



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 16/PUU-XXII/2024**

Concerning

Petitioner in the Dissolution of Political Party at the Constitutional Court

- Petitioner** : **Albert Ola Masan Setiawan Muda**
- Type of Case** : Judicial Review of Law Number 24 of 2003 concerning Constitutional Court as amended by Law Number 7 of 2020 concerning Third Amendment to Law Number 24 of 2003 concerning Constitutional Court (Constitutional Court Law) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Judicial review of the Constitutional Court Law against Article 1 paragraph (2) and Article 28D paragraph (1) of 1945 Constitution
- Verdict** : To dismiss the Petitioner's petition in its entirety
- Date of Decision** : Wednesday, March 20, 2024
- Overview of Decision** :

The Petitioner is an individual Indonesian citizen who was a voter in the Presidential and Vice Presidential General Election.

Whereas regarding the authority of the Constitutional Court (the Court), since what is being petitioned for review is the law *in casu* the Constitutional Court Law against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Whereas regarding the legal standing, the Petitioner was a voter in the 2024 General Election who believes that his constitutional rights have been injured due to the enactment of Article 68 paragraph (1) of the Constitutional Court Law, because it limits the Petitioner from being able to propose the dissolution of a political party whose members have committed criminal acts of corruption, whether in the form of bribery, gratification, nepotism, collusion, or harm to state finances. Moreover, the government is also a member of a political party.

In accordance with the Petitioner's description in describing the legal standing, the Court is of the opinion that the Petitioner has been able to describe or explain his presumed constitutional injury, namely in relation to the existence of restriction on individual citizen being able to become petitioner at the Constitutional Court in case of dissolution of political party whose members have committed criminal acts of corruption. The presumed injury is specific and has a causal relationship (*causal verband*) with the statutory norms being petitioned for review, namely Article 68 paragraph (1) of the Constitutional Court Law. Therefore, pursuant to the aforementioned description, if the Petitioner's petition is granted, then the Petitioner's potential injury will not occur. Therefore, regardless of whether the

unconstitutionality of the norms being petitioned for review by the Petitioner is proven or not, the Court is of the opinion that the Petitioner has the legal standing to act as Petitioner in the *a quo* petition.

Whereas since the *a quo* petition is clear, the Court is of the opinion that there is no urgency and relevance in hearing the statements of the parties as intended in Article 54 of the Constitutional Court Law.

Whereas regarding the reasons for the petition. According to the Petitioner, since the individual Indonesian citizen has no right to petition for the dissolution of a corrupt political party and such authority is delegated to the Government or President, it has resulted in abuse of power. Moreover, it is impossible for a government consisting of members of a ruling political party to want to dissolve its own party or to petition for a dissolution of its own party. By giving the Petitioner the right to petition for the dissolution of a political party, the right to vote is also able to be guaranteed.

Before considering the constitutionality of Article 68 paragraph (1) of the Constitutional Court Law, the Court will first consider the Petitioner's petition in relation to the provisions of Article 60 paragraph (2) of the Constitutional Court Law and Article 78 of the Constitutional Court Regulation Number 2 of 2021 concerning Procedures in Judicial Review Cases (Constitutional Court Regulation 2/2021), whether or not the *a quo* norms may be resubmitted. In this regard, upon reading the material of the Petitioner's petition in the *a quo* case and comparing it with the previous petition relating to unconstitutionality review of the norms of Article 68 paragraph (1) of the Constitutional Court Law, namely Case Number 53/PUU-IX/2011 which reviewed the constitutionality of the norms of Article 68 paragraph (1) of the Constitutional Court Law by using Article 1 paragraph (2), Article 27 paragraph (1), Article 28H paragraph (3), Article 28C paragraph (1) and paragraph (2), and Article 28D paragraph (1) of the 1945 Constitution as the legal basis for review. Meanwhile, the *a quo* article uses the same legal basis for review, namely, Article 1 paragraph (2) and Article 28D paragraph (1) of the 1945 Constitution. However, upon carefully reading the reasons for the Petitioner's petition in the *a quo* case, it turns out this petition has reasons that are different from the previous case petition. The reasons for petition in Case Number 53/PUU-IX/2011 were from the perspective of activists and former activists who have sovereignty over the government and everything related to state administration. Meanwhile, the *a quo* petition uses the reasons from a perspective of voter in the general elections as a basis for argumentation. Therefore, due to these different reasons, the Court is of the opinion that the *a quo* petition is not hindered by the provisions of Article 60 paragraph (2) of the Constitutional Court Law and Article 78 of the Constitutional Court Regulation 2/2021, so that the a petition to review the provisions of the *a quo* norms may be resubmitted.

Regarding the Petitioner's argument, upon carefully reading the Petitioner's argument along with the evidence presented, the main issue that is highlighted by the Petitioner is regarding the restrictions on individuals or citizens being able to become Petitioners in case of dissolution of Political Party as regulated in Article 68 paragraph (1) of the Constitutional Court Law. Regarding the Petitioner's *a quo* argument, the Court considers that in relation to the constitutionality of the norms of Article 68 paragraph (1) of the Constitutional Court Law, the Court has provided its consideration in the Decision of the Constitutional Court Number 53/PUU-IX/2011, which was declared in a plenary session open to the public on 3 January 2013. The Court in the *a quo* decision has clearly and firmly held the stance that the word "Government" in Article 68 paragraph (1) of the Constitutional Court Law *expressis verbis* provides limitations on the legal subject that may petition for the dissolution of Political Party at the Constitutional Court, namely the Government. Moreover, both in the norms of Article 68 paragraph (1) of the Constitutional Court Law and in its Elucidation, the Government refers to "Central Government". Therefore, this confirms that the legal subject who may act as Petitioner in the dissolution of Political Party is the Government, *in casu* Central government. Therefore, it may not be construed or interpreted by adding "individual

Indonesian citizen and legal entity", because the granting of individuals or legal entities as legal subjects who may act as petitioners in case of dissolution of political party is within the authority of the legislators (*legislative review*). Thus, the previous decision is *mutatis mutandis* in this legal consideration in answering the issue of the constitutionality of the norms being petitioned for review by the Petitioner in the *a quo* case.

Whereas the act of dissolving a political party is a follow-up action for any political party that violates a restriction that has been determined in the constitution or statutory regulations. If a political party is deemed to have violated the 1945 Constitution and/or applicable statutory regulations, it is the government's responsibility to take the initiative to propose the dissolution of the relevant political party in accordance with the applicable legal procedures. In the implementation in various countries, the dissolution of a political party may be carried out in several ways, such as being declared to be stipulated in legal regulation, decided by a court or judicial procedure, including through the Constitutional Court. Meanwhile, as a juridical consequence, the party that may submit a petition for the dissolution of a political party is the government, which in this case it may be delegated to, among others, the Minister of Home Affairs, the Minister of Justice, or the Attorney General. There are also practices in other countries where the petition for the dissolution of a political party is submitted by the Government and parliament (or a certain number of members of the parliament), the Government and political party, or it may also be submitted by the General Election Commission. This practice is carried out, among others, in Romania, Armenia, Georgia, Germany and Slovakia. This means that in general these countries do not grant such rights to individuals. Therefore, the Court is of the opinion that the argument of the Petitioner is legally unjustifiable.

Pursuant to the considerations above, the Court then passed down a decision which verdict states to dismiss the Petitioner's petition in its entirety.