

Juridical Analysis of the Use of Cigarette Taxes for Funding the National Health Insurance Program (Case Study of the Supreme Court Decision Number 25 P / Hum / 2018)

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Abstract

Article 2 paragraph (2) Regulation of the Minister of Health Number 53 of 2017 concerning Amendments to the Regulation of the Minister of Health Number 40 of 2016 concerning Guidelines for the Use of Cigarette Taxes for Funding Public Health Services an application for judicial review rights has been submitted to the Supreme Court by OK Petitioners. The formulation of the problems in this thesis are 1) What is the authority of the Supreme Court in examining and deciding judicial cases of Ministerial Regulation 2) What are the considerations of the Panel of Supreme Court Justices in deciding to reject the application for judicial review rights in the Supreme Court Decision Number: 25. The research used is normative legal research with statutory, historical, and conceptual approaches. The results of the research conducted by the Supreme Court are authorized to examine and adjudicate requests for judicial review of the Ministerial Regulation at the Supreme Court. The panel of judges in deciding to reject the Petitioner's petition in case Number: 25 P / HUM / 2018 was actually sufficient based on the Petitioner's legal standing because the Petitioner did not clearly state what rights the object of the petition for judicial review had given to the Petitioner and did not specify the form losses suffered directly by the Petitioner.

Keywords

judicial review rights; supreme court; cigarette tax; ministerial regulation



I. Introduction

According to Article 7 paragraph (2) of the law on the establishment of legislation, legislation has legal force in accordance with the hierarchy outlined in paragraph (1). As per paragraph (1), it includes the 1945 Constitution, People's Consultative Assembly decisions, Government Law / Regulations Substitute Law, Government Regulation, Presidential Regulation, Provincial Regulations, and Regency Regulations / District City.

In the explanation of Article 7 paragraph (2), the term "hierarchy" refers to a space between different types of laws and regulations, based on the concept that lower legislation cannot contradict higher legislation. Whereas Article 8 paragraph (1) of the law on the establishment of legislation expanding the types of laws and regulations not covered by Article 7 states:

"Types of laws and regulations in addition to referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, the House of Representatives, Regional Representative Council, Supreme Court, Constitutional Court, Supreme Audit Agency, Judicial Commission, Bank Indonesia, Minister of Bank , Agency, Institutions, or commissions are enorned with laws or governments on behalts of the law, the Provincial People's Representative Council, Governor, Regency / City Regional Representative Council, Regent / Mayor, Village Head or level. "

Article 8 Paragraph (2) indicates that the laws and regulations listed in Article 8 Paragraph (1) are recognized and have the legal force of binding throughout the manufacturing process unless superseded by higher laws or expanded based on authority. In other words, commands or delegations from higher laws and regulations must exist or might be produced as the foundation for enacting the legislation indicated in Article 8 paragraph (1).

Seeing the explanation of Article 8 paragraph (2) It is said that the purpose of "based on authority" is the implementation of certain government affairs in accordance with the provisions of laws and regulations. Based on article 8 the regulations set by the Minister, including the type of legislation whose hierarchies are under the law. In case number 25 P / HUM / 2018 at the Supreme Court, OK. Syahputra Harilanda acting as the Applicant has submitted a testing of material testing rights to article 2 paragraph (2) Regulation of the Minister of Health Number 53 of 2017 concerning Amendments to Minister of Health Regulation Number 40 of 2016 concerning Technical Guidelines for Cigarette Tax Use for Funding Public Health Services (Next Called the Minister of Health Regulation concerning the Technical Guidelines for the Use of Cigarette Taxes for Funding of Public Health Services) which read "In addition to being used for activities as referred to in paragraph (1), cigarette tax is used for funding the National Health Insurance Program".

The article is considered contrary to Law Number 28 of 2009 concerning Regional Taxes and Regional Levies (hereinafter referred to as laws on regional taxes and regional levies) and the law on the formation of legislation. The articles used as test stones in the law on regional taxes and regional levies, namely Article 2 paragraph (1) letter e, Article 26 paragraph (1) paragraph (2), paragraph (3), Article 27 paragraph (1), paragraph (2), paragraph (3), paragraph (4) and paragraph (5), Article 28, Article 29, Article 30, Article 31, and Article 94 paragraph (1) letter f.

The applicant stated in his application that the provisions of the Minister of Health referred to above, which stated that cigarette taxes could also be used to fund the National Health Insurance Program, are inconsistent with the provisions of the Law on Regional Taxes and Regional Levies, which regulate that the cigarette tax is a provincial tax. While the government released a Minister of Health Regulation covering the Technical Guidelines for the Use of Cigarette Taxes to Fund Public Health Services, Minister of Health Regulation No. 40 of 2016 does not address funding for the National Health Insurance Program or other public health needs. This is obvious from the Health Social Security Agency (BPJS)'s Financial Report, which indicates that each year the program has a deficit / loss.

As a result, revisions to the Technical Guidelines for the Use of Cigarette Taxes to Fund Public Health Services are required by the Minister of Health in order to overcome the Health Social Security Agency (BPJS) budget shortfall.

The Supreme Court's Panel of Judges examined and decided the case with the verdict number 25 P / HUM / 2017, which declared that the applicant's application for material testing was denied, indicating that the Minister of Health's regulation concerning technical instructions for the use of cigarette taxes to fund public health services was deemed not to be contrary to Regulations.

II. Research Methods

This study employs a normative juridical method, namely a legal research approach that incorporates legal principles, legal sites, legal synchronization, legal history, and legal comparative research. This study includes research on the provisions of positive laws that apply in Indonesia relating to the Rights of the Supreme Court's judiciary.

According to Soekanto (1990) The data used in this study can be divided into 2 (two) categories: data collected from the community and data collected from library materials. Several types of data were analyzed in this study, including the following:

2.1 Primary Legal Material

Primary legal materials are normative data derived from legislation, which may include the following:

- 1) The UUD 1945 Constitution (UUD 1945).
- 2) Law Number 14 of 1985 concerning the Supreme Court who has been made several times, last with Law Number 3 of 2009 concerning the Second Amendment to Law Number 14 of 1985 concerning the Supreme Court.
- 3) Law Number 28 of 2009 concerning Regional Taxes and Regional Levies.
- 4) Law Number 48 of 2009 concerning Justice Power.
- 5) Law No. 12 of 2011 concerning the establishment of legislation that has been amended by Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the establishment of legislation.
- 6) Presidential Regulation Number 87 of 2014 concerning Regulation of the Implementation of Law Number 12 of 2011 concerning the establishment of legislation.
- 7) Supreme Court Regulation Number 1 of 2011 concerning Materill Test Rights.
- 8) Minister of Health Regulation Number 47 of 2013 concerning Procedures for Preparing the Draft of Legislation in the Ministry of Health in the Ministry of Health.
- 9) Minister of Health Regulation Number 53 of 2017 concerning Amendments to Minister of Health Regulation Number 40 of 2016 concerning Technical Guidelines for Cigarette Tax Use for Funding Public Health Services, and
- 10) Other regulations related to the title of the thesis.

2.2 Secondary Legal Material

Secondary legal material is legal material that supplements and clarifies primary legal material. It may take the shape of scientific literature, government papers, research findings presented in the form of reports, or interviews.

2.3 Tertiary Legal Material

Legal resources that provide instructions and explanations for both primary and secondary legal materials derived from the dictionary, writing rules for scientific work, the internet, and other sources of knowledge that help study (Abdulkadir, 2004).

III. Results and Discussion

3.1 The Supreme Court's Authority in Reviewing and Deciding The Question of The Ministerial Regulation's Material Test

Material test settings are regulated in Article 24 of the 1945 Constitution, Article 26 paragraph (1) of Law Number 14 of 1970 concerning the main provisions of the Judiciary

Power that has been amended by Law Number 35 of 1999 concerning Amendment to Law Number 14 of 1970 concerning The main provisions of the judicial power (this law has been revoked with Law Number 4 of 2004 concerning Judiciary), Article 11 paragraph (4) People's Consultative Council Decree Number III / MPR / 1978 concerning the top position and relations of the country's highest institutions with / or between high state institutions, Article 31 of Law Number 5 of 2004 concerning Amendments to Law Number 14 of 1985 concerning the Supreme Court which has been amended by Law Number 3 of 2009 concerning Second Amendment to Law Number 14 of 1985 About the Supreme Court. Article 20 Paragraph (2) Law Number 48 of 2009 concerning Justice Power, Article 9 paragraph (2) Law Number 12 of 2011 concerning the establishment of legislation that has been amended by Law Number 15 of 2019 concerning Amendment to Law Number 12 of 2011 concerning the establishment of legislation, and article 1 Number 1 Supreme Court Regulation Number 1 of 2011 concerning Material Testing Rights.

With the exception of the Supreme Court regulation on the right of material testing, which defines the right of material testing as the Supreme Court's authority to assess the content of lower-level legislation, all of these laws and regulations have expressly stated that the Supreme Court's authority is to examine invitation laws under the Act.

If this provision is executed in its *letterlijk* / literally, the only statute that can serve as a litmus test for the laws and regulations put before the Supreme Court is this one. Legislation In addition to the law, and while the hierarchy of laws and regulations is superior, the laws and regulations filed with material test applications cannot serve as a test stone. In the case of a district / city ordinance, for example, if it complies with these provisions, it must be directly compared to a particular law (*formelle gezets*). This obviously has the potential to complicate matters for justice seekers, because it is typically easier to track the opposition to a district / city regulation than it is to a rule directly above, such as governor rules.

Maria Farida Indrati (2007) discusses the dynamics of vertical legal norms, stating that a norm is sourced, applied, and based on legal norms above, and that the legal norms above are valid, sourced, and based on legal norms below, and so on, until a legal norm becomes the basis for all the legal norms below it.

To address this issue, the Supreme Court said in Article 1 Number 1 of the Supreme Court Regulation on Material Testing Rights that material test rights were the Supreme Court's authority to review the content of legislation enacted under higher level laws and regulations. The line "towards higher level laws and regulations" is considered to mean that not just a law, but all legislation of higher level laws may serve as a test stone in the case of material testing before the Supreme Court.

For example, in the context of Ministerial Regulations, if a ministerial regulation is submitted to the Supreme Court for material testing, the test stone is not always to more general and abstract laws, but can be government regulations or presidential regulations, as well as other regulations that follow a hierarchy.

Since the Supreme Court was given the authority to carry out material testing rights until now, the Supreme Court has formed 5 (five) changes to the Supreme Court regulation on the procedures for material testing, namely the Regulation of the Supreme Court Number 1 of 1993, Supreme Court Regulation Number 1 of 1999, Regulations Supreme Court Number 2 of 2002, Supreme Court Regulation Number 1 of 2004, and was last modified by the Supreme Court Regulation Number 1 of 2011.

Ministerial Regulation, according to the Act on the Contendation of Legislation, is one of the products of laws and regulations that are recognized by their existence and have a legal force of binding effect regardless of whether they are directed by higher legislation

or produced on authority. Ministerial rules are ranked according to the legislative hierarchy in accordance with the law. Thus, in the author's opinion, if it is related with the Supreme Court's material test authority, the Minister's Regulation is included in the material test's object, which is the Supreme Court's jurisdiction to examine and try.

However, even though the Ministerial Regulation is included in the object of material testing which is the authority of the Supreme Court to examine and try, the author also argues that not all ministerial regulations can be submitted testing material test rights at the Supreme Court. Based on the law on the formation of laws and regulations mentioned that legislation stipulated by the People's Consultative Assembly, the House of Representatives, Regional Representative Council, Supreme Court, Constitutional Court, Supreme Audit Agency, Judicial Commission, Bank Indonesia, Minister, Body, Institutions, or commissions are considered by law or the government on behalfs of the law, the Provincial People's Representative Council, Governor, Regency / City Regional Representative Council, Regent / Mayor, Village Head or the level is recognized and has its existence and has Legal power binds throughout being ordered by higher laws and regulations formed by authority. While in Law Number 10 of 2004 concerning the termination of legislation not known laws and regulations formed on the basis of authority, which there are only legislation commanded by higher laws and regulations. Whereas in reality at that time there were many ministerial regulations formed based on the authority in order to carry out their duties and functions.

Prior to Law No. 12 of 2011, which was amended by Law No. 15 of 2019, the Ministerial Regulation formed without the delegation of higher laws and regulations was known to be theoretical as a policy regulation (*beleidregels*), namely a decision of the official State administration that is regulating and indirectly binding, but not legislation (Manan and Magnar, 1997).

The laws and regulations enacted pursuant to the power continue to apply and have legal force to bind, but cannot be challenged in the Supreme Court through material testing rights. This is because Law Number 12 of 2011 has been declared valid from the date of promulgation, which is August 12, 2011, and all ministerial regulations enacted prior to the promulgation date of Law Number 12 of 2011 Amended by Law Number 15 of 2019 are still subject to the provisions of the previous Law, namely Law Number 10 of 2004 concerning Legislative Action.

There is no longer a distinction between a ministerial regulation that is legislation and a ministerial regulation that is a policy rule under the terms of Article 8 paragraph (2) of Law No. 12 of 2011 as revised by Law No. 15 of 2019. Everything can be filed to the Supreme Court for material test rights.

3.2 Analysis of the Supreme Court Judges' Assembly's decision in Supreme Court Decision Number: 25 P / HUM / 2018 to reject the Material Test Relationship

The Supreme Court Judges' Consideration of the Petitioner's Legal Standing (Legal Standing) stated that the applicant was a legal subject who suffered a loss of rights as a result of the enactment of the material testing object, placing the applicant in a legal position to submit a request for objections to the material testing. A quo, as defined in Article 31A paragraph (2) of the Supreme Court Law and Article 1 Number 4 of the Supreme Court Regulation No. 1 of 2011, should also apply jurisprudence, as demonstrated in the Supreme Court's Material Test Number 62P / HUM / 2013 dated November 18, 2013 and Decision Number 54P / HUM / 2013 dated December 19, 2013, and subsequent decisions.

According to the decisions, the loss of rights referred to in Article 31A paragraph (2) of the Supreme Court law must satisfy 5 (five) elements, namely:

- a. The right of the applicant given by a laws and regulations.
- b. The right by the applicant is considered to be harmed by the enactment of the laws and regulations requested by testing.
- c. These losses must be specific (specific) and actual or at least the potential that according to reasonable reasonable can be sure to occur.
- d. The existence of causal verband between the losses is intended and the enactment of the laws and regulations requested to test.
- e. The possibility that the request granted, then the disadvantage as prevented will not or no longer occur.

According to these provisions, an application for objection to the material test may be submitted only by parties who meet the requirements, namely to obtain the right to enact laws and regulations, the party suffers a unique and direct loss as a result of the enactment of the laws and regulations requested by the material test, and the loss is truly due to the enactment of the laws and regulations requested by the material test.

The researcher believes that the applicant is OK. Syahputra Harilanda should not have a legal standing in the *A quo* guard, based on reason:

- a. That the Petitioner's request is unclear (*obscur libel*) because it does not clearly mention the right of what has been given by the object of a material test for the applicant and not mentioned the form of losses suffered directly by the applicant, so that the applicant's rights are unknown to the enactment Legislation under the law, in this case Article 2 paragraph (2) Regulation of the Minister of Health concerning Technical Guidelines for the use of cigarette tax for funding public health services.
- b. The uncertainty of the Petitioner's petition is incompatibility between the *posita* and *petitum* petition, namely with the absence of the conflict of the norms between the norm Article 2 paragraph (2) Regulation of the Minister of Health concerning the Technical Guidelines for the Use of Cigarette Taxes for Funding of Public Health Services tested by more legislation The height contained in the *petitum*, but only contained in the *posita*. So in the absence of conflict problems that are not found in the *petitum*, the application is blurred and unclear. In addition, the application for formal defects applicants and is not in accordance with Article 31A law on the Supreme Court and Article 1 paragraph (3) of the Supreme Court regulation on material testing.
- c. That the validity of the provisions of *A quo* is not harmful, blocking, reducing, limiting, and eliminating the applicant's right as guaranteed in the 1945 Constitution.

According to the evidence, the applicant is not qualified to apply for material testing under the Minister of Health's regulation on technical instructions for the use of cigarette taxes to fund public health services, as it does not meet the formal requirements specified in Article 31A paragraph (2) of the Great Laws.

With the applicant do not have a quality to submit a request *a quo*, then the application for testing material testing from the applicant should be unacceptable and the substance of the *a quo* application does not need to be considered again.

The Supreme Court Judges' considerations on the subject of the Petitioner's request should be added to the philosophical, sociological, and legal foundations of the object of material testing in order to understand the context and the level of community need for funding in the national insurance system.

Explanation of the background writer and the level of community needs regarding funding in the national insurance system is Indonesia actually has long run several social security programs, such as savings and insurance for civil servants (*Taspen*) for civil

servants (PNS), social insurance for the Armed Forces of the Republic of Indonesia (ASABRI) For TNI soldiers, members of the National Police, and civil servants in the Ministry of Defense / TNI / Polri and their families, Health Insurance (Askes) for civil servants (PNS) / Pension Recipients / Independence / Veterans and their family members, and social security for labor private. But the new social security program covers a small group of people. Besides that, the implementation of various social security programs has not been able to provide fair and adequate protection to participants in accordance with the benefits of programs that are the rights of participants.

As a result, Law No. 40 of 2004 relating to the National Social Security System (SJSN) is a mechanism for implementing social security programs by a variety of social security organizations that can provide social protection to ensure that all Indonesians can meet their fundamental needs. This is consistent with Article 28 H paragraph (3) of the 1945 Constitution, which states that "everyone has a right to social security that enables their complete development as productive human beings."

National Social Security System (SJSN) is a form of state responsibility for the development of the national economy and social welfare, as stated in Article 34 paragraph (2) of the 1945 Constitution, namely the state developing a social security system for all people and empowering a weak and unable community in accordance with human dignity. The SJSN is supposed to be able to coordinate the execution of various types of social security carried out by multiple organizations in order to increase participation and benefit each member, as well as Indonesian society.

National Social Security System (SJSN) is centered on 3 (three) principles: humanitarian values, benefit principles, and social justice for all Indonesians. Humanitarian ethics are inextricably linked to a sense of human dignity. The benefit concept is an operational principle that refers to successful and efficient management. Justice is an ideal principle. The three principles are meant to assure the continuity of programs and rights for participants.

The National Health Insurance is part of the National Social Security System (SJSN) related to health insurance and is held using a mandatory mechanism of national health insurance with the aim of meeting the basic needs of a decent public health provided to everyone who has paid contributions or contributions paid by the government. While the legal entity to organize the health insurance program is the Health Social Security Agency (BPJS).

The system used by BPJS Health is a mutual cooperation system, which is able to help the poor. Healthy helps sick. Strong help is weak. In 2017 a health insurance fund deficit has reached Rp. 9.75 trillion and certainly will increase. One way the government to reduce the health insurance fund deficit by using cigarette tax as stipulated in the Minister of Health Regulation concerning the Technical Guidelines for the Use of Cigarette Taxes for Public Health Services Funding. According to Dewi (2018) Structural poverty can be interpreted as the standard of living of the population. Only structural poverty is poverty that arises not because of the inability of the poor to work (lazy), but because of the inability of social systems and structures to provide opportunities that enable the poor to work.

Additionally, the author contends that regional government laws must be examined because they pertain to regional taxation, namely provincial taxation. Local governments have the authority to undertake health affairs that are part of mandatory government affairs relating to basic services as part of concurrent government affairs, as stated in Article 11 and 12 of Law Number 23 of 2014 concerning Regional Government. Whereas, pursuant to Article 16, the central government was entitled to create norms, rules, methods, and

criteria in the context of administering government affairs and coaching and supervising the administration of government affairs, which became the region's authority. Additionally, it is specified in Article 67 letter F that one of the regional leaders or deputy regional heads is responsible for implementing a national strategic program, one of which is the National Health Insurance program.

Based on the above provisions, it is seen that in the affairs of the concurrent government, the regional government has authority, one of which is the implementation of health affairs, while the Central Government is authorized to establish norms, standards, procedures, and criteria in the context of organizing, coaching, and supervision of the administration of government affairs Area.

The Ministry of Health is one of them in carrying out concurrent government functions, meaning establishing norms, standards, procedures, and criteria that are included into laws and regulations and serve as a guide for regional governments in implementing health policies.

Additionally, the birth of the material test object is necessary in the legal considerations of the panel of judges, as it clarifies the process of publishing the material test object. Concerning the basis for the issuance of material test objects, namely Article 33 paragraph (5) of Government Regulation Number 55 of 2016 concerning General Provisions and Procedures for the Collection of Regional Taxes, which stated that the Minister of Health Regulation is responsible for regulating the provisions regarding public health services funded by cigarette taxes after consulting with the Minister who organizes them.

Additionally, in Article 31A paragraph (2) of the Minister of Finance's Regulation No. 102 / PMK.07 / 2015 Amending Minister of Finance Regulation No. 115 / PMK.07 / 2013 Concerning Procedures for Collecting and Depositing Cigarette Taxes, it is stated that the use of cigarette taxes to fund public services is prohibited. The province / regency / city administers public health within the technical parameters established by the Minister of Health.

On the basis of Government Regulation No. 55 of 2016 and Minister of Finance Regulation No. 102 / PMK.07 / 2015, the Minister of Health's Regulation No. 40 of 2016 concerning the Technical Guidelines for the Use of Cigarette Taxes to Fund Public Health Services controls health services operations. The community that receives income from cigarette taxes, specifically for the following activities:

- a. Decrease in risk factors for non-communicable diseases;
- b. Decreased risk factors of infectious diseases including immunization;
- c. Improved health promotion;
- d. Improving family health;
- e. Increased nutrition;
- f. Environmental health improvement;
- g. Improving work and sports health;
- h. Increased controlling consumption of cigarettes and other tobacco products; and
- i. Health services at first-rate health facilities.

Furthermore, cigarette taxes can be utilized to fund the establishment and upkeep of health care facilities.

Due to Minister of Health Regulation Number 40 of 2016 has not accommodated funding for the National Health Insurance Program and other Public Health Services Needs, then issued Minister of Health Regulation Number 53 of 2017 concerning Amendments to Minister of Health Regulation Number 40 of 2016 concerning Technical Guidelines for Use of Cigarette Tax for Funding Public health services.

Regulation of the Minister of Health Number 53 of 2017 In principle only adds a description of the use of public health services funding from cigarette tax and there is no one provision stating that the central government wants to withdraw its power / authority which has previously been delegated in the context of regional autonomy.

Thus, the issuance of Minister of Health Regulation Number 53 of 2017 is a form of delegation of authority from legislation, namely Government Regulation Number 55 of 2016 and Minister of Finance Regulation Number 102 / PMK.07 / 2015. In the establishment of Minister of Health Regulation Number 53 of 2017 It has been in accordance with the procedure for the establishment of legislation and does not conflict with the principle of establishing legislation as stipulated in the Act on the Action of laws and regulations. In the substance of the arrangement, the accommodation of the use of cigarette tax funds for national health insurance has been in accordance with the laws on regional taxes and regional restries.

In addition, the provisions are used as a Test Stone of the Minister of Health concerning the technical instructions for the use of cigarette taxes for funding for public health services, namely Article 2 paragraph (1) letter e, Article 26 paragraph (1), paragraph (2), and paragraph (3) , Article 27 paragraph (1), paragraph (2), paragraph (3), paragraph (4), and paragraph (5), Article 28, Article 29, Article 30, Article 31, Article 94 paragraph (1) letter c law -Bound regarding regional taxes and regional restrials, basically just describing the things related to cigarette tax, do not explain the contradiction with the substance of Article 2 paragraph (2) Regulation of the Minister of Health concerning Technical Guidelines for the use of cigarette tax for funding public health services.

The Supreme Court's decision 25 P / PHUM / 2018 was final and binding, as stated in Article 9 of the Supreme Court's regulation on the right to material testing, namely that the verdict on the application of an objection regarding the material test cannot be reviewed, and thus there was no further legal effort to challenge the verdict. In contrast to previous decisions, which left open the possibility of additional legal actions, such as a review effort. Indeed, these final and binding features are the optimal choice for assessing laws and regulations in order to provide legal clarity and minimize duplication.

The Supreme Court's decision is relevant not just to individuals directly involved, but also to all people subject to the constitution. Because the normal standards for the laws being tested and the standards used as the foundation for testing are broad standards (abstract and impersonal). As a result, the Supreme Court's decision should be binding on all Indonesians.

IV. Conclusion

- a. According to the law on the formation of legislation, the 1945 Constitution, People's Consultative Assembly decisions, Law / Government Regulation Substitute Law, Government Regulation, Presidential Regulation, Regulation Provincial Areas, and regional / city regulations comprised the type and hierarchy of legislation. As a result, the Ministerial Regulation is not included in the hierarchy of legislation. Ministerial Regulation also encompasses other types of legislation that are not governed by its hierarchies, as defined in Article 8 of the statute on legislative controversy. According to the author, the Ministerial Regulation serves as a further implementing regulation or regulation of the President's policy. Thus, in the hierarchy of laws and regulations, the ministerial regulation is beneath the President's regulation and above the district / city regulations, which are subject to the law. Thus, the Supreme Court was empowered to review and punish material testing for the Supreme Court's ministerial regulation.

- b. The Supreme Court's panel of judges' decision to deny the application for material test in the case 25P / HUM / 2018 is actually quite based on the applicant's legal standing. The applicant did not specify the right conferred by the object of a material test on the applicant and did not specify the nature of direct losses experienced by the applicant, leaving the applicant's rights unknown as a result of the passing of legislation under the law. Thus, the applicant may be deemed ineligible to submit a request for objections to the material test, and the applicant's request for objection to the right to material testing should be deemed inappropriate, implying that the substance of the a quo application does not need to be addressed again. In relation to the panel of judges' consideration of the case, it is required to mention the following:
 - 1) Philosophical, sociological, and legal underpinnings establish the purpose of material testing in order to ascertain the context and level of community demand for funding under the national insurance system.
 - 2) Regional government regulations, as they pertain to regional taxes.
 - 3) The birth of the material testing object in order to clarify the procedure of issuing material test objects.

Suggestion

- a. When deciding on a request for material testing, the Supreme Court should be more discriminating in its consideration of the applicant's legal standing. While all Indonesian citizens have the right to test by submitting a request to the Supreme Court for material testing, there are still criteria and procedures. If the applicant has not been reduced or lacks legal standing, the formal requirements are not met, and the Supreme Court's Panel of Judges is not required to conduct an examination in the matter (material). Thus, the Supreme Court Judge's performance in completing the application of testing material testing will be more effective and efficient, ensuring that justice principles are simple, quick, and cost-effective.
- b. When the Supreme Court's Panel of Judges considers the case of testing material testing, it should also consider the philosophical, sociological, and legal foundations of the purpose of testing material testing in order to understand the context and the amount of community need for regulation. Additionally, Supreme Court Judges must analyze associated rules and the genesis of laws.

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