



## The Role of The Village Head in Mediation of Land Issues for Investment in the Construction of a Medical Waste Treatment Plant Case Study: In Pengambangan Village

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ARTICLE INFO	ABSTRACT
<p><b>Keywords:</b> Village head Mediation Land Problem Investation Medical Waste</p>	<p>The dynamics of rejection of development as a large-scale investment almost always occurs and is carried out by some people. Likewise, when there is an issue of construction or investment in a medical waste treatment plant in Pengambangan Village, there are people who immediately reject it in various ways and reasons. Indeed, there is often a distortion between the needs of the community and the wishes of investors. Therefore, it is necessary to have the ability of community leaders, religious leaders, especially the Village Head to be able to manage this land-based investment conflict properly, respectfully, and elegantly. The purpose of this study was to identify and understand the mediation technique carried out by the Village Head of Pengambangan and to understand the challenges and obstacles to the construction of a medical waste factory in Pengambangan Village. <i>The theory of salus populi supreme lex</i> (public safety is the highest law). The research method used is qualitative legal research or legal research <i>sociological research</i>. Presentation of data using a systematic description technique. Therefore, the solution that is expected to be used to solve this problem is mediation in order to reach consensus between investors and the community. The last technique in conducting mediation is to ratify the agreed agreement, then carry it out according to what has been agreed. The inhibiting factor for this investment is public understanding, which still needs to be improved. While the supporting factors are, Pengambangan Village is indeed a special area for industry and this investment can improve the welfare of the community because it absorbs a lot of workers.</p>
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### 1. INTRODUCTION

The discourse on the construction of a medical waste factory in Pengambangan Village, Negara District, Jemberana Regency, is normatively a very good idea, especially when viewed from the side of investment and original income. area. The development in question is, of course, labor-intensive, involving many people, both in the process and in the future when it is finished and operational. The local government

of course will get income in the form of taxes that will be imposed either taxes value addition, land tax, investment tax in order to increase the revenue budget of the Jemberana Regency Government. From this perspective, the construction of a medical waste factory is a very visionary and good idea to improve the welfare of the community. However, if studied from the perspective of the people of Pengambangan

Village, the investment in the construction of this medical waste factory is to damage the environment, pollute the air, interfere with health, can make babies become healthy babies.

**Definition** Investation is effort as capital expenditures directed to support production activities or production expansion. This makes investment have a broad multiplier effect because it not only encourages the production side, but also stimulates the consumption side.

Mediation is a method of resolving disputes through a negotiation process to obtain an agreement between the parties with the assistance of a mediator. Mediation comes from English which means resolving disputes by mediating. Mediation is a problem-solving negotiation process, in which an impartial outside party cooperates invest capital or funds in the hope of getting a profit (return) in the future. Investment is the activity of placing capital in the form of money or other valuable assets into an object, institution, or party with the hope that the investor or investor will benefit after a certain period of time. Because of the hope of getting a profit in the future, this investment is also known as investment. The term investment itself comes from the Italian word, *investire* which means to use or use. Generally, funds or assets invested by an investor will be developed by the agency or party that manages it. The profits from the development results will later be distributed to investors as a return in accordance with the provisions between the two parties. Economically, in investment, investors will buy something that will not be used now. Something that is purchased is stored as an asset which after a certain period of time can change in value. Investment does not always lead to profit. There is also a risk of loss in investing. Sometimes, investment is also called as capital investment. Investment is a commitment to a number of funds or other resources made at this time, with the aim of obtaining a number of benefits in the future. The term investment can be related to a variety of activities. Invest some funds in real assets (land, gold, machinery or buildings) or real financial assets (deposits, stocks or bonds). Investment is one of the components forming economic growth (Ahmad, 2004). Simply, with the disputing parties to seek mutual agreement. Mediators don't have the authority to decide disputes, but only assists the parties to resolve authorized to him.

Medical waste is, waste or garbage is a waste material generated from an activity, whatever its form. These waste materials can be generated from small scales such as households, to large scales such as industrial factories and hospitals. Medical waste is any type of waste that contains infectious or potentially infectious materials. Generally, it comes from the waste of health facilities, such as hospitals, laboratories, medical research facilities, veterinary clinics, and doctor's practices. According to respondents, so far, there have been six potential investors whose proposals have been seriously reviewed, however, none of them have seriously followed up on what was proposed. This means that there are those who do not have capital, there are those who only claim to own land but in reality they do not, there are those who had a ground- breaking, it turns out that the land is only 33 acres and is close to residential areas so that it practically does not meet the requirements for the construction of a large-scale factory for the treatment of medical waste.

In this case, this study is considered to some problems of medical waste which has been found such as wasted and expired medicines, chemotherapy residual waste, mask waste, waste of damaged medical equipment, etcetera. Those problems have contributed the negative impacts to the environment and for human's life. Therefore, it is needed to be solved.

There was an idea to move the plan to build a medical waste treatment plant to another place, such as to Candi Kesuma Village, Tuwed Village, which in the RKRW study did not meet the requirements. Because the two areas are rice fields and perennial agriculture and for the tourism industry.

The ultimate plan is to change RKRW district Jembrana with turning the entire area south of the toll road to be built into an environmentally friendly industrial area. This study intends to answer the fundamental problem related to the role of the village head in mediating land issues for investment in the construction of a medical waste treatment plant. The problems in question are: What is the mediation procedure carried out by the Village Head of or consensus, then there should be no coercion to accept or reject an idea or settlement during the mediation process. Everything must be approved by the parties. Background of Mediation The legal basis for implementing Mediation in the District Court is the Regulation

of the Supreme Court of the Republic of Indonesia Number 1 of 2016 concerning Mediation Procedures in the Court which is the result of a revision of the Regulation of the Supreme Court Pengambangan complete in problem skeleton land Number 1 of 2008. The background of why the Supreme Court of for investment in medical waste treatment plant? What are the factors that hinder and support investment in the construction of a medical waste factory in Pengambangan Village? The research objectives to be achieved in this study are: In order to know and understand the mediation technique carried out by the Village Head of Pengambangan understand the challenges and obstacles to the construction of a medical waste factory in Pengambangan Village.

## 2. RESEARCH METHOD

The type of research used in this research is the type of empirical legal research or legal research sociolegal research. Technically, Empirical and sociolegal research is based on observation and measurement of phenomena in the field or in social life, as directly experienced by the researcher. The data thus gathered may be compared against a theory or hypothesis, but the results are still based on real life experience. Meanwhile, the location of the research was carried out in the province of Bali, precisely in Pengambangan Village, Negara District. Jembrana Regency.

## 3. RESEARCH RESULTS

Based on the formulation of the problem, this study has found that the mediation technique carried out by the Village Head of Pengambangan are consisted of:

1) Mediation Procedures Performed by the Head of Pengambangan Village in Order to Resolve Land Problems for Investment in Medical Waste Treatment Plants the Republic of Indonesia (MA-RI) requires the parties to take mediation before the case is decided by the judge is described below. Policy MA-RI applies mediation to the case process in the Court based on the following reasons:

First, the mediation process is expected to overcome the problem of accumulation of cases. If the parties can resolve the dispute themselves without having to be tried by a judge, the number of cases that must be examined by a judge will also decrease. If the dispute can be

resolved through reconciliation, the parties will not take cassation legal remedies because peace is the result of the mutual will of the parties, so they will not file legal remedies (Sutiyoso, 2008). On the other hand, if the case is decided by the judge, then the decision is the result of the judge's views and assessment of the facts and legal standing of the parties. The views and judgments of the judges are not necessarily in line with the views of the parties, especially the losing party, so that the losing party always takes appeal and cassation. Definition solution Mediation dispute is through process process. Second, the mediation process is seen as a more advanced dispute resolution negotiation or consensus of the parties assisted by a mediator who does not have the authority to decide or impose a settlement.

The main feature of the mediation process is negotiation, which is essentially the same as the process of deliberation or consensus. In accordance with the nature of the negotiation or deliberation method faster and cheaper than the litigation process. In Indonesia, there is no research that proves the assumption that mediation is a fast and inexpensive process compared to the litigation process. However, if it is based on logic as has been explained in the first reason that if a case is decided, the losing party often submits legal remedies, appeals or cassation, so that making a settlement of the case in question can take years, from the examination in the Court of first instance to the examination of the cassation level of the Supreme Court. On the other hand, if the case can be resolved amicably, then the parties will automatically accept the final result because it is the result of their work which reflects the mutual will of the parties. In addition to the logic as described previously, the literature often mentions that the use of mediation or other forms of settlement which are included in the definition of alternative dispute resolution (ADR) is a dispute resolution process that is faster and cheaper than the litigation process (Sutiyoso, 2008).

Third, the implementation of mediation is expected to expand access for the parties to obtain a sense of justice. A sense of justice can not only be obtained through the litigation process, but also through a process of deliberation and consensus by the parties. With the implementation of mediation into the formal justice system, the justice-seeking community in

general and the disputing parties in particular can first seek to resolve their disputes through a consensus approach assisted by an intermediary called a mediator. Even if in fact they have gone through the process of deliberation and consensus before one of the parties takes the dispute to court, the Supreme Court still considers it necessary to oblige the parties to undertake a reconciliation effort assisted by a mediator. Better and more satisfying is a settlement process that provides an opportunity for the parties to jointly seek and find a final result. Fourth, the institutionalization of the mediation process into the judicial system can strengthen and maximize the function of court institutions in dispute resolution. If in the past the function of the judiciary that was more prominent was the function of deciding, with the enactment of the PERMA on Mediation, it is hoped that the function of reconciling or mediating can go hand in hand and be balanced with the function of deciding. PERMA on Mediation is expected to encourage a change in the perspective of the actors in the civil justice process, namely judges and advocates, that the judiciary not only decides, but also reconciles. PERMA on Mediation provides guidelines for achieving peace. In positive law in Indonesia, mediation or deliberation to reach consensus is actually a mandate from the law since the Dutch East Indies era until now. It is identified that there are several regulations that actually oblige the disputing parties to take mediation in solving the problem. The regulations in question are:

Legally formally started since the Dutch East Indies on the basis of Article 130 HIR and Article 154 R. Bg Concerning Eternal Peace Article 6 of Law Number 30 of 1999 concerning Alternative Arbitration for Settlement of Problems Circular Letter of the Supreme Court (Perma) Number 1 of 2002 concerning Empowerment of Peace by Judges Perma Number 2 of 2003 concerning Mediation in Courts and Perma 1 of 2008 Perma 1 of 2016 concerning Mediation Procedures in Courts.

## 2. Mediation Technique

Regarding the mediation procedure carried out by the Head of Pengambangan Village in order to solve the land problem for sewage treatment plant investment is done many times. Based on the research conducted, this dispute arose between the people of Pengambangan Village and the investor

represented by Mr. John. The mediation mechanism is carried out in several stages, namely:

The village head has several times absorbed the aspirations of residents who rejected the construction of the factory. In this case, the aspirations of the people are divided into 2, namely, some reject it outright and some accept it with some notes. The village head accepts the two aspirations of these residents, those who refuse to stick to the establishment should not build a medical waste factory. The second aspiration may be to build a medical waste factory as long as there is no environmental pollution. The village head summoned the medical waste factory management represented by Mr. John, it turned out that all the requirements for the construction of a medical waste factory in Pengambangan Village had been met such as the Amdal Study, HO Study, and Academic Study on the impact on the community, especially in the socio-economic, cultural aspects, and religion. Mr. Village Head brought together the investors with the community who refused, in this meeting for consensus deliberation it turned out that they did not find a way out in other words mediation became a dead end although the mediation was deadlocked, it turned out that at the time this research was carried out the physical construction of a medical waste treatment plant had already been implemented. 2) Factors That Inhibit and Support Investment in the Construction of a Medical Waste Factory in Pengambangan Village Investment law or the capital market in Indonesia, has been regulated by the Government through Law no. 25 of 2007 concerning which clearly regulates the law or investment rules in Indonesia. To make Indonesia participate in international cooperation, there must be an investment climate. This investment climate should be promotive, fair, conducive and efficient. In addition, this climate must also pay attention to the interests of the national economy. Therefore, with the various considerations above, the President can make investment law through the formation of a law.

UU no. 25 of 2007 discusses what is meant by investment or investment as the main form of investment. According to this law, what is meant by investment is all forms of activities carried out in the context of investment (Accountants, 2009). The investors or investors

referred to here can be domestic or foreign investors. What is meant by domestic investment is investment that is intended to conduct business in the country and is carried out by local investors or investors (Jogiyanto, 2003). Meanwhile, foreign investment means investment that is intended to conduct business in the country and is carried out by foreign investors or investors, whether this investment is carried out entirely by foreigners or jointly. The discourse on the construction of a medical waste factory in Pengambengan Village, Negara District, Jemberana Regency, is normatively a very good idea, especially when viewed from the side of investment and local revenue. The development in question is of course labor-intensive by involving many people, both in the process and in the construction, process will be ready and operational. Government Of course, the region will receive income in the form of taxes that will be imposed, be it value added tax, land tax, investment tax in order to increase the revenue budget of the Jemberana Regency Government. From this perspective, the construction of a medical waste factory is a very visionary and good idea to improve the welfare of the community. However, if we look at it from the point of view of the community, Investment. This regulation has several articles village camouflage so investation the construction of this medical waste factory is damage environment, pollute air, all requirements for the construction of an interfere with health, can make babies sick easily. Medical waste factory in Pengambengan Village have been met such as the EIA as for the factors which Becomes Study, HO Study, and Academic Study on the obstacle to the mediation process is how strongly some people reject the construction of a medical waste factory. Even though the investors have given promises or discourses about compensation in the context of developing Pengambengan Village. Not only that, the investors have promised that 50% of the employees will be taken from the local community. Meanwhile, the supporting factor is that the Pengambengan Village area is an industrial area based on the Regional Spatial Plan or RTRW of Jemberana Regency. Therefore, the construction of this medical waste factory is very difficult to relocate. However, there is an issue that the Jemberana Regency Government will make fundamental changes and expand the industrial

area in Jemberana Regency.

#### 4. CONCLUSION

Based on the result of this article, it can be concluded that the mediation procedure carried out by the Head of Pengambengan Village in order to resolve the land issue for investment in a waste treatment plant, it was carried out many times. this dispute arose between the people of Pengambengan Village and the investor represented by Mr. John. The mediation mechanism is carried out in several stages, namely:

- 1) The Village Head has several times absorbed the aspirations of the the impact on the community, especially in the socio-economic, cultural, and religious aspects. Mr. Village Head brought together investors and the community who refused, in this meeting for consensus deliberation, it turned out that they did not find a way out in other words mediation became a dead end Even though the mediation was deadlocked, it turned out that at the time this research was carried out the physical construction of a medical waste treatment plant had already been implemented.
- 2) The factors that hinder the mediation process are: part Public which reject construction of a medical waste factory. Even though the investors have given a discourse about compensation in the context of developing Pengambengan Village, not only that, the investors have promised that 50% of the employees will be taken from the local community.
- 3) While the supporting factors are the Pengambengan Village area, which is an industrial area based on the RT/RW of Jemberana Regency. Therefore, the construction of this medical waste factory is very difficult to relocate. However, there is an issue that the Jemberana Regency Government will make fundamental changes and expand the industrial area in Jemberana Regency.

#### 5. SUGGESTIONS

Residents who rejected the construction there is a number of suggestions which could of the factory. In this case, the recommended to discourse aspirations of the people are divided

into 2, namely, some reject it outright and some accept it with some notes the village head accepts the two aspirations of these residents, those who refuse to stick to the establishment should not build a medical waste factory. The second aspiration may be to build a medical waste factory as long as there is no environmental pollution. Mr. Village Head summoned the management of the medical waste factory represented by Mr. John, apparently construction of a medical waste factory in Pengambengan Village, namely: The people of Pengambengan Village who reject the construction of a medical waste treatment plant should be more patient and engage in intense dialogue. With dialogue, existing concerns can be eliminated, especially with the consideration of increasing welfare and the absorption of labor from Pengambengan Village. Investors should be more humane in providing enlightenment and approach to the community. This matter important for ensure forward Public Pengambengan Village the environment is not polluted; public health and safety are guaranteed. To Government Government district specifically. Jembran should provide enlightenment more often, especially socializing the Job Creation Law which has an interest in making it easier investment and increase job vacancies for the quality and welfare of the community.

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