



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 15/PUU-XXII/2024**

**Concerning**

**The Suspension of Political Parties**

- Petitioner** : Teja Maulana Hakim
- Type of Case** : Judicial Review of Law Number 2 of 2008 concerning General Elections (Law 2/2008) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Material judicial review of Article 40 paragraph (2) letter b, Article 48 paragraph (2), and paragraph (3) of Law 2/2008 are contrary to the 1945 Constitution
- Verdict** : To declare that the Petitioner's petition is inadmissible
- Date of Decision** : Wednesday, March 20, 2024
- Overview of Decision** :

Whereas the Petitioner, as an individual Indonesian citizen who is a student at the Faculty of Law, Universitas Internasional Batam, believes that he has been impaired by the enactment of the provisions of Article 40 paragraph (2) letter b of Law 2/2008 because the *a quo* article does not provide legal certainty as regulated in Article 28D paragraph (1) of the 1945 Constitution for the Petitioner in protecting the Petitioner as an Indonesian Citizen from Political Parties whose public office selection process is ineffective so that members of such Political Parties who become State Administrators are accused to be involved in the cases of criminal acts of corruption, either in the form of corruption to state finances, bribery, gratification, and so on. In addition, the Petitioner is also harmed by the enactment of the provisions of Article 48 paragraph (2) and Article 48 paragraph (3) of Law 2/2008 because of the *a quo* articles do not guarantee respect for the human rights of the Petitioner in the orderly life of society, nation and state as regulated in Article 28J paragraph (1) of the 1945 Constitution, and there are demands that are unfair and inconsistent with considerations of security and public order in a democratic society as regulated in Article 28J paragraph (2) of the 1945 Constitution, therefore immediate action is needed in the form of immediate dissolution of political parties.

Regarding the Court's authority, because the Petitioner petitions for a review of the constitutionality of statutory norms, *in casu* Article 40 paragraph (2) letter b, Article 48 paragraph (2) and paragraph (3) of Law 2/2008 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Furthermore, in relation to the Petitioner's legal standing, the Court considers that in submitting judicial review case to the Court, the Petitioner must fulfill the formal and material requirements related to legal standing. Regarding the formal requirements in relation to the Petitioner's qualifications in judicial review as referred to in Article 51 paragraph (1) of the

Constitutional Court Law, the Petitioner in his petition has qualified himself as an individual Indonesian citizen who is a student at the Faculty of Law, Universitas Internasional Batam as evident in the letter/writing in the form of a photocopy of the Petitioner's e-KTP (Indonesian identity card) [*vide* evidence P-3]. Therefore, the Court is of the opinion that the Petitioner has fulfilled the formal requirements related to the Petitioner's qualifications as an individual Indonesian citizen;

Furthermore, regarding the material requirements in relation to whether or not the Petitioner's constitutional rights have been harmed (constitutional impairment), the Petitioner must fulfill 5 (five) constitutional impairment requirements cumulatively. Therefore, in judicial review case, the Petitioner has an obligation to describe one by one the specified requirements which generally can be divided into 2 (two) elements, namely a description of the existence of (i) constitutional rights and/or authority and (ii) the presumed constitutional impairment suffered or experienced by the Petitioner. Regarding the first element, the Petitioner has described his constitutional rights which he believes are harmed by the enactment of the legal norms being petitioned for review, namely Article 28D paragraph (1), Article 28J paragraph (1) and paragraph (2) of the 1945 Constitution. Regarding the constitutional rights argued by the *a quo* Petitioner, the Court considers that the basis for constitutional rights that is more appropriate and in line with the wishes and objectives of the Petitioner's petition is Article 28D paragraph (1) of the 1945 Constitution which regulates the guarantee of fair legal certainty. Meanwhile, Article 28J paragraph (1) and paragraph (2) of the 1945 Constitution is more of a guideline in implementing the protection of Human Rights by providing an obligation to respect the human rights of other people so that it is more suitable to be used as a basis for review in the *posita* section of the petition, not as the basis of constitutional rights in the legal standing of the Petitioner. Therefore, the Court is of the opinion that the first element of the material requirements regarding the Petitioner's legal standing has been fulfilled.

Furthermore, regarding the element of presumed constitutional impairment in the form of rights to obtain guarantee of fair legal certainty as stipulated in Article 28D paragraph (1) of the 1945 Constitution, the Petitioner describes his concerns regarding the selection process for public positions by political parties which is ineffective so that members of such political parties who become state administrators are accused to be involved in the cases of criminal acts of corruption. Regarding such description of the Petitioner's legal standing, the Court considers that the description regarding the presumed constitutional impairment experienced by the Petitioner has no causal relationship with the enactment of the norms of Article 40 paragraph (2) letter b, Article 48 paragraph (2) and paragraph (3) of Law 2/2008 because the Petitioner could not show that the impairment is truly traceable in relation to the article being petitioned for review. The Court understands and appreciates the Petitioner's aims and good intentions to always maintain the rule of law in the Unitary State of the Republic of Indonesia based on *Pancasila* and the 1945 Constitution, however the Petitioner must also understand the principles that apply universally in lawsuits in court, namely *point d'interet point d'action*, without interest there is no action. In the context of the *a quo* petition, the Court does not find any connection between the Petitioner's description or explanation regarding the ineffective selection process for public positions by political parties resulting in members of such political parties who become state administrators are accused to be involved in the cases of criminal acts of corruption and the enactment of the articles being petitioned for review by the Petitioner. Moreover, if it is related to the Petitioner's qualifications as a law student, the Court is of the opinion that it is insufficient to ensure that there is a specific and actual or at least potential constitutional impairment which according to reasonable reasoning may be guaranteed to occur, therefore there is no causal relationship between the impairment in question and the enactment of the law being petitioned for review.

Therefore, pursuant to the description of the facts and legal considerations above, even though the Petitioner has been able to describe his qualifications as a Petitioner and has described the existence of constitutional rights guaranteed in the 1945 Constitution, the Petitioner does not have sufficient constitutional impairment resulting from the enactment of the law being petitioned for review. Thus, the Court is of the opinion that the Petitioner does not have the legal standing to act as a Petitioner in the *a quo* Petition.

Furthermore, the Court passed down a decision which verdict states that the Petitioner's petition is inadmissible.

### **Dissenting Opinion**

Regarding the *a quo* decision of the Constitutional Court, Constitutional Justice Suhartoyo, Constitutional Justice Saldi Isra, and Constitutional Justice Arsul Sani have dissenting opinion as follows: we are of the opinion that the Petitioner has the legal standing to act as the Petitioner in the *a quo* petition and the Court should have considered the subject matters of the Petitioner's petition.