



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 92/PUU-XXII/2024**

**Concerning**

**Villages, Village Heads, Term of Office of Village Heads, Extension of Term of Office**

- Petitioners** : **Sulwan, et al.**
- Type of Case** : Judicial Review of Law Number 3 of 2024 concerning Second Amendment to Law Number 6 of 2014 concerning Villages (Law 3/2024) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Judicial Review of Article 118 letter e of Law 3/2024 against Article 1 paragraph (2) and Article 28D of the 1945 Constitution
- Verdict** : **On Preliminary Injunction:**

To dismiss the Petitioners' petition for preliminary injunction

**On the Merits**

1. To grant the Petitioners' petition in part
2. To declare that Article 118 letter e of Law Number 3 of 2024 concerning Second Amendment to Law Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia of 2024 Number 77, Supplement to the State Gazette of the Republic of Indonesia Number 6914) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as "not applicable to villages that have held village head elections pursuant to Law Number 6 of 2014 concerning Village"
3. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate
4. To dismiss the remainder of the Petitioners' petition

**Date of Decision** : Friday, January 3, 2025

**Overview of Decision** :

Whereas Petitioner I to Petitioner XIV are individual Indonesian citizens who have been selected as Village Head Candidates in South Konawe Regency.

Whereas with respect to the Court's authority, because the Petitioners petition for a material review of the norms of Article 118 letter e of Law 3/2024 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

Whereas with respect to the legal standing of the Petitioners, Petitioner I to Petitioner XIV have been able to describe the existence of a causal relationship (*causal verband*) between the assumed loss of constitutional rights and the enactment of the norm of Article 118 letter e of Law 3/2024 due to legal uncertainty, particularly regarding the time of inauguration of Petitioner I to Petitioner XIV as the selected village head candidates. The loss of constitutional rights as referred to will no longer occur if the petition *a quo* is granted. Pursuant to the description of legal considerations, the Court is of the opinion that Petitioner I to Petitioner XIV (hereinafter referred to as the Petitioners) have the legal standing to act as Petitioners in the judicial review of the norms of Article 118 letter e of Law 3/2024.

Whereas with respect to the petition for preliminary injunction, in order to obtain a comprehensive explanation regarding the constitutional issues raised by the Petitioners, the Court needs to hear statements from the parties as referred to in Article 54 of the Constitutional Court Law. Therefore, a final decision will be granted to the petition *a quo* and the legal norms that are being reviewed will immediately receive legal certainty. Therefore, the Petitioners' petition for preliminary injunction must be declared legally unjustifiable.

Whereas with respect to the subject matter of the petition, the Court must first confirm the period of the village head's term of office, which has been decided by the Court in several decisions, including, the Constitutional Court Decision Number 42/PUU-XIX/2021 which was pronounced in a plenary session open to the public on September 30, 2021. In accordance with the development of regulations on election of village heads, from Law 5/1979 to Law 6/2014, the election of village head is carried out through direct elections by the village residents who had met the requirements. The election of village heads is actually a form of manifestation of people's sovereignty at the village level which reflects the principles of democracy. In this regard, the village residents having fulfilled the requirements as stipulated in statutory regulations may directly exercise their political rights (the right to vote and be elected). The election of village heads is also a manifestation of village autonomy, where the village has the authority to regulate and manage all affairs, including governmental matters, provided that such authority does not conflict with higher-level government units.

The chronology of the election of village heads who were elected but not inaugurated in South Konawe Regency is as follows:

1. Whereas, of the 96 villages in South Regency with terms ending on April 30, 2024, 94 village heads completed their terms, one village head passed away, and one resigned to run as a legislative candidate in the general election
2. Whereas on January 14, 2023, the Ministry of Home Affairs sent Letter Number: 100.3.5.5/244/SJ, concerning the Implementation of Election of Village Heads During the 2024 Simultaneous Elections and Regional Elections, in dictum number 4:
  - a. The Regent/Mayor who will hold the election of village heads may do so before November 1, 2023 while remaining to comply with the provisions of statutory regulations
  - b. The Regent/Mayor may re-implement the election of village head after the completion of the 2024 Simultaneous General Election and Regional Election stages, while remaining to comply with the provisions of statutory regulations
3. Whereas on May 26, 2023, the Regent of South Konawe issued the Regent of South

Konawe Regulation Number 32 of 2023 concerning Procedures for Election of Village Heads in South Konawe Regency as amended by the Regent of South Konawe Regulation Number 50 of 2023 concerning Amendments to the Regent of South Konawe Regulation Number 32 of 2023 concerning Procedures for Election of Village Heads in South Konawe Regency

4. Whereas on May 30, 2023, the Regent of South Konawe issued the Decree of the Regent of South Konawe Number: 141/415 of 2023 concerning the Determination of Villages for Simultaneous Village Head Elections in South Konawe Regency in 2023, by determining 94 Villages whose Village Head terms will end on April 30, 2024 to hold the 2023 Simultaneous Village Head Elections. Next, on June 5, 2023, the Regent of South Konawe issued the Decree of the Regent of South Konawe Number: 410/450 of 2023 concerning Determination of Additional Villages for Simultaneous Village Head Elections in South Konawe Regency in 2023, by determining that 2 (two) villages whose Village Heads' term of office will end on November 7, 2024 will also participate in the 2023 Simultaneous Village Head Elections, by taking into account that one of the Village Head has passed away and another has resigned, so that the total number of villages participating in the 2023 Simultaneous Village Head Elections in South Konawe Regency is 96 Villages
5. Whereas on May 30, 2023, the Regent of South Konawe issued the Decree of the Regent of South Konawe Number: 141/416 of 2023 concerning the Determination of the Day and Date for the Implementation of Simultaneous Village Head Elections in South Konawe Regency, namely September 24, 2023
6. Whereas on September 24, 2023, the voting for the election of village heads, vote counting and determination of the elected village head candidates were carried out in 96 villages in South Konawe Regency, the results of which have been submitted to the Regional Government of South Konawe Regency to obtain approval from the Regent of South Konawe in the form of a decree
7. Whereas on April 25, 2024, the Directorate General of Village Governance Development of the Ministry of Home Affairs issued the letter Number: 100.3.5.5/1718/BPD, regarding Response to Instructions for the Inauguration of Village Heads addressed to the Governor of Southeast Sulawesi and the Regent of South Konawe
8. Whereas on April 26, 2024, the Secretariat of the Regional Government of the South Konawe Regency sent Letter Number: 400.10.2.1/1591 regarding: Inauguration of Village Heads in 2024
9. Whereas on April 26, 2024, the Ministry of Home Affairs sent Letter Number: 100.3.5.5/1747/BPD, regarding the Postponement of the Inauguration of Elected Village Head Candidates
10. Whereas on April 29, 2024, the Regent of South Konawe issued Circular Letter Number: 100.3/2000 which substantially postpones the inauguration of the Village Heads Elected from the 2023 Simultaneous Village Head Elections in 96 Villages until an indefinite time limit and orders the appointment of the Village Secretaries as the Acting Village Head after the end of term of office of the Village Heads elected from the 2023 Simultaneous Village Head Elections

Pursuant to the chronological description above, the village heads elections in 96 villages in South Konawe Regency which was held on September 24, 2023 were carried out in accordance with Law 6/2014 as a manifestation of the implementation of people's sovereignty as stipulated in Article 1 paragraph (2) of the 1945 Constitution of the Republic of

Indonesia. Specifically, the election of village heads is a manifestation of people's sovereignty at the village level which involves active community participation in determining village leaders by electing village heads directly, publicly, freely, secretly, honestly and fairly. This aims to avoid the domination of power by certain individuals or groups so that power is not concentrated in one individual or group, but is managed collectively for the benefit of the wider community, *in casu* the village community.

Whereas the election of village heads in 96 (ninety-six) villages in South Konawe Regency on September 24, 2023 was held in compliance with the provisions of Law 6/2014. At the time of the election, the provisions governing the election of village heads were based on Law 6/2014, which remained in force as it had not yet been amended. In fact, the holding of the election of village heads was carried out in accordance with the directions regulated in the Letter of the Ministry of Home Affairs Number: 100.3.5.5/244/SJ, dated January 14, 2023, namely in accordance with dictum number 4 letter a, the implementation of which occurred before November 1, 2024. With respect to the results of the village head elections, namely the elected village head candidates, pursuant to the provisions of Article 38 paragraph (1) of Law 6/2014, which states, "The elected village head candidates shall be inaugurated by the Regent/Mayor or the designated official no later than 30 (thirty) days after the issuance of the Regent/Mayor's decision." In this regard, Article 118 letter e of the transitional provisions of Law 3/2024 may not be applied to village head candidates elected under Law 6/2014, because they have been elected through an election process regulated by Law 6/2014 and which is also in line with the Letter of the Ministry of Home Affairs Number: 100.3.5.5/244/SJ, dated January 14, 2023 and Letter of the Regent of South Konawe Number: 141/416 of 2023, dated 30 May 2024. In this context, even though there are transitional provisions in Article 118 letter e of Law 3/2024, such transitional provisions must not be detrimental to the village head candidates who have been elected. The elected village head candidates must receive legal protection and fair legal certainty as parties affected by amendments in the provisions of statutory regulations as substantially determined by Appendix II number 127 of Law Number 12 of 2011 concerning the Formation of Statutory Regulations, *in casu* village head candidates elected in the village head elections pursuant to Law 6/2014. Therefore, there is no basis for the Regent/Mayor or the designated official to postpone, let alone refuse to carry out, the inauguration of the elected village head candidates.

Pursuant to the description of the legal considerations above, to provide legal certainty and protection for parties affected by the enactment of the norm of Article 118 letter e of Law 3/2024, the provisions of the norm *a quo* must be declared to be contrary to the 1945 Constitution of the Republic of Indonesia and has no conditional binding legal force if it is not interpreted as "not applicable to villages that have held village head elections pursuant to Law Number 6 of 2014 concerning Village", as fully described in the verdict *a quo*. Therefore, the Petitioners' argument regarding the unconstitutionality of the norm of Article 118 letter e of Law 3/2024 is justifiable. However, since the interpretation of the Court is not the same as the one stated in the petition of the Petitioners, the Petitioners' argument is legally justifiable in part.

Pursuant to the entire description of the above legal considerations, it is evident that the norm of Article 118 letter e of Law 3/2024 does not provide legal protection and fair legal certainty for village head candidates elected when Law 6/2014 was still in effect, while such legal protection and fair legal certainty are rights guaranteed in Article 28D paragraph (1) of the 1945 Constitution, consistent with the argument of the Petitioners. However, because the verdict decided by the Court is different from the *petitums* submitted by the Petitioners, the Petitioners' argument is legally justifiable in part.

Accordingly, Court passes down a decision which verdicts are as follows:

**On Preliminary Injunction:**

To dismiss the petition for preliminary injunction of the Petitioners.

**On the Merits**

1. To grant the Petitioners' petition in part.
2. To declare that Article 118 letter e of Law Number 3 of 2024 concerning Second Amendment to Law Number 6 of 2014 concerning Villages (State Gazette of the Republic of Indonesia of 2024 Number 77, Supplement to the State Gazette of the Republic of Indonesia Number 6914) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as "not applicable to villages that have held village head elections pursuant to Law Number 6 of 2014 concerning Village".
3. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate.
4. To dismiss the remainder of the Petitioners' petition.