head in dismissing village officials.

However, the use of the village head's authority in dismissing village officials must go through consultation procedures with the sub-district head, so that if the dismissal of village officials is carried out in accordance with procedural procedures, there are no procedural defects in dismissing village officials, if the village head dismisses the village head without prior consultation with sub-district head, the action of dismissal in question is considered procedurally flawed.

In relation to the action of dismissing a village official that is not in accordance with procedural matters, this not only makes the action in question procedurally flawed but also results in the substance of the dismissal carried out being considered flawed. This means that the substance of the dismissal of village officials is flawed, so that the dismissal becomes flawed too. For this reason, the action of dismissing village officials carried out by the village head without consulting the sub-district head is not only procedurally flawed but also substantively flawed, therefore Article 52 of Law no. 30 of 2014 has determined that:

- (1) Conditions for the validity of a Decision include:
 - a. determined by the authorized official;
 - b. made according to procedures; And
 - c. substance that corresponds to the object of the Decision.
- (2) The validity of the Decision as intended in paragraph (1) is based on the provisions of statutory regulations and AUPB.

Every agency or official, including the village, in carrying out the action of dismissing village officials must have the authority, the use of the said authority by the village head must be in accordance with procedures. This means procedures that determine how bodies or officials, including village heads, use the

authority in question, so that the substance of the use of the authority in question is in accordance with what is stipulated in the provisions of statutory regulations. This means that the substance of the action or decision is made by a body or official including the village head in accordance with what is provided by statutory regulations.

The elements or indicators as explained above are the basis for the legality of actions or actions carried out by bodies or officials including the village head in dismissing village officials. Therefore, the dismissal of village officials by the village head must be in accordance with the substance stipulated in the statutory regulations, as stipulated in Article 69 PP No. 43 of 2014 regulates that the dismissal of Village officials is carried out by the Village head in consultation with the sub-district head or other designation regarding the dismissal of Village officials, the sub-district head provides a written recommendation containing the dismissal of Village officials who have been consulted with the Village head, and the written recommendation of the sub-district head or other designation is made into basis by the Village head in dismissing Village officials with the decision of the Village head.

Furthermore, Article 5 of Minister of Home Affairs Regulation no. 83 of 2015 regulates that the Village Head dismisses Village Officials after consulting with the Subdistrict Head. Dismissal of Village Officials must be consulted first with the District Head. The subdistrict head's written recommendation is based on the requirements for dismissal of village officials. Furthermore, in Article 5 of the Minister of Home Affairs Regulation Number 67 of 2017 concerning Amendments to the Regulation of the Minister of Home Affairs Number 83 of 2015 concerning the Appointment and Dismissal of Village Officials, which regulates that the Village Head dismisses Village officials after consulting with the sub-district head. The dismissal of Village officials as intended must be consulted first with the sub-district head or other designation. The sub-district head's written recommendation or based on the requirements for dismissal of Village officials. Furthermore, Article 6 of Minister of Home Affairs Regulation no. 67 of 2017 regulates that Village Officials are temporarily suspended by the Village Head after consulting with the sub-district head

Based on the description as stated, the action of the village head who dismissed village officials who did not consult with the sub-district head to provide recommendations on the proposal to dismiss village officials as determined through the village head's decision regarding the dismissal of village officials, was considered procedurally flawed so that the substance of the dismissal of village officials was deemed to be substantively flawed, so that the action of dismissing village officials by the village head is deemed to be an action and/or decision that has no validity or legality, as stipulated in the provisions of Article 56 of Law no. 30 of 2014 which regulates that:

- a. A decision that does not meet the requirements as intended in Article 52 paragraph (1) letter a is an invalid decision.
- b. Decisions that do not meet the requirements as intended in Article 52 paragraph (1) letters b and c are decisions that are void or can be cancelled.

Thus, the act of dismissing village officials by the village head without consulting with the sub-district head as stipulated in the provisions of the statutory regulations is an action and/or decision that does not have legality, because it does not comply with the procedures and substance stipulated in the provisions of the statutory regulations, so the action the village head dismissing the village officials is considered to have no legality or validity.

B. LEGAL CONSEQUENCES THE VILLAGE HEAD'S ACTION OF DISMISSING VILLAGE APPARATUS DOES NOT HAVE LEGALITY.

Every action taken by a body or official or state administrator, including the village head, in carrying out their duties and functions certainly has certain legal consequences. Government legal actions are actions carried out by State Administrative Bodies or Officials in the context of carrying out government affairs. Legal actions taken by state officials are theoretically actions that have administrative legal implications. Likewise, the actions taken by the village head in dismissing village officials, moreover the actions of the village head in question are deemed to have no validity or legality because they do not comply with the

procedures and substance stipulated in the statutory regulations, as stipulated in the provisions of Article 52 of Law no. 30 of 2014 regulates that:

- (1) Conditions for the validity of the Decision include:
 - a. determined by the authorized official;
 - b. made according to procedures; And
 - c. substance that corresponds to the object of the Decision.
- (2) The validity of the Decision as intended in paragraph (1) is based on the provisions of statutory regulations and AUPB.

Based on the provisions in the provisions referred to, the conditions for the validity of a decision, including the decision to dismiss village officials by the village head, must be in accordance with the authority, procedures and substance, as determined by statutory regulations. In relation to decisions to dismiss village officials who do not comply with the procedures and substance stipulated in the provisions of the statutory regulations, of course there are legal consequences.

The legal consequence of a decision to dismiss a village official by the village head which is not in accordance with procedures is that the village head first consults with the sub-district head to get a recommendation to dismiss the village official, but not doing so results in a procedural flaw so that the substance of the decision to dismiss the village official is substantially flawed. For this reason, decisions to dismiss village officials that are procedurally and substantively flawed have legal consequences that are null and/or can be cancelled, as stipulated in Article 56 of Law no. 30 of 2014 which regulates that:

- 1) A decision that does not meet the requirements as intended in Article 52 paragraph (1) letter a is an invalid decision.
- 2) Decisions that do not meet the requirements as intended in Article 52 paragraph (1) letters b and c are decisions that are void or can be cancelled.

Decisions to dismiss village officials made by the village head that are deemed to be procedurally and substantively flawed are void or can be cancelled. The cancellation of the decision to dismiss village officials by the village head was due to procedural and substantive defects as stipulated in Article 52 and Article 56 of Law no. 30 of 2014, because it has no validity.

According to Philipus M. Hadjon, "Invalid decisions can result in *van rechtswege nietigheid* (nullified by law), *nietig* (cancelled), or *vernietigbaar* (can be cancelled). *Nietig* means that for the law the action taken is considered non-existent. As a consequence, according to the law, the consequences of the action are considered to have never existed. *Vernietigbaar* means that for the law the act carried out and its legal consequences are deemed to exist until the time it is annulled by a judge or other competent government body. *Nietigheid van rechtswege* means that for the law the consequences of an action are deemed non-existent without the need for a decision to annul the action." That government actions can result in being null and void by law, void or can be canceled depending on whether the deficiencies contained in the decision are essential or not.

In Article 70 of Law no. 30 of 2014 regulates that:

- (1) Decisions and/or Actions are invalid if:
 - a. made by unauthorized Government Agencies and/or Officials;
 - b. made by Government Agencies and/or Officials who exceed their authority; and/or
 - c. made by Government Agencies and/or Officials acting arbitrarily.
- (2) The legal consequences of the Decision and/or Action as intended in paragraph (1) are:
 - a. not binding since the Decision and/or Action is stipulated; And
 - b. any resulting legal consequences are deemed to have never existed.
- (3) In the event that a decision resulting in payment of state money is declared invalid, the Government Agency and/or Official is obliged to return the money to the state treasury.

Based on the arrangements as mentioned, the village head's action of dismissing village officials who are procedurally and substantively flawed is considered void or can be cancelled. A decision that is categorized as void is not binding from the time the decision in question is made. This means that it does not require an annulment from the official who issued or the superior of the official who issued the decision in question, or a court decision to cancel the decision in question. However, the decision in question is deemed to be null and void from the time it is made, and does not have binding legal force. In relation to the decision to dismiss village officials carried out by the village head which is considered to be procedurally and substantively flawed, the decision in question from the beginning was determined by the village head to be deemed null and void, there is no need for an annulment from the court or the village head's superior, in this case the regent or sub-district head, to cancel it. This means that the decision in question is automatically cancelled.

Meanwhile, the legal effect of a decision that is declared to be revocable means that the decision in question can be rescinded by a superior official or court if legal action is taken. This means that superior officials or the court can cancel if the person whose interests have been harmed takes legal action against a decision that is detrimental to him. Therefore, the decision in question is not automatically canceled. On the other hand, there are legal resistance efforts against the actions of officials including the village head who issued the decision in question.

When there is an order from a court or superior from the official who issued the decision to revoke it, the official who issued the decision will revoke the decision, as stipulated in Article 64 paragraph (3) of Law no. 30 of 2014 which regulates that the revocation decision as intended in paragraph (2) can be made:

- a. by Government Officials who make Decisions;
- b. by the superior official who determines the decision; or c.
- c. by order of the Court

In Article 64 paragraph (4) and paragraph (5) of Law no. 30 of 2014 regulates that: (4) Decisions on revocation made by Government Officials and Superior Officials as referred to in paragraph (3) letters a and b are made no later than 5 (five) working days after the discovery of the basis for revocation as intended in paragraph (1) and are valid from the date of stipulation revocation decision. (5) The revocation decision made based on the Court's order as intended in paragraph (3) letter c is made no later than 21 (twenty one) working days from the Court's order, and is valid from the date the revocation decision is determined.

Based on the arrangements as mentioned above, the village head's decision regarding the dismissal of village officials that was issued without consultation with the sub-district head should be revoked no later than 5 (five) days after the decision was made by the village head.

As happened with the decision of the village head of Nyalabu Daya, and the head of Hukum Tua Darunu village, because the revocation was not carried out, both the village officials of Nyalabu Daya village, and the head of Law Tua Darunu village, filed a lawsuit with the state administrative court, the basis for filing the lawsuit was then The Surabaya State Administrative Court and the Manado State Administrative Court ordered the annulment.

The court's action to cancel is intended as a form of revocation of the decision as stipulated in the provisions of Article 64 of Law no. 30 of 2014. Apart from the revocation of the dismissal decision made by the head or subdistrict head or regent/mayor or on the basis of a court order, the dismissal decision in question can be cancelled, due to procedural and substantive defects as stipulated in the provisions of Article 66 of Law no. 30 of 2014 which regulates that:

- (1) The decision can only be canceled if there are defects:
 - a. authority;
 - b. procedure; and/or
 - c. substance.
- (2) In the event that the Decision is cancelled, a new Decision must be stipulated by stating the legal basis for the cancellation and taking into account the AUPB.

- (3) The decision to cancel as intended in paragraph (1) can be made by:
 - a. Government Officials who make Decisions;
 - b. Superior Officer who makes the Decision; or
 - c. on the Court's decision.
- (4) The cancellation decision made by Government Officials and Superior Officials as intended in paragraph (3) letters a and b is made no later than 5 (five) working days from the discovery of the reason for the cancellation as intended in paragraph (1) and is valid from the date of stipulation Cancellation decision.
- (5) The revocation decision made based on the Court's order as intended in paragraph (3) letter c is made no later than 21 (twenty one) working days from the Court's order, and is effective from the date the revocation decision is determined.
- (6) Cancellation of decisions involving the public interest must be announced through the mass media.

Thus, as a result of the law, the decision to dismiss village officials which was made without consulting the sub-district head resulted in the decision being considered procedurally and substantively flawed, resulting in the law being void, and not binding from the time the decision in question was made. It does not require an annulment from the issuing official or the superior of the official issuing the decision in question, or a court decision to cancel the decision in question. However, the decision in question is considered null and void from the time it is made and does not have binding legal force.

D. Conclusion

Based on the description, it can be concluded as follows:

1. The act of dismissing village officials is within the authority of the village head, however, when the village head wants to dismiss village officials, the village head is obliged to consult with the sub-district head, the sub-district head will carry out a study or study to provide recommendations to the village head to dismiss or not dismiss village officials. Without consulting with the sub-district head as stipulated in the provisions of statutory regulations, the village head's action in dismissing village officials has no legality, because it does not comply with the procedures and substance stipulated in the provisions of statutory regulations.
2. The legal consequences of the village head's action in dismissing village officials who do not have legality are void, so they are not binding from the moment the decision is made. is determined, and does not require an annulment from the official who issued or the superior of the official who issued the decision in question, or a court decision to cancel the decision in question. However, the decision in question is void from the moment it is made and does not have binding legal force

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