

Juridical Instruments for Drinking Water Management through a Village Owned Business Agency in Apuan Village, Susut District, Bangli District

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Abstract

The responsibility of the State in ensuring the fulfillment of the people's right to drinking water is carried out through the implementation of the Drinking Water Supply System (SPAM), one of which can be implemented by BUM Desa. The problems to be studied are: What is the legal form of BUM Desa in drinking water management in Apuan Village? and what efforts are made by the BUMDes of Apuan Village in optimizing drinking water management? This research is empirical legal research with a sociology of law approach. The results of the study indicate that the legal form of the Apuan Village BUM must be renewed through a conversion process so that it is a legal entity and reorganizes the drinking water management business unit so that it has legality in drinking water management. In the context of optimizing drinking water management, a legal instrument is needed in the form of the Apuan Village Regulation on the Drinking Water Management System based on the SDA Law and the SPAM PP to ensure certainty of the quality, quantity, and continuity of SPAM for the Apuan Village community. Furthermore, it is necessary to prepare SPM and SOP, monitoring facilities, as well as human resource development for drinking water management through comparative studies and training or mentoring.

Keywords

drinking water; supply system; village owned enterprises



I. Introduction

Water is a basic need of human life because most of human survival depends on the availability of water. Because water concerns the livelihood of many people, it is necessary for state intervention in the form of state control over natural resources, especially water resources. State control over water resources is regulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia and is followed up by Law Number 17 of 2019 concerning Water Resources (abbreviated UUSDA).

The State's responsibility in ensuring the fulfillment of the people's right to drinking water, access to drinking water services, and the fulfillment of basic daily drinking water needs for the community is carried out through the implementation of a Drinking Water Supply System as regulated in Government Regulation No. 122 of 2015 concerning Drinking Water Supply System (abbreviated as PP SPAM).

The implementation of SPAM in rural areas is carried out by Community Groups to meet the basic needs of daily drinking water for the people in their area. The Central Government and/or Regional Governments can provide financial support in the implementation of SPAM implementation to community groups and one of them is through the Community-Based Drinking Water and Sanitation Provision Program (Pamsimas). The Pamsimas program includes a number of activities, including incentives for districts/cities known as District/City Incentive Hibahs (HIK), incentives for Villages/Kelurahan known as Village/Kelurahan Incentive Hibahs (HID) and Rural Drinking Water Hibah (HAMP), facilitation of development partnerships through Corporate Social Responsibilities (CSR), support for sanitation marketing, and capacity building for the community and village government (Sekretariat Pamsimas, 2021:1).

Apuan Village, located in Susut District, Bangli Regency, is one of the villages that has received Pamsimas assistance from the Bangli Regency Government and is used for the construction of water supply facilities to meet the water needs of the people of Apuan Village. In its development, the distribution of water has not been able to reach the water needs of the entire community of Apuan Village.

The Apuan Village Government intends to develop drinking water management facilities, but does not have legality and does not have the availability of funds considering that the authority to manage drinking water is entirely in the Traditional Village. The Apuan Village Government seeks to empower Apuan Village BUMs, one of which is the Drinking Water Management Business. Several villages in the territory of Indonesia have implemented clean/drinking water management through BUM Desa, such as BUM Desa Lendang Nangka Sejahtera (Lentera) which runs a clean water management business in Lendang Nangka Village, Masbagik District, East Lombok Regency, West Nusa Tenggara Province (Localisedgs-indonesia 2021). The Drinking Water Supply and Sanitation System Management Group (KPSPAMS) of Budi Mufakat Village established a partnership with the BUMDes of Budi Mufakat Village in developing drinking water management in Budi Mufakat Village, Kapuas Regency.

Based on this description, it is necessary to further study the existence of BUMDes in Apuan Village in drinking water management through a study entitled Juridical Instruments for Drinking Water Management through Village-Owned Enterprises in Apuan Village, Susut District, Bangli Regency.

II. Research Method

This research is empirical legal research using a sociology of law approach. Primary data was obtained through field research at the Village Government and BUM Desa Apuan Village, Susut District, Bangli Regency. The secondary data used consists of statutory regulations, books, journals, internet, documents related to BUM Desa and drinking water supply systems. Data collection techniques were carried out by means of observation, interviews and document studies. The data that has been collected is selected, classified and identified, then compiled systematically and analyzed qualitatively in relation to relevant theories and legal arguments. The results of the research are described descriptively by describing and describing the legal form of the Apuan BUMDes in drinking water management and the Apuan BUMDes' efforts to optimize drinking water management in Apuan Village, Susut District, Bangli Regency.

III. Discussion

3.1 Legal Form of Village BUM in Drinking Water Management in Apuan Village, Susut District, Bangli Regency

Village development has a very important and strategic role in improving welfare, especially for rural communities. One way to encourage development at the village level is that the village government is given the authority to manage independently through economic institutions at the village level. One of these institutions is the Village Owned Enterprise (BUM Desa) (Puguh Budiono, 2015: 116-125).

Article 87 of Law Number 6 of 2014 concerning Villages (abbreviated as Village Law) stipulates that Villages may establish Village-Owned Enterprises called BUM Desa. BUM Desa is declared a legal entity based on Law Number 11 of 2020 concerning Job Creation (abbreviated as Law on Job Creation). Article 1 point 1 Government Regulation Number 11 of 2021 concerning Village-Owned Enterprises (abbreviated as PP BUM Desa), defines that Village-Owned Enterprises are legal entities established by the Village and/or together with villages to manage businesses, utilize assets, develop investment and productivity, providing services, and/or providing other types of business for the maximum welfare of the Village community. With its position as a legal entity, BUM Desa has a very strong legal standing to conduct various businesses and build networks with various parties including banks, capital owners, and economic activists.

BUM Desa is a pillar of economic activity in the village that functions as a social and commercial institution. As a social institution, BUM Desa sided with the interests of the community through its contribution to the provision of social services. Meanwhile, as a commercial institution, it aims to seek profit through offering local resources to the market. (Departemen Pendidikan Nasional Pusat Kajian Dinamika Sistem Pembangunan (PKDSP), 2007: 3). BUM Desa can increase the various efforts carried out by the village community and consolidate the various efforts that have been carried out by the community so that it can contribute to the village's original income. Thus, the village economy will be more advanced and there will be an acceleration in the implementation of national economic recovery efforts at the village level.

The establishment of BUMDes is determined by Village Regulations starting with online registration through the BUMDes portal at the bumdes.kemendes.go.id link. The flow of the formation of BUM Desa as regulated in PP BUM Desa and Regulation of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration of the Republic of Indonesia Number 3 of 2021 concerning Registration, Data Collection and Ranking, Guidance and Development, and Procurement of Goods and/or Services for Village Owned Enterprises/ Joint Village Owned Enterprises, are as follows:

1. Submission of BUM Desa name: by filling out an electronic form in the Village Information System (BUMDes portal).
2. Approval of the name of BUM Desa: If the submission of the name of BUM Desa does not comply with the provisions, it will be rejected. If it is appropriate, the approval of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration will be issued.
3. Village Deliberation: to produce Village Regulations and BUMDes Articles of Association.
4. BUMDes registration: by filling out an electronic form in the Village Information System (BUMDes portal).
5. Issuance of a Legal Entity Registration Certificate: Based on data from the Ministry of Villages, the Ministry of Law and Human Rights issues a BUMDes Legal Entity Registration Certificate.

Apuan Village, Susut District, Bangli Regency already has Dharma Yudha Abadi Village BUM which was formed based on Apuan Village Regulation Number 3 of 2018 concerning the Establishment of Village Owned Enterprises (BUM Desa) "Dharma Yudha Abadi" Apuan Village (Interview, 2022). With the PP BUM Desa, the BUM Desa Dharma Yudha Abadi Desa Apuan must be immediately renewed through a conversion process by re-registration so that it has the status as a legal entity.

The Apuan Village Government has submitted a new name, namely BUM Desa Dharma Abadi electronically through the BUMDes portal and has received approval from the Minister of Villages, Development of Disadvantaged Regions, and Transmigration. The Apuan Village Government is preparing the completeness of the BUM Desa registration, namely drafting a Draft Village Regulation on the Establishment of the Dharma Abadi Village BUM along with AD and ART and is preparing a Village Deliberation to obtain BPD approval. After all the requirements are met, the next step will be to register BUM Desa electronically through the BUMDes portal (Interview, 2022).

The BUM Business Unit of Dharma Yudha Abadi Village of Apuan Village includes Savings and Loans Business, Village Tourism Business, Photocopying Service Business, Trading Business, and Drinking Water Management Business. The drinking water management business unit has so far been organized by the Traditional Village but in its development, the distribution of water has not been able to reach the water needs of the entire community of Apuan Village. The Apuan Village Government intends to develop drinking water management facilities, but it does not have legality and does not have the availability of funds, considering that the authority for drinking water management is fully handled by the Traditional Village (Interview, 2022).

The Apuan Village Government strives for drinking water management to be handled by an institution/business entity that specifically handles drinking water management professionally, namely by streamlining the drinking water management business unit of Apuan Village BUM by continuing to include in the Village Regulation the establishment of BUM Desa and the Articles of Association Articles of Association. The new Apuan Village BUM ladder is Dharma Abadi Village BUM. The management of drinking water by the BUM of Apuan Village is expected to be able to guarantee drinking water services for the entire community of Apuan Village and become a source of income for the Apuan Village government for the welfare of the people of Apuan Village.

3.2 Efforts of BUMDesa Apuan Village in Optimizing Drinking Water Management

The state guarantees the people's right to water to meet their daily minimum basic needs in sufficient quantity, good quality, safe, sustainable and affordable as stated in Article 6 of the UUSDA. Article 53 of the Job Creation Law which amends Article 8 of the UUSDA in particular paragraph (2), emphasizes that in addition to the people's right to water which is guaranteed by the state, the state prioritizes the people's right to water as follows:

- a. Basic daily needs;
- b. People's agriculture; and
- c. Use of Water Resources for business needs to meet basic daily needs through the Drinking Water Supply System.

The state guarantees the people's right to water, one of which is the use of water resources for business needs to meet daily basic needs carried out through SPAM. SPAM is held to provide drinking water services to the community as a form of fulfilling the people's right to drinking water in order to have a healthy, clean and productive life.

Article 42 of PP SPAM states that the implementation of SPAM is carried out by:

- a. BUMN/BUMD;
- b. UPT/UPTD;
- c. Community Groups; and/or
- d. Business entity.

3.3 The SPAM Operator Can Cooperate with Private Business Entities

One of the SPAM implementations can be carried out by a Business Entity and BUM Desa is a business entity in the form of a legal entity. Thus, BUM Desa can manage water resources for business needs to meet the daily basic needs of the Village community through SPAM.

The implementation of SPAM by BUM Desa is intended so that drinking water management can be handled professionally so that the goal of distributing drinking water evenly for the survival of the community can be realized. The management of drinking water by BUM Desa needs to be regulated in the form of Village Regulations to ensure certainty in terms of quality, quantity, and continuity of SPAM by referring to the provisions of the SDA Law and PP SPAM.

The Apuan Village Government stipulates the Apuan Village Regulation Number 5 of 2021 concerning the Drinking Water Management System which is set on December 21, 2021, which expressly stipulates that the implementation of drinking water management in Apuan Village is carried out by the Apuan Village BUM. Thus, the BUM Desa Apuan Village has a strong basis in implementing drinking water management, and the drinking water management previously carried out by the Apuan Village Community/Indigenous Banjar is declared no longer valid.

The regulation of drinking water management through the Apuan Village Regulation is expected to overcome conflicts of interest and ensure certainty regarding: a. distribution of drinking water in a fair and equitable manner; b. application of fees and tariffs; c. place and time of payment; d. allocation of management result sharing; e. drinking water manager; f. drinking water management cooperation; g. rights and obligations of managers and consumers; h. prohibited things; and i. penalty. The policy for imposing fees and tariffs is applied differently between the use of drinking water by individual consumers, banjar activities and activities at public facilities. Water is also used as one way of attracting tourists to the nation (Woldemaryam, 2020). Water is the source of life for humans, as well as all living things in the world (Lubis, 2021). Water as a vital natural resource and controls the needs of all living things needs to be managed properly (Hanif, 2021).

The Apuan Village Government has accommodated all components and interests of the Apuan Village community in the process of drafting the Apuan Village Regulations even the drinking water managers involved are representatives of the banjars in Apuan Village (Interview, 2022). The socialization of Apuan Village Regulation Number 5 of 2021 was carried out to Banjar Apuan Kaja, Banjar Bangunlemah Kawan, Banjar Apuan Kelod, and Banjar Bangunlemah Kangin from the 18th to the 18th. 23 April 2022. The results of the socialization show that there is positive acceptance and response from the community and even input and suggestions are obtained so that the distribution of drinking water runs evenly and sustainably (Interview, 2022).

The provisions of the cooperation between BUM Desa and third parties are to anticipate the development of SPAM related to the availability of new development facilities and infrastructure, improvement, and expansion. Technically, the Minimum Service Standards (SPM) and Standard Operating Procedures (SOP) for drinking water management will be regulated by Perbekel Regulations. Supervision of drinking water management is carried out by the Village BUM Supervisor and the results of the supervision are submitted to the Apuan

Village Perbekel. Apuan Village BUM drinking water managers will also be included in trainings, including; management, finance, bookkeeping, a combination of technology and the like in order to increase the capacity of drinking water management (Interview, 2022). Opportunities for internships in business institutions both BUMN/Private as well as comparative studies to well-operated Village BUMs or superior Village BUMs in other regions or villages also need to be carried out.

IV. Conclusion

Based on the description of the discussion, it can be concluded as follows:

- a. As a consequence of the enactment of PP BUM Desa, the legal form of BUM Desa must be renewed through a conversion process by way of re-registration so that BUM Desa has the status as a legal entity. BUM Desa Dharma Yudha Abadi Apuan Village, Susut Subdistrict, Bangli Regency is in the process of being converted into BUM Desa Dharma Abadi by rearranging the drinking water management business unit in the Draft Village Regulation and Articles of Association of the Bylaws, so that it has legality in drinking water management in Apuan Village.
- b. The legal instrument for drinking water management by the BUM of Apuan Village, Susut District, Bangli Regency is Apuan Village Regulation Number 5 of 2021 concerning Drinking Water Management Systems. The regulation through Village Regulations is intended so that drinking water management is guided by the provisions of the SDA Law and PP SPAM, can overcome conflicts of interest and ensure certainty of the quality, quantity, and continuity of SPAM for the people of Apuan Village. In the context of optimizing drinking water management, SPM and SOPs, monitoring facilities, and human resource development for drinking water management will be prepared through comparative studies and training or mentoring.

Acknowledgment

- a. The Apuan Village Government is expected to immediately complete the conversion process for Dharma Abadi Village BUM registration to ensure the legality and effectiveness of drinking water management in Apuan Village.
- b. The drinking water manager of Apuan Village BUM needs to have a competency certificate to ensure professionalism in drinking water management.

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