



# Juridical review of the decision of the constitutional court number 70/phpu.bup-xxiii/2025 re-voting of the serang regency election

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**Abstract:** Constitutional Court Decision Number 70/PHPU.BUP-XXIII/2025 is a response to the dispute over the results of the 2024 Serang Regency Regional Head Election (Pilkada), which was marked by allegations of structured, systematic, and massive (TSM) election violations. The violations included the involvement of state officials, such as the Minister of Villages and Disadvantaged Regions Development, as well as open support from village heads for one candidate pair. This study aims to examine the legal basis and juridical considerations of the Constitutional Court in deciding to order a re-voting (PSU) in all polling stations (TPS) in Serang Regency. The method used is a normative juridical approach with analysis of laws and regulations, decision documents, and election law literature. The results of the study show that the Court consistently upholds the principles of electoral justice by making integrity and neutrality the main foundation in organizing Pilkada. This decision is also an important precedent in maintaining the quality of local democracy and emphasizing the limits to power intervention in electoral contestation.

**Keywords:** Constitutional Court; Election Law; Re-voting.

## 1. Introduction

Structural Vulnerability of Village Governance Village governance has several characteristics that make it vulnerable to political pressure, including Hierarchical and Financial Ties Although villages have limited autonomy under Law No. 6/2014 on Villages, the reality is that village heads and village officials are dependent on budgets from above (APBD/APBN). This makes them vulnerable to pressure from regents, governors, and even national elites who control access to village funds. Strong Patron-Client Relationships Many village heads are elected or supported by local political elites, and feel indebted. During elections, this relationship can turn into political instruction and even voter mobilization in the name of loyalty. Weak Institutional Oversight Not all villages have strong internal oversight systems. Institutions such as the BPD (Village Consultative Body) or villagers are sometimes powerless if village officials act under pressure from higher powers. The Urgency of Highlighting the Role of National Elite Actors in Local Level Violations Vertical Influence in Local Politics In Indonesia (and many other countries), government structures are hierarchical. Policies at the central level can have a direct impact on local dynamics. When violations or irregularities occur at the local level, they may be the result of direction or pressure from national elites - including ministers. Responsibility and Accountability Without highlighting the role of central elite actors, violations in the regions can be considered solely the fault of local actors. In fact, there are many cases where local officials are simply "implementing" or "following" policies or instructions from their superiors. It is important to trace the chain of command so that accountability does not stop at the bottom. Political Clientelism and Patronage National elite actors often have patronage networks in the regions. They may protect regional

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heads who are loyal to or support their campaigns. In this context, violations at the local level can occur due to transactional relations with the center.

Regional Head Elections (Pilkada) are a concrete manifestation of the implementation of democracy at the local level. However, in its implementation, Pilkada is often colored by various problems that can undermine the basic principles of democracy such as honesty, justice, and openness. This is what happened in the 2024 Serang Regency elections, where there were strong allegations of structured, systematic and massive (TSM) violations. The elected Regent and Vice Regent candidates, Ratu Rachmatuzakiah and Muhammad Najib Hamas, were reported to have gained an unlawful advantage through the intervention of power and the non-neutral use of village government officials. One strong indication was the open support of village heads and the involvement of the Minister of Villages and Disadvantaged Regions, Yandri Susanto, who explicitly supported a particular candidate (Akuntansi et al., 2024). These violations led to objections from political opponents and civil society who then brought this case to the Constitutional Court through a dispute over the General Election Results (PHPU) (Amar Sani, 2022). In the process of examining the case, the Court found sufficient evidence that the violation was not just incidental, but fulfilled the elements of TSM, which had the potential to damage the integrity of the Pilkada results (Tamrin et al., 2024). Therefore, the Constitutional Court decided to cancel the results of the 2024 Serang Regency Regional Election (Ardipandanto, 2022).

This section may be divided by subheadings. It should provide a concise and precise description of the experimental results, their interpretation, as well as the experimental conclusions that can be drawn. and ordered the conduct of Re-Voting (PSU) in all polling stations, as an effort to restore justice and maintain a healthy and dignified local democracy (Airlangga & Koresponden, 2024). Regional Head Elections (Pilkada) are a manifestation of democracy at the local level that provides an opportunity for the community to determine their regional leaders directly, publicly, freely, confidentially, honestly and fairly (Danial, 2020). In practice, the implementation of Pilkada often faces various challenges, especially in maintaining the integrity and fairness of the electoral process. One of the problems that arise is the existence of structured, systematic, and massive (TSM) election violations, which can undermine the legitimacy of the election results. The Serang Regency election in 2024 became one of the prominent cases that reflected the complexity of violations in the local democratic process (Assyayuti, 2022). The Constitutional Court in Decision Number 70/PHPU.BUP-XXIII/2025 canceled the election results and ordered a re-voting (PSU) in all polling stations, because evidence was found of the involvement of village officials and state officials in winning one of the candidate pairs (Puteri et al., 2023). This shows bureaucratic neutrality and abuse of authority that is contrary to the principles of democratic elections. The legal basis of the Constitutional Court (MK) in deciding the Re-voting (PSU) in the 2024 Serang Regency Pilkada, as stated in Decision Number 70/PHPU.BUP-XXIII/2025, refers to a number of statutory provisions that explicitly authorize the Constitutional Court to examine and adjudicate disputes over the results of regional head elections (Covid-, 2024). The following is the legal basis. The Constitutional Court has the authority to adjudicate at the first and last levels whose decisions are final to test laws against the Constitution, decide disputes over the authority of state institutions, the dissolution of political parties, and disputes over the results of general elections. In this context, Pilkada is included in the general election regime after being strengthened through a previous Constitutional Court decision (Decision No. 97/PUU-XI/2013), so that the Constitutional Court is authorized to handle disputes over Pilkada results. Law Number 10/2016 on Pilkada Some important articles that are the basis for the Court's consideration are Article 158 Stating the threshold for filing disputes over the results of regional head elections by candidate pairs (Susilo Prabowoadi & Afandi, 2020). Articles 158A and 158B Explain the mechanism for resolving disputes over election results by the Constitutional Court. Article 135A paragraph (1) reads that if there is evidence of a structured, systematic, and massive (TSM) violation

that results in invalid election results, the Constitutional Court may order a re-voting (PSU)(Ridhanie et al., 2022).

Constitutional Court Regulation (PMK) PMK Number 5 of 2023 concerning Procedures in Disputing the Election Results of Governors, Regents, and Mayors(Satmoko Adi, 2020). This PMK regulates the procedures, time limits, and authority of the Court in resolving disputes over Pilkada results, including when TSM violations are proven to have affected the election results(Syafriadi & Santri, 2023). Facts and Legal Considerations of the Court In the legal considerations of Decision No. 70/PHPU.BUP-XXIII/2025, the Court stated that TSM violations were proven conclusively, including the involvement of state officials (Minister of Villages) who supported the election pair(Pokhrel, 2024)(Maulandari et al., 2020). candidate Mobilization of village heads to win a particular candidate pair. Use of village funds for disguised campaign activities. The principle of honest and fair elections has been violated. These violations significantly affected the election results, so the Court decided to order PSU in all polling stations with the same permanent voter list as the previous elections(Administrasi et al., 2021). Re-voting (PSU) Definition of Re-voting Re-voting (PSU) is the process of repeating voting in an electoral district due to certain violations or circumstances that cause the previous voting results to be considered invalid or do not meet the principles of honest, fair, direct, general, free, and secret elections (luber jurdil). PSU can be ordered by the Constitutional Court if there are proven violations that disrupt the integrity of the election results, especially those that meet the elements of Structured, Systematic, and Massive (TSM)(Dairani & Fadlail, 2023). Legal Basis for PSU PSU is regulated in various laws and regulations, including Law Number 10 of 2016 concerning Pilkada Article 135A paragraph (1) If it is proven that there is a violation that is structured, systematic, and massive in nature which results in invalid election results, the Constitutional Court can order a re-vote Constitutional Court Regulation (PMK) Number 5 of 2023 Regulates the procedures for filing and handling cases of Disputes over Regional Head General Election Results. PSU in Constitutional Court Decision No. 70/PHPU.BUP-XXIII/2025 In the case of the 2024 Serang Regency Pilkada, the Constitutional Court ordered a PSU because TSM violations were found, with the following details Structured Violations Involving state officials and village government officials in supporting one of the candidate pairs (Paslon 2). Systematic Violation: There is an organized pattern or scheme-for example, the direction of village heads by state officials to influence people's choices. Massive Violations Occurred widely in various areas in Serang Regency, affecting most polling stations. The Court concluded that the violations violated the principle of bureaucratic neutrality and significantly affected the voting results, so that the Pilkada results could not be considered valid(Rundengan, 2022).

Provisions for PSU Implementation The Constitutional Court in its ruling stated that PSU must be carried out in all polling stations in Serang Regency using the same permanent voter list (DPT) as the Pilkada on November 27, 2024. The KPU of Serang Regency must coordinate with KPU RI and Bawaslu to ensure effective supervision of the PSU. The implementation of the PSU must guarantee the principle of fairness and be free from political intervention or power(Habibillah & Syamsir, 2024). Legal and Political Implications of the PSU Election Law Enforcement This decision sets a precedent that the Constitutional Court will not tolerate abuse of power in elections. Supervisory Reform Bawaslu was heavily criticized in this case for being negligent, leading to calls for the removal of members of the Serang Regency Bawaslu. Democracy Education Providing lessons for political actors and the public that power cannot be used arbitrarily to influence elections. Election Law is a branch of constitutional law that regulates the conduct of elections in democratic countries. This law covers the gamut of norms, procedures, institutions, and mechanisms that regulate the electoral process for legislative, presidential/vice presidential, and regional heads, including the resolution of disputes over election results. In general, election law aims to guarantee the implementation of direct, general, free, secret, honest and fair elections (luber jurdil). Provide a legal and peaceful dispute resolution mechanism. Maintain the integrity of elections as the main pillar of

democracy. Principles and Principles of Election Law The main principle in election law that must be maintained is *Luber Jurdil* Elections must be carried out directly, generally, freely, secretly, honestly and fairly. Neutrality The KPU and Bawaslu must be neutral and professional. Equality of Participants Each pair of candidates has the same rights and opportunities. Legal Certainty The determination of results must be valid and can be legally accounted for. Public Participation The public has the right to participate and oversee the election process.

Several important regulations that serve as the legal basis for the Serang Regency elections are Law Number 10 of 2016 concerning the Election of Governors, Regents, and Mayors Law Number 7 of 2017 concerning General Elections. General Election Commission Regulations (PKPU) related to stages, campaigns, and determination of results. Bawaslu regulations on monitoring, preventing, and handling violations. Constitutional Court Regulation (PMK) on the settlement of disputes over regional head election results. The relevance and implications of the Constitutional Court's decision regarding the Serang Regency PSU is an important precedent in election law enforcement, showing that the legal process is a legitimate path in fighting for electoral justice. This reinforces the message that a legitimate election is not just about the most votes, but must also be free from fraud and power intervention (Robyan E. Bafadal, 2024).

## 2. Materials and Methods

Normative frameworks can only capture the surface of electoral violations, and often fail to understand the structural, cultural and hidden complexities. To produce a full and fair analysis, normative approaches must be complemented by sociological approaches, the politics of law, and power relations analysis. Article 135A of Law No. 10/2016 provides the legal basis for the Constitutional Court (MK) to annul election results if there are proven structured, systematic and massive (TSM) violations. To test the validity of the normative juridical approach in this context, we can ask some critical questions The normative juridical approach will interpret the text of the article in accordance with its literal and systematic meaning in the law. However, phrases such as “structured, systematic and massive” are highly dependent on interpretation and do not have explicit quantitative limits. The normative juridical approach tends to ignore political actors and power relations that could be at the core of TSM violations. When there are indications of the involvement of ministers or state apparatus, the normative approach will have difficulty reaching that aspect if it is not explicitly stated in the norm. The validity of the normative juridical approach in interpreting Article 135A is only strong when the context is norm clarity and consistency of the legal system. But when applied to cases of TSM violations that are complex, contextual, and involve power relations, the validity is weakened and needs to be combined with other approaches such as sociological or politico-juridical. This research uses a normative juridical approach, which is an approach that is carried out by examining applicable legal norms as a basis for analyzing the decision of the Constitutional Court. This approach aims to understand the content and meaning of the applicable law and its application in practice, especially in the settlement of disputes over regional head election results. This type of research is normative legal research, which examines the law as written norms sourced from legislation, legal doctrine, and relevant judicial decisions. Data is collected through library research and analyzed using qualitative analysis, namely by systematically describing the content and meaning of legal norms to draw legal conclusions on the issues studied (Desember et al., 2024).

## 3. Results and Discussion

Constitutional Court Decision Number 70/PHPU.BUP-XXIII/2025 In Decision Number 70/PHPU.BUP-XXIII/2025, the Constitutional Court (MK) decided to cancel the results of the 2024 Serang Regency Regional Head Election (Pilkada) and ordered a Re-voting (PSU) in all polling stations (TPS). This decision was issued after the Constitutional Court examined a lawsuit filed by one of the candidate pairs (Paslon) regarding alleged violations

that were structured, systematic, and massive (TSM) in the election process. The violations in question include the involvement of state officials, especially the Minister of Villages and Disadvantaged Regions who supported the candidate pair. emphasizes that every election should be conducted with the principles of fairness and honesty, without any interference from any party that could undermine the integrity of the election. The involvement of state officials and village heads in supporting one candidate pair is considered to violate this principle. Structured, Systematic and Massive Violations (TSM) The Constitutional Court found strong evidence that the election violations that occurred were not only incidental, but were carried out in an organized manner (structured), through a planned and systematic scheme, and occurred in large numbers (massive). This indicates an attempt to direct voters and influence the election results. Principle of Bureaucratic Neutrality One of the violations found was the non-neutrality of state apparatus, especially village heads who used their positions to influence the election results, which contradicts the principle of neutrality in the Election Law(Kelibay et al., 2022). The Court considered that the violations that occurred significantly changed the election results, making it necessary to conduct a re-vote (PSU) to ensure justice and fulfill the people's constitutional right to choose their leaders. This Constitutional Court decision has several important legal implications, both in the context of organizing future elections and in the context of election law enforcement in general, including Strengthening Election Supervision This decision is a trigger for increasing the supervisory function by Bawaslu in identifying and taking action against violations that occur in the implementation of Pilkada(Setyoko & Waluyo, 2021).

Although the Court ruled for a PSU, there remained criticism of the weakness of supervision, which could have prevented the violation in the first place. Precedent for Election Law Enforcement This decision confirms that election violations, especially those of a TSM nature, will not go unpunished(Arhdan, 2023). The Constitutional Court used its authority to maintain the integrity of the election, despite political pressure and forces seeking to change the outcome. Public Trust in Democracy The repetition of the vote also aims to restore public trust in the electoral process and ensure that every vote is counted legitimately and in accordance with the will of the people. Democracy Education This case teaches the public and relevant parties that abuse of power in elections can undermine the principles of democracy. This is important to build legal awareness and strengthen a cleaner and more transparent democratic system. Challenges in the Implementation of PSU Although the Constitutional Court's decision on PSU is an important step to ensure fairness in the elections, the implementation of PSU faces several challenges, including the Compilation of the Permanent Voters List (DPT) Arrangements related to DPT that are the same as the results of the previous elections can cause technical problems, such as voters who have moved domicile or died. This requires extra attention from the KPU to ensure the accuracy of the voter list. Logistical Readiness The implementation of PSU requires careful logistical readiness, including the distribution of ballots and the arrangement of polling stations, so that fraud or abuse does not occur again. Stricter Supervision Stricter supervision from Bawaslu and related parties is needed so that the PSU implementation runs fairly and honestly, and to prevent the same violations from recurring(Isratul Janna et al., 2021).

#### 4. Conclusions

Position of Bawaslu's Authority before the Constitutional Court Decision Before there was an important decision in Pilkada cases involving TSM violations, Bawaslu only had a role as a "supervisor and reporter".For TSM violations related to election results, the deciding authority remains with the Constitutional Court (based on Article 157 of Law No. 10 of 2016).In some cases, Bawaslu's findings are not necessarily binding on the Constitutional Court, because the Constitutional Court claims to be the only institution that can cancel election results. The impact of the Constitutional Court's decision on the reorientation of Bawaslu's authoritySome of the Constitutional Court's decisions, especially those recognizing TSM violations, have had an important impact as followsStrengthen-

ing the Position of Bawaslu's Findings as Initial Evidence The Constitutional Court's decision began to give more weight to Bawaslu's reports, studies and recommendations, not just as administrative reports. This opens up space for Bawaslu to have a more substantive role in the evidentiary process at the Constitutional Court. The impact is that Bawaslu is no longer just an observer, but can become an early actor in the construction of election law cases.

**Revision and Affirmation of Regulations Regarding Neutrality of State Officials** The Pilkada Law and ASN Law need to be revised to explicitly mention the prohibition of the involvement of state officials, including ministers, in campaign activities, both direct and indirect. There needs to be proportional and firm sanctions, such as disqualification of election participants if proven to receive structural support from state officials. Administrative sanctions or dismissal of state officials who are proven to abuse their authority. **Increasing the Role and Authority of Bawaslu** Bawaslu needs to be given direct authority to take action against state officials who violate neutrality, without having to wait for recommendations from other institutions such as KASN or the Ministry of Home Affairs. A special unit for TSM supervision can be established in Bawaslu to focus on indications of violations involving vertical actors. Each ministry should have a stricter internal code of ethics that prohibits its officials from being involved in political contestation. The establishment of independent ethics boards within ministries can be a preventive oversight mechanism. **Transparency and Digitalization of Campaign Monitoring** Use a real-time digital reporting system for campaign activities involving public officials. This platform can contain data such as official attendance, campaign locations, and speech content, which can be directly verified by the public and media. **Political Education and Public Socialization** Conduct a national campaign on the neutrality of state officials in elections. Provide training to civil servants, regional heads and ministers on the limitations of their roles during the campaign period, so as not to make excuses for "not knowing the rules". **Encouraging Legal Precedents and Clarity of Interpretation** The decisions of the Constitutional Court or Bawaslu must be used as clear legal precedents in similar cases in the future. The government and election organizers need to compile an interpretation book or implementation guidelines for Article 135A, so that there are no multiple interpretations and can become a common guide. **Delegitimization of the Election Process and Results** If the PSU is held without systemic improvements or without eliminating potential violations that were previously the basis for canceling the initial results, then the PSU results lose moral and legal legitimacy, because the same defects remain inherent in the new process. This is contrary to the main objective of the PSU, which is to restore the integrity of the democratic process. The implication is that the PSU results can be challenged again, because in substance they do not correct the violations that existed before. **Violation of the Principle of Legal Certainty** In the principles of election law, the principles of Free and fair election, Due process of law, and Legal certainty are known. If similar violations continue to occur in the PSU, then the election is considered not to provide effective legal protection for participants and voters. This can be the basis for filing a case back to the Constitutional Court, even leading to the cancellation of the PSU results. The decision of the Constitutional Court Number 70/PHPU.BUP-XXIII/2025 ordering a re-voting (PSU) in the Serang Regency election is an important step to uphold electoral justice and maintain the integrity of the democratic system. The violations found in the electoral process demonstrate the importance of effective monitoring and enforcement of electoral laws to maintain the quality of local democracy. This decision sets a precedent that reinforces the importance of democratic principles and electoral laws that are free from interference from power.

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