



**The Constitutional Court  
of the Republic of Indonesia**

**SUMMARY OF DECISION**

**ON CASES NUMBER 2 / PUU XVII / 2019**

**About**

**Early Childhood Education Teacher**

Petitioner : Anisa Rosadi

Type of Case : Examination of *Act, Law* Number 14 of 2005 concerning Teachers and Lecturers (Teacher and Lecturer Law) against The 1945 State Constitution of the Republic of Indonesia

Case Lawsuit : Examination of Article 1 point 1 and Article 2 paragraph (2) of the Teacher and Lecturer Law on Article 27 paragraph (2), Article 28C paragraph (2), Article 28D paragraph (1), Article 28I paragraph (2) of the 1945 Constitution.

Injunction : Reject the Petitioners' petition in its entirety

Date of the case : Tuesday, 21<sup>st</sup> of May 2019

Decision Overview :

The Petitioner is an individual Indonesian citizen who is an educator at PAUD Al-Ihsan, namely an early childhood education unit on the non-formal route with a work period of 11 years. The Petitioner feels aggrieved by the enactment of Article 1 point 1 and Article 2 paragraph (2) of the Teacher and Lecturer Law.

In relation to the authority of the Court, because the Petitioner's petition is a review of Article 1 point 1 and Article 2 paragraph (2) of the Teacher and Lecturer Law, the Court has the authority to judge the Petitioner's petition. In relation to the Petitioner's legal position, in essence, the Petitioner argues that the constitutional impairment is due to the enactment of Article 1 point 1 and Article 2 paragraph (2) of the a quo Law because it does not include non-formal PAUD educators in the definition of teachers so that the Petitioner has never received any guarantees of rights. - the right of teachers even though the Petitioner has met the qualifications as a teacher in general. Based on the arguments for the disadvantages described by the Petitioner, regarding the Petitioner's legal position, the Court considered that the loss had a causal relationship with the enactment of the a quo norm so that the Petitioner had the legal position to submit the application a quo.

In relation to the principal of the Petitioner's petition, the Supreme Court is of the opinion as follows:

1. The educators referred to by the National Education System Law are educational personnel who are qualified as teachers, lecturers, counselors, tutors, instructors, facilitators, and other designations that are in accordance with their specialties and participate in implementing education and all matters related to educators general subject to the National Education System Law. The logical consequence is that by recognizing educators as teachers, of course not only their rights but also their obligations are attached. Formally the Teacher and Lecturer Law is a law that regulates educators, especially teachers and lecturers, while for educators while for educators outside of teachers and lecturers, the regulations are not subject to the a quo law but subject to laws and other statutory regulations.
  
2. Whereas in relation to the Petitioner's argument which states that Article 1 number 1 and Article 2 paragraph (1) of the Teacher and Lecturer Law does not provide legal certainty to their profession as non-formal PAUD educators, according to the Court, the provisions of Article 1 number 1 and Article 2 paragraph (1) of the Teacher Law and Lecturers are articles regulated in the General Provisions, so that these norms are not regulatory norms but instead provide limits on the direction of regulation and who is regulated in the Teacher and Lecturer Law, with the aim of avoiding ambiguity or vagueness in the regulation. in the following articles, so that the a quo article actually provides legal certainty. So thus, the Petitioners' argument regarding the unconstitutionality of Article 1 point 1 and Article 2 paragraph (1) of the Teacher and Lecturer Law is not legally grounded;

3. Whereas the Petitioner argues that the inclusion of non-formal PAUD educators in Article 1 number 1 and Article 2 paragraph (1) of the Teacher and Lecturer Law is contrary to the 1945 Constitution, especially Article 27 paragraph (2), Article 28C paragraph (2), Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution because it caused the Petitioner not to receive a guarantee of a decent job and livelihood, was unable to develop himself to meet the necessities of life and caused the Petitioner to be discriminated against. According to the Court, the a quo norm is a general provision that provides regulatory limits on who it regulates, so the exclusion of PAUD educators in the non-formal education pathway in the a quo Law does not result in citizens having a similar profession to the Petitioner to lose their right to work. The Petitioner in this case can still continue his work even though his existence is not included in the definition stated in the a quo norm but is still regulated in other laws and regulations. In addition, the Petitioner's right was not violated to develop himself in order to meet the needs of life because the absence of non-formal pathway PAUD educators in the a quo norm did not obstruct the Petitioner's right to get training or the opportunity to improve his abilities both practically and academically. Thus Article 1 point 1 and Article 2 paragraph (1) of the Teacher and Lecturer Law do not prevent the Petitioner from obtaining guarantees for a decent job and livelihood, as well as developing themselves to meet the needs of life.

Furthermore, in relation to the Petitioner's argument regarding the existence of discriminatory treatment due to the enactment of Article 1 point 1 and Article 2 paragraph (1) of the Teacher and Lecturer Law, the Court considered, as in the

Constitutional Court Decision Number 028-029 / PUU-IV / 2006, dated April 12, 2007, then discrimination must be interpreted as any limitation, harassment, or exclusion based on human differentiation based on religion, race, color, sex, language, political unity (political opinion) so that the differentiation of treatment between educators in the formal and non-formal channels is not a matter of discrimination. Because not every difference in treatment means discrimination. The formal education pathways and the non-formal education channels as well as the informal education channels are educational channels that have different characteristics so that for something different it is certainly appropriate if the arrangements are made differently. In fact, it would be both inappropriate and unfair if something different was treated the same. So that the different arrangements related to formal pathway PAUD educators and non-formal PAUD educators are not discriminatory provisions.

Whereas based on the above legal considerations, the Petitioners' argument a quo is legally groundless. Subsequently, the Court issued a verdict with the ruling Rejecting the Petitioner's petition in its entirety.