Abstract

Foundation organs consist of supervisors, management and supervisors and their respective duties, functions and authorities. In the operation of the foundation sometimes there is an abuse of authority resulting in losses for the foundation and third parties concerned.

Judicial Legal Consideration Theory or Legal Reasoning is closely related to the main task of a judge, which is tasked with accepting, examining and adjudicating and completing every case submitted to him, then the judge examines the case and finally adjudicates which means giving to the interested parties his rights or laws. The research is normative in analysis based on the study of the Establishment of the Semarang District Court Number 102 / Pdt.P / 2014 / PN.Smg and the Supreme Court Decision of the Republic of Indonesia Number 2722 K / Pdt / 2014. Data collection methods are interviews and studies of written documents.

The third party has the authority to request a court determination for the examination of the foundation in relation to the allegation that the foundation's organ is suspected of having committed an unlawful act or is not in accordance with the provisions in the Articles of Association, and negligent in carrying out its duties and functions even because the act was allegedly going to result in the loss of the foundation and / or third party. The court appoints / appoints experts / experts to be tasked with examining the foundation for all documents and wealth of the foundation and also the authority to request information from all foundation organs and foundation employees.

Every policy taken by the guiding organs must be discussed in a meeting and agreed upon if related to the transfer of the foundation's assets, so as not to conflict with the Foundation Law. Should fellow organ foundations in carrying out their duties must be able to work together and synergize and have good faith to avoid internal disputes between foundation organs.

Keywords*: applicant, submission of application, examination of the foundation.*

Abstrak

Organ yayasan terdiri dari pembina, pengurus dan pengawas dan masing-masing tugas, fungsi serta kewenangan. Dalam operasional yayasan terkadang terjadi penyalahgunaan kewenangan sehingga menimbulkan kerugian bagi yayasan maupun pihak ketiga yang berkepentingan.

Teori Pertimbangan Hukum Hakim atau *Legal Reasoning* sangat terkait dengan tugas pokok seorang hakim, yaitu bertugas menerima, memeriksa dan mengadili serta menyelesaikan setiap perkara yang diajukan kepadanya, kemudian hakim meneliti perkara dan akhirnya mengadili yang berarti memberi kepada yang berkepentingan hak atau hukumnya. Penelitian bersifat normatif analisis didasarkan pada studi Penetapan Pengadilan Negeri Semarang Nomor 102/Pdt.P/2014/PN.Smg dan Putusan Mahkamah Agung Republik Indonesia Nomor 2722 K/Pdt/2014. Cara pengumpulan data yaitu wawancara dan studi terhadap dokumen-dokumen tertulis.

Pihak ketiga memiliki kewenangan memohonkan penetapan pengadilan untuk pemeriksaan yayasan terkait dengan adanya dugaan bahwa organ yayasan yang

diduga melakukan perbuatan melawan hukum atau tidak sesuai ketentuan dalam Anggaran Dasar, serta lalai dalam melaksanakan tugas dan fungsinya bahkan karena perbuatannya tersebut diduga akan mengakibatkan kerugian yayasan dan/ atau pihak ketiga. Pengadilan menunjuk/mengangkat ahli/para ahli untuk bertugas memeriksa yayasan tersebut terhadap seluruh dokumen-dokumen dan kekayaan yayasan dan juga kewenangan meminta keterangan kepada seluruh organ yayasan serta karyawan yayasan.

Setiap kebijakan yang diambil oleh organ pembina, harus dibahas dalam rapat dan disepakati bersama bila terkait pengalihan asset yayasan, agar tidak bertentangan dengan Undang-undang Yayasan. Hendaknya sesama organ yayasan dalam menjalankan tugasnya haruslah mampu bekerja sama dan bersinergi serta memiliki itikad baik agar tidak terjadi perselisihan internal antar organ yayasan.

***Kata kunci** : pemohon, pengajuan permohonan, pemeriksaan yayasan.*