



## DECISION

Number 28/PHPU.D-VI/2008

FOR THE SAKE OF JUSTICE UNDER THE ONE ALMIGHTY GOD

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF INDONESIA

[1.1] Examining, hearing, and deciding upon constitutional cases at the first and final level, has passed a decision in the case of Dispute over the Results of General Election of the Regional Head and the Deputy Regional Head of Donggala Regency, filed by:

[1.2] 1. Name : **Drs. Kasman Lassa, S.H**  
Age : 47 Years Old  
Occupation : Civil Servant  
Address : Kompleks Perumahan Korpri Bumi Roviega,  
Layana Indah Sub-district, Palu Timur District,  
Palu Municipality

Resident's Identification

Card : 19.5004.210461.0005

In this matter granting the power of attorney to Hairun Daud Advocate/Legal Consultant, having its office at Jalan Tanjung Satu

Number 82 Palu, Middle Sulawesi acting for and behalf of the Authorizer, both jointly and severally under a special power of attorney dated November 10, 2008;

2. Name : **Ahmad Ariefianto, S.E**  
Age : 35 Years Old  
Occupation : Entrepreneur  
Address : Jalan Padanjakaya Number 135 Palu,  
Pengawu Sub-district, Palu Selatan District,  
Palu Municipality

Resident's Identification

Card : 7271030608730004

3. Name : **Abubakar Aljufrie, S.E.**  
Age : 48 Years Old  
Occupation : Member of the People's Legislative Assembly  
of Donggala Regency;  
Address : Jalan Raya Donggala Km. 5 Number 38  
RT.06/RW.03 Kabonga Kecil Sub-district,  
Banawa District;

Resident's Identification

Card : 19.0117.151060.0234;

4. Name : **Taufik M. Burhan, S.Pd., M.Si;**  
Age : 42 Years Old;

Occupation : Civil Servant;  
Address : Jalan Goya Bamba Number 7 Toaya, Sindue  
District, Donggala Regency;  
Resident's Identification  
Card : 7203100307660006;

Hereinafter referred to as ----- **the Petitioners;**

Against:

**[1.3] 1. Name : The General Elections Commission of  
Donggala Regency**  
Address : Jalan Pelabuhan Number 76, Telephone  
(0457) 71430, Donggala Regency;

In this matter granting the power of attorney to:

1. **Muhtar, S.H;**
2. **H. Idrus, S.H;**
3. **Arifin Musa, S.H.,**
4. **Hartawan Supu, S.H.,**
5. **Muh. Anzar, S.H**

All of them are Advocates/Lawyers and Legal Counsels, having their office at  
Jalan Yos Sudarso Number 32, Palu, Middle Sulawesi, acting for and behalf of

the Authorizer, both jointly and severally under a special power of attorney Number 270/122/KPU-KWK/XI/2008 dated November 7, 2008;

Hereinafter referred to as ----- **the Respondent;**

2. Name : **The Supervisory Committee for the Election of Regional Head and Deputy Regional Head (Panwaslu) of Donggala Regency**

Address : Jalan Pretalolo (Former Office of the Regional People's Legislative Assembly (DPRD) of Donggala Regency;

Hereinafter referred to as ----- **the Co-respondent;**

**[1.4]** Having read the Petitioners' petition;

Having heard the Petitioners' statement;

Having heard the statement and having read the written statement of the Respondent, namely the General Elections Commission of Donggala Regency;

Having heard the statement of the Co-respondent, namely the Supervisory Committee for the Election of Regional Head and Deputy Regional Head (Panwaslu) of Donggala Regency;

Having examined the evidence and experts presented by the Petitioners;

Having examined the evidence presented by the Respondent;

Having read the conclusion of the Petitioners;

Having read the conclusion of the Respondent;

### 3. LEGAL CONSIDERATIONS

**[3.1]** Considering whereas the principal issue of the Petitioners' petition is an objection to the Results of General Election of the Regional Head and the Deputy Regional Head (Pemilukada) of Donggala Regency stipulated by the General Elections Commission (KPU) of Donggala Regency in accordance to Decision of the General Elections Commission Number 278/168/KPU-KWK/2008 dated October 28, 2008;

**[3.2]** Considering whereas prior to examining the substance or the principal issue of the case, the Constitutional Court (hereinafter referred to as the Court) shall first consider the following matters:

1. the Court's authority to examine, hear, and decide upon the *a quo* petition;
2. the Petitioners' legal standing to file for the *a quo* petition;
3. the time limit for filing the petition.

With respect to the foregoing three matters, the Court is of the following opinion:

#### **Authority of the Court**

**[3.3]** Considering whereas based on Article 24C of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution), and Article 10 paragraph (1) sub-paragraph d of Law Number 24 Year 2003

regarding the Constitutional Court (State Gazette of the Republic of Indonesia Year 2003 Number 98, Supplement to the State Gazette of the Republic of Indonesia Number 4316, hereinafter referred to as the Constitutional Court Law) *in junctis* Article 12 paragraph (1) sub-paragraph d of Law Number 4 Year 2004 regarding Judicial Power, and Law Number 12 Year 2003 regarding the Second Amendment to Law Number 32 Year 2004 regarding Regional Government, one of the constitutional authorities of the Court is to decide upon disputes over general elections results;

At first, based on the provision of Article 106 paragraphs (1) and paragraph (2) of Law Number 32 Year 2004 regarding Regional Government (State Gazette of the Republic of Indonesia Year 2004 Number 125, Supplement to the State Gazette of the Republic of Indonesia Number 4437), objections related to vote count results affecting the election of a candidate pair was to be filed to the Supreme Court. Such authority of the Supreme Court was also included in Article 94 of Government Regulation Number 6 Year 2005 regarding Election, Legalization of Appointment and Dismissal of Regional Head and Deputy Regional Head;

Article 1 sub-article 4 of Law Number 22 Year 2007 regarding General Elections Organizer (State Gazette of the Republic of Indonesia Year 2007 Number 59, Supplement to the State Gazette of the Republic of Indonesia Number 4721), stipulates that "*General Elections of Regional Heads and Deputy Regional Heads shall be general elections to directly elect the regional heads*

*and deputy regional heads within the Unitary State of the Republic of Indonesia under Pancasila and the 1945 Constitution of the Republic of Indonesia”;*

Law Number 12 Year 2008 regarding Second Amendment to Law Number 32 Year 2004 regarding Regional Government, in Article 236C stipulates, *”The handling of disputes over the vote count results of the election of regional heads by the Supreme Court shall be delegated to the Constitutional Court no later than 18 (eighteen) months following the promulgation of this Law”;*

On October 29, 2008, the Chief Justice of the Supreme Court and the Chief Justice of the Constitutional Court jointly signed the Minutes of Delegation of Authority to Adjudicate, as the implementation of Article 236C of Law Number 12 Year 2008 above.

**[3.4]** Considering whereas the Petitioners’ petition concerns with the dispute over the vote count results of the General Election of Regional Heads of Donggala Regency in accordance with the Decision of General Elections Commission Number 278/168/KPU-KWK/2008 regarding the Stipulation of the Elected Candidates of General Election of Regional Head and Deputy Regional Head of Donggala Regency Year 2009-2014 dated October 28, 2008. Hence, although the *petitum* of the Petition does not expressly state the mistaken vote count result by the General Elections Commission and that the Petitioners request for the correct vote count result in their opinion to be stipulated by the Court, the Court has authority to examine, hear, and decide upon the *a quo* petition.



### **Legal standing of the Petitioners**

**[3.5]** Considering whereas Article 106 paragraph (1) of Law Number 32 Year 2004 regarding Regional Government, Articles 3 and 4 of Constitutional Court Regulation Number 15 Year 2008 regarding Guidelines for Proceedings in the Dispute over the Results of General Elections of Regional Heads (hereinafter referred to as PMK 15/2008), provides for, among other things, the following matters:

- a. the Petitioners shall be a Candidate Pair for the Regional Head and the Deputy Regional Head;
- b. the Petition may only be filed against the stipulation of the vote count results of the General Election of Regional Heads affecting the determination of Candidate Pairs qualified to participate in the second round General Election of Regional Heads or the nomination of a candidate pair as the Regional Head and the Deputy Regional Head;

**[3.6]** Considering whereas with regard to the legal standing of the Petitioners, based on the provision of Article 106 paragraph (1) of Law Number 32 Year 2004 regarding Regional Government, the Court shall consider Articles 3 and 4 of PMK 15/2008 as intended in **[3.5]** as follows:

- whereas in accordance with the Decision of General Elections Commission of Donggala Regency, Petitioners 1 and 2 are the Candidate Pair for Regional Head and Deputy Regional Head of Donggala Regency

- Year 2008 with candidacy number 6 (six) and Petitioners 3 and 4 are the Candidate Pair for Regional Head and Deputy Regional Head of Donggala Regency Year 2008 with candidacy number 5 (five);
- whereas the petition filed by the Petitioners is an objection to the Decision of General Elections Commission Number 278/168/KPU-KWK/2008 dated October 28, 2008, regarding the Stipulation of the Elected Candidate of General Election of Regional Head and Deputy Regional Head of Donggala Regency Year 2009-2014. Such objection is due to the fact that the Respondent involved voters residing in the area of Sigi Regency which was established under Law Number 27 Year 2008 as a division of Donggala Regency. With the aforementioned legal facts, the Petitioners are deemed to have had legal standing to file for the *a quo* petition;

### **Time limit for Filing a Petition**

**[3.7]** Considering whereas Article 5 of Constitutional Court Regulation Number 15 Year 2008 stipulates that “*Petitions may only be filed by no later than 3 (three) working days after the Respondent determines the vote count results of the General Election of Regional Heads in the region concerned*”.

Whereas the Decision of General Elections Commission Number 278/168/KPU-KWK/2008 was dated October 28, 2008 and the Petitioners’ petition was received at the Registrar’s Office of the District Court of Donggala on October 30, 2008 and subsequently transferred to the Court as well as registered on November 6, 2008, so that the Petitioners’ petition has fulfilled the time limit of

3 (three) working days after the General Elections Commission stipulated the results of General Elections of the Regional Heads. Hence, the Petitioners' petition has been filled within the stipulated time limit;

**[3.8]** Considering, based on the foregoing evaluation of facts and legal grounds in paragraphs **[3.6]** and **[3.7]**, the Court is of the opinion that the Petitioners have legal standing to file for the *a quo* petition. However, even though Petitioners number 3 and number 4, Abubakar Aljufrie S.E. and Taufik M. Burhan S.Pd., M.Si. have legal standing to file for the petition, the petition of Petitioners number 3 and number 4 shall be deemed null and void because Petitioners number 3 and number 4 concerned are not present in the hearing. Therefore, the matter does not need to be considered further;

**[3.9]** Considering whereas since the Court has authority to examine, hear, and decide upon the *a quo* petition and the Petitioners have legal standing to file for the petition, and that the petition has been filed within the time limit, the Court shall further consider the principal issue of the petition;

#### **Principal issue of the petition**

**[3.10]** Considering whereas in their petition, the Petitioners principally argue as follows:

- Whereas the General Elections Commission of Donggala Regency of Central Sulawesi Province has issued Letter of Decision Number 278/168/KPU-KWK/2008 dated October 28, 2008 regarding the Stipulation

of the Elected Candidates of General Election of Regional Head and Deputy Regional Head of Donggala Regency Year 2009-2014, and also has announced the vote count results by involving voters from Sigi Regency as a Division of Donggala Regency established under Law Number 27 Year 2008 regarding the Establishment of Sigi Regency in Central Sulawesi Province which was ratified on July 21, 2008;

- Whereas the General Election of Regional Heads of Donggala Regency involving voters from districts included in Sigi Regency that has just been established as a division of Donggala Regency was based on the letter of the General Elections Commission Number 2371/15/VII/2008, which evidently does not have legal force due to a defect, because the establishment of Sigi Regency by the enactment of Law Number 27 Year 2008 on July 21, 2008 was declared to be effective as of the enactment, and hence the implementation of the General Election of Regional Heads of Donggala Regency should have no longer involved the community residing the 15 Districts in Sigi Regency;
- Whereas based on Article 2, Article 3, and Article 4 of Law Number 27 Year 2008, it is clear that with the establishment of Sigi Regency, the area of the Area of Sigi Regency has been excluded from Donggala Regency, and the people in 15 Districts in Sigi Regency did not need to participate in selecting the Regent/Deputy Regent in the General Election of Regional Heads of Donggala Regency;

Whereas based on the aforementioned legal grounds, the Petitioners have filed a petition for the Constitutional Court to pass the following decisions:

1. To cancel the Decision of the General Elections Commission of Donggala Regency Number 278/168/KPU-KWK/2008 dated October 28, 2008 regarding the Stipulation of the Elected Candidates of General Election of Regional Head and Deputy Regional Head of Donggala Regency Year 2009-2014;
2. To cancel the entire process of General Election of Regional Heads of Donggala Regency due to incorrect use of legal grounds by the Respondent and/or;
3. To order the Respondent to recount of vote results of the General Election of Regional Heads by not including/involving the people in 15 (fifteen) districts of Sigi Regency as voters;
4. To order the Respondent to execute a run-off General Election of Regional Heads in accordance with the applicable provisions;

**[3.11]** Considering whereas to support its arguments, the Petitioners have presented written evidence (Exhibit P-1 through Exhibit P-4), as well as an expert whose statement was already heard in the hearing on November 18, 2008 which is included entirely in the facts of the case, but which principally states as follows:

**Expert Prof. Dr. Harun Alrasid, S.H**

- whereas with the establishment of a new regency, the new regency shall no longer be subject to its parent regency and must have its own representatives;
- whereas in the event that there is still no definitive Regent as Regional Head in the new regency, there shall be transitional provisions to conduct temporary services, since it is not proper if a new region is still managed by the Parent Regency;
- whereas the establishment of a new regency shall automatically require that the new regency must have its own representatives and shall not require implementing regulations;
- whereas a vacuum of in the government must be avoided, but with the division, the new government must be able to conduct a General Election to select its representatives and shall not be subject to the original regency;

**[3.12]** Considering whereas with regard to the petition of the *a quo* Petitioners, the Respondent has conveyed its response which principally refutes the arguments of the Petitioners for the reasons as follows;

- whereas in the petition, the Petitioners cannot indicate expressly the mistake of the vote count stipulated by the Respondent and the correct vote count in the opinion of the Petitioners, whether concerning the total number or the place where the mistake of vote count has occurred (Voting

Station, District Polling Committee, General Elections Commission of Donggala Regency);

- whereas Sigi Regency that has been established still does not have area borders, a fact which certainly has legal implication on the uncertainty of the residents covered in the scope of area of Sigi Regency. The condition of certain area borders and residents covered in the area of Sigi Regency surely cannot be put into realization if Sigi Regency which has been established still has not been officially stipulated by the Minister of Home Affairs on behalf of the President;
- whereas in the event that the aforementioned provision has not been implemented, then surely it will not cause the residents/community in the area coverage of Sigi Regency to lose their "resident status" right, since all the people residing in the area coverage of Sigi Regency coming from some of the areas of Donggala Regency still have the status as "residents" of Donggala Regency;

**[3.13]** Considering whereas to support its arguments, the Respondent has presented written evidence marked as Exhibit T-1 through Exhibit T-37;

**[3.14]** Considering whereas in the hearings on November 11 and 13, 2008, the Co-respondent, namely the Supervisory Committee for the Election of Regional Head and Deputy Regional Head (Panwaslu) of Donggala Regency conveyed its statement which is principally as follows:

- whereas the Supervisory Committee for the Election of Regional Head and Deputy Regional Head of Donggala Regency requires a clarification with regard to the status of the Supervisory Committee for the Election of Regional Head and Deputy Regional Head of Donggala Regency in the revision of the Petitioners' petition;
- whereas in Constitutional Court Regulation Number 15 Year 2008, the parties which can be a Respondent shall be the general election organizer, and thus the Supervisory Committee for the Election of Regional Head and Deputy Regional Head of Donggala Regency requests for all petitions related to the Supervisory Committee for the Election of Regional Head and Deputy Regional Head not to be accepted;
- whereas Law Number 27 Year 2008 regarding the Division of Sigi shall be accepted after the existence of the new stipulation;
- whereas Letter of the General Elections Commission Number 2371/15/VII/2008 was received by the Supervisory Committee for the Election of Regional Head and Deputy Regional Head of Donggala Regency on October 28, 2008;

**[3.15]** Considering whereas before taking into account the principal issue of the case, the Court shall first consider the Petitioners' petition involving the Supervisory Committee for the Election of Regional Head and Deputy Regional Head of Donggala Regency as Co-respondent, to which the Panwaslu has filed



an objection as it is deemed not being in accordance with the applicable procedural law. With regard to such matter, the Court is of the opinion that the petition concerned must be set aside and cannot be unaccepted, since Article 1 sub-article 9 of Constitutional Court Regulation Number 15 Year 2008 has expressly stipulated that the Respondent shall be the General Elections Commission of Province or Regency/Municipality as the Organizer of the General Election of Regional Heads, related to the object of dispute over the General Election of Regional Heads limited to the vote count results stipulated by the Respondent, as provided for in Article 106 paragraph (2) of Law Number 32 Year 2004 regarding Regional Government and Article 4 of Constitutional Court Regulation Number 15 Year 2008;

### **Opinion of the Court**

**[3.16]** Considering whereas after examining carefully the descriptions of the petition and arguments conveyed by the Petitioner, evidence presented, as well as statement of the expert, statement of the Respondent, evidence, statement of the Co-respondent, namely the Supervisory Committee for the Election of Regional Head and Deputy Regional Head (Panwaslu), then the principal issues to be considered by the Court shall be as follows:

1. Whether the issuance of Law Number 27 Year 2008 dated July 21, 2008 regarding the establishment of Sigi Regency as a division from Donggala Regency shall automatically cause the residents living in the jurisdiction of

Sigi Regency to no longer be entitled to participate in the general election of Regional Heads of Donggala Regency;

2. Whether it can be proven that the vote acquisition of the Petitioners would have affected the election of the Petitioners to become Regional Head/Deputy Regional Head of Donggala Regency if the voters residing in 15 (fifteen) districts included in the area of Sigi Regency had not been involved in the election of Regional Head/Deputy Regional Head of Donggala Regency.

**[3.16.1]** Considering whereas with regard to the foregoing two legal issues, the Court is of the following opinion:

1. **The Participation of Voters from the New Regency (resulting from the division)**
  - whereas the establishment of Sigi Regency as a division of Donggala Regency under Law Number 27 Year 2008 on July 21, 2008 occurred when the process of general elections of regional head/deputy regional head was taking place and has passed three stages of general elections followed by all participants of the General Elections of Regional Heads of Donggala Regency, including the Petitioners;
  - whereas the Petitioners admit that the Petitioners and other participants of the General Elections of Regional Head and Deputy Regional Head have involved voters in the area included in Sigi Regency as target voters, by

holding campaigns in the area of the new regency, and the Permanent Voters' List residing in the area of the new regency has also been determined;

- whereas the participation of voters from the area of the new regency in the General Elections of Regional Heads of Donggala Regency was based on letter of the General Elections Commission Number 2371/15/VII/2008. The validity of such letter has been denied by the Petitioners by stating that the letter concerned has never been drawn up by the Chairperson of the General Elections Commission of Central Sulawesi Province, even though it was subsequently admitted as a valid letter of the Chairperson of the General Elections Commission, and it has been used as guidelines by the General Elections Commission of Donggala Regency and all participants of the General Election of Regional Heads of Donggala Regency with regard to the voters entitled to vote for Regional Head/Deputy Regional Head of Donggala Regency;
- whereas even though Article 9 of Law Number 27 Year 2008 regarding the Establishment of Sigi Regency in Central Sulawesi Province has affirmed that within a period of 6 (six) months an Official as Regent of Sigi Regency must have been inaugurated, however prior to the inauguration of an official as regent/regional head, the government administration services, population, budget, et cetera are still to be conducted in the parent regency, and hence the legal rights and obligations and government of the

residents living in the area included in Sigi Regency (division) still exist and be managed by the Regional Government of Donggala Regency;

- whereas the Transitional provisions in Law Number 27 Year 2008 regarding the Establishment of Sigi Regency in Central Sulawesi Province do not include the regulation stating that the residents of Sigi Regency area are no longer granted the right to vote in the General Election of Regional Heads of Donggala Regency, as proven from Article 19 and Article 20 of the *a quo* law which reads as follows:

Article 19 paragraph (1): *"Prior to the establishment of the Regional People's Legislative Assembly, the Official as Regent of Sigi shall prepare the Draft of Regent Regulation concerning Regional Revenues and Expenditures Budget of Sigi Regency for the following fiscal year"*.

Article 19 paragraph (2): *"The Draft of Sigi Regent Regulation as intended in paragraph (1) shall be implemented after the ratification by the Governor of Central Sulawesi"*.

Article 19 paragraph (3): *"The process of ratification and stipulation of Regulation of Sigi Regent as intended in paragraph (2) shall be implemented in accordance with laws and regulations"*.

Article 20: *"Before the Government of Sigi Regency stipulates the regional regulation and Regent regulation as the implementation of this law, all regional regulations and regulations of the Regent of Donggala insofar as*

*they are not contradictory to this law shall remain applicable and implemented by the Government of Sigi Regency ”.*

- whereas the Court cannot agree with the opinion of expert Prof. Dr. Harun Alrasid, stating that the enactment of Law Number 27 Year 2008 regarding the Establishment of Sigi Regency in Central Sulawesi Province shall automatically cause the residents of Sigi Regency to no longer be involved in the General Election of Regional Heads of Donggala Regency, since the *a quo* law still requires implementing legislations so as to apply effectively;
- whereas it is also evident that the Petitioners as well as the other Candidate Pairs for Regional Head and Deputy Regional Head of Donggala Regency have followed all the stages of the General Elections of Regional Heads up to the execution of voting and have never filed any objection with regard to such matter, and even though before the court the Petitioners states that it have just been aware of the enactment of Law Number 27 Year 2008 regarding the Establishment of Sigi Regency in Central Sulawesi Province after the implementation of the General Election of Regional Heads of Donggala Regency, the Court is of the opinion that such facts cannot be used to set aside the stages in the process of the General Election of Regional Heads and also cannot affect the validity of the stages of the General Election of Regional Heads that have been carried out;

## 2. Impact on the Petitioners' Vote Acquisition

- Whereas the argument of the Petitioners stating that in the event that the General Elections Commission does not count and involve voters from Sigi Regency [15 (fifteen) districts], the valid acquisition of votes result of only 133,791 votes from the respective candidates shall be as follows:

1. Pair of Maulidin Labalo ----- 26,340 votes.
2. Pair of Habir ----- 26,505 votes.
3. Pair of Datu Lamarauna ----- 10,039 votes.
4. Pair of Syafrun ----- 12,953 votes.
5. Pair of Abubakar ----- 12,939 votes.
6. Pair of Kasman Lassa ----- 26,494 votes.
7. Pair of Suardin Suebo ----- 14,098 votes.

- Whereas in the event it is true —*quad non*— that the residents living in the new regency were not involved in the General Election of Regional Heads of Donggala Regency, and the vote acquisition of the Petitioners was counted without the votes of the voters from the new Regency, as conveyed by the Petitioners itself in its petition, it is proven that the vote acquisition of Petitioners' version placing itself at the second rank is completely unsupported by evidence required for such purpose, and hence there is no reason to stipulate the vote acquisition of Petitioners' version as the correct vote count;

**[3.16.2]** Considering whereas furthermore with regard to the existence of 15 (fifteen) districts deemed by the Petitioners as no longer part of the areas participating in the General Election of Regional Heads of Donggala Regency, before the area borders of Sigi Regency have been definitely stipulated by the Minister of Home Affairs, the vote acquisition number of the General Election of Regional Heads of Donggala Regency of Petitioners' version cannot be assured with regard to how the voters residing in Sigi Regency would be excluded from the Permanent Voters' List.

#### **4. CONCLUSION**

Based on all the foregoing evaluation of facts and legal grounds, the Court concludes as follows:

**[4.1]** whereas even though Law Number 27 Year 2008 regarding the Establishment of Sigi Regency in Central Sulawesi Province as a division of Donggala Regency was already enacted on July 21, 2008, the new regency's existence has not been effective insofar as the government in the new regency has not been established by the appointment of the Regent as Regional Head official;

**[4.2]** whereas the participation of voters from the new regency in the General Elections of Regional Heads of Donggala Regency as stipulated by the General Elections Commission of Central

Sulawesi Province shall be validly counted as votes in the General Elections of Regional Heads of Donggala Regency;

**[4.3]** whereas the Petitioners cannot prove their vote acquisition with valid evidence for such purpose.

## **5. DECISION**

In view of the Articles of the 1945 Constitution of the Republic of Indonesia, Law Number 24 Year 2003 regarding the Constitutional Court, Law Number 4 Year 2004 regarding Judicial Power, and Law Number 32 Year 2004 regarding Regional Government as most recently amended with Law Number 12 Year 2008 regarding the Second Amendment to Law Number 32 Year 2004 regarding Regional Government, and Minutes of Delegation of Authority to Adjudicate dated October 29, 2008 from the Supreme Court to the Constitutional Court;

### **Passing the Decision,**

To declare that the Petitioners' petition insofar as it is concerned with the Co-respondent (The Supervisory Committee for the Election of Regional Head and Deputy Regional Head of Donggala Regency) cannot be accepted;

To reject the Petitioners' petition in its entirety.

Hence the decision was made in the Plenary Consultative Meeting of 9 (nine) Constitutional Court Justices on Monday, the twenty fourth of



November two thousand and eight and was pronounced in a Plenary Session open for the public on the same day by us, Moh. Mahfud MD, as the Chairperson and concurrent Member and Maruarar Siahaan, Muhammad Alim, H. Achmad Sodiki, H. Abdul Mukthie Fadjar, H.M. Arsyad Sanusi, Maria Farida Indrati, H.M. Akil Mochtar, and Jimly Asshiddiqie respectively as Members and assisted by Ida Ria Tambunan as Substitute Registrar, in the presence of the Petitioners and/or their Attorneys and the Respondent and/or its Attorneys.

**CHIEF JUSTICE**

**sgd.**

**Moh. Mahfud MD**

**JUSTICES,**

**sgd.**

**Maruarar Siahaan**

**sgd.**

**H.Achmad Sodiki**

**sgd.**

**H.M.Arsyad Sanusi**

**sgd.**

**H.M.Akil Mochtar**

**sgd.**

**Muhammad Alim**

**sgd.**

**H.Abdul Mukthie Fadjar**

**sgd.**

**Maria Farida Indrati**

**sgd.**

**Jimly Asshiddiqie**

**SUBSTITUTE REGISTRAR,**

**sgd.**

**Ida Ria Tambunan**