

## **Implementation Of Article 86 Of Law Number 13 Of 2003 Concerning Manpower, Occupational Safety And Health Toward Operator Of Gas Station number 21.381.09 At rawa Makmur Of Bengkulu City**

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### **ABSTRACT**

Regarding labour protection, therefore the Law Number 13 of 2003 concerning Manpower, Article 86 Paragraph (1) Letter a and Paragraph (2) states that: "Every worker/labourer has the right to receive protection on occupational safety and health". Then, the researchers will discuss the implementation of article 86 of law number 13 of 2003 concerning Manpower, occupational safety and health toward an operator of the gas station number 21.381.09 at Rawa Makmurof Bengkulu City. The aim of this research was to know the implementation of article 86 of Law Number 13 of 2003 concerning Manpower toward the operator of gas station number 21.381.09 at Rawa Makmurof Bengkulu City. This research was an empirical study of qualitative research. The data sources used were secondary and primary data sources. In collecting the data, the researcher used interview, observation and documentation. After doing research, it can be concluded the following: Legal Protection at the gas station are done by using Security Administration Body for Employment (*BPJS Ketenagakerjaan*) and Healthcare Security (*BPJS Kesehatan*), and conducted directly protection by the company by providing sweetened condensed milk as a neutralizing immune system, protective footwear shoes, and fire extinguishers as firefighters.

**Keywords:** Implementation; Gas Stations; Operator; Manpower Offices.

### **INTRODUCTION**

#### **Research Background**

The existence of a Limited Liability Company, or better known as *PT Persero* obtain a comprehensive legal basis when the government issued the Law Number 19 of 2003 on State-Owned Entities (*UUBUMN*). In this Law, it was that mentioned State Owned Entity (SOE) consists of a Public Enterprises (*Perum*) and the Limited Liability Companies. The purpose and objective of the establishment

of companies Perseroaan confirmed in the SOE Act namely:

- a. Provide high-quality goods/services and strong competitive power
- b. Make a profit in order to increase the company value.

Furthermore, in the explanation of this article, *Persero* as one of the national economic actors is required to be able to fulfil market demand through high-quality goods and services with strong competitiveness in the domestic and international markets. Therefore, it can

increase profits and the value of *Persero* that will provide optimum benefits for the parties involved.<sup>1</sup>

Indonesia is a developing country, which of course, economic development also still requires an increase in the economic system that applies to Indonesia. The existence of the national economy is determined by a businessman.<sup>2</sup> One of the drivers of the economy is labourers. Since this country was founded, the Indonesian people have realized that work is a fundamental requirement of citizens as stipulated in the Article 27 paragraph (2) of the Constitution of 1945 which states: "Every citizen shall have the right to work and to earn a humane livelihood".

Affirmation of the Article above is part of an effort to achieve national goals, therefore the state requires supporting facilities, both in the form of human resources and objects in the form of objects because the state cannot do it alone.<sup>3</sup> Therefore it requires workers or employees to achieve these objectives.

Worker/labourer divided into several types of female worker/labourer, child worker/labourer and foreign worker/labourer. Worker/labourer to do the job protected by the law governing the

rights and obligations of workers/labourers, as well as rights and obligations of the employer. When exercising the rights and obligations of each good worker or workers and employers must comply with the regulations applicable Legislation.

Problems in the manpower itself are still so much which arise whether caused by workers/labourers as well as those caused by the businessman. This is caused by the lack of rules or lack of application of the rules committed by businessman or workers. One of the problems that occur in the manpower was on the safety and health of workers/labourers.

Health and Safety (*K3*) is a program created for the workers/labourers and businessman in order to prevent the emergence of accidents and illness due to working relationships within the work environment by identifying things that could potentially cause accidents and diseases as a result of the employment relationship, and anticipatory action if there is such a thing. Work protection can be done either by providing compensation, guidance and with the increasing recognition of human rights, economic social and physical protection through the norms prevailing in the company.<sup>4</sup>

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<sup>1</sup> Sentosa Sembiring, *Hukum Perusahaan Tentang Perseroan Terbatas*, CV. Nuansa Aulia, Bandung, 2013, p.150-152

<sup>2</sup> Ahmadi Miru, Sutrarman Yodo, *Hukum Perlindungan Konsumen*, Raja Grafindo Persada, Jakarta, 2007, Pg.1

<sup>3</sup> Sri Hartati, Setiajeng Kadarsih, Tedi Sudrajat, *Hukum Kepegawaian di Indonesia*, Sinar Grafika, Jakarta, 2014, p.5

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<sup>4</sup> Zaeni Asyhadi, *Hukum Kerja: Hukum Ketenagakerjaan Bidang Hubungan Kerja*, King Grafindo Persada, Jakarta, 2007, p.78.

Regarding the protection of labour, Act No. 13 of 2003 on Labor Article 86 Paragraph (1) Letter a and Paragraph (2) states that:

"Every worker/ labourer has the right to receive protection on occupational safety and health". While in paragraph (2) it states "In order to protect the safety to workers/labourers and to realize optimal productivity, an occupational health and safety scheme shall be administered".

Therefore, it is very clear that the safety and health of workers/labourers are a paramount priority in the conduct of its work. Referred to paragraph (1) of the letter a, each worker/labourers has the right to the protection of health and safety. In order to obtain their rights which remain in a state of productivity to their survival goes well. The company is also benefited by their performance that remains productive and satisfying by providing protection of their performance. Hence the need for the protection of workers/labourers.

Based on the writer's observation that the workers or operators at the gas station at Rawa Makmur of Bengkulu city, in carrying out its work are according to the writer are still lack of attention in maintaining the safety and health of its work, which is caused by air pollution. Air pollution can be classified into three categories; first is friction surface, the second is evaporation, and the third is

burning.<sup>5</sup> While the problems faced by the gas station workers at Rawa Makmur of Bengkulu city is the second issue that is evaporation caused by fuel vapours when filling the fuel and of motor vehicles and cars. Motor vehicle pollution in large cities increasingly felt. The burning of gasoline in motor vehicles is more than half the causes of air pollution.<sup>6</sup>

The impact of the pollution for example when filling station operator in carrying out his work did not use a mask or cover of mouth. Because the mask is one tool that can minimize the risk to the health of the operators of gas stations when doing the activity.

The results of interviews that was the writer interviewed to the operators of gas station 21.381.09 at Rawa Makmurof Bengkulu, on the health they experienced while working, namely:

"There have been employees who experience pain caused by work such as respiratory pain, lungs, coughing, flu, stomach often hurts, frequent fever, easily tired of the body, some operators have acne, and the body going thin and some operators that have long married do not have children and there are also those who long for having children."<sup>7</sup>

Based on the above description, problems regarding Occupational Safety

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<sup>5</sup> A. Tresna Sastrawijaya, *Pencemaran Lingkungan*, Rineka PT Cipta, Jakarta, 2000, p.168

<sup>6</sup> Op, cit, p.170.

<sup>7</sup> Results of Interviews with operators, gas station 21.381.09 at Rawa Makmur of Bengkulu city, 20:20 p.m. dated on 18-14-2018

and Health for employees in the various companies, then in the company of gas station 21.381.09 at RawaMakmur of BengkuluCityin practice still found many problems regarding labour safety and health. One of the problems that the writer view is about the safety and health of workers of the operator at gas station 21.381.09 at RawaMakmur of Bengkulu City.

Based on the background as described above, the writer interested in doing research with title "IMPLEMENTATION OF ARTICLE 86 OF LAW NUMBER 13 OF 2003 CONCERNING MANPOWER, OCCUPATIONAL SAFETY AND HEALTH TOWARD OPERATOR OF GAS STATION NUMBER 21.381.09 AT RAWA MAKMUR OF BENGKULU CITY".

### **Identification of Problems**

Based on the above background, the problem can be formulated as follows: How does the implementation of Article 86 of Law Number 13 of 2003 Concerning Manpower, Occupational Safety and Health toward Operator of Gas Station Number 21.381.09 at Rawa Makmur of Bengkulu City?

## **RESEARCH METODOLOGY**

### **Type Of Research**

This type of research is field research because, in addition to using a descriptive approach, this research also requires precision in the field. And also the type of

research was an empirical legal research. Legal research is a process to find legal rules, legal principles and legal doctrines to answer the legal issues faced.<sup>8</sup>

### **Data source**

#### **a. Primary data;**

Primary data is the data that the writer obtained from directly interview with one of the supervisors and several operators of Operator of Gas Station Number 21.381.09 at Rawa Makmur of Bengkulu City.

#### **b. Secondary Data;**

The secondary data source is the source of the data obtained from supporting data. Includes information obtained through the data documentation, books or literature that relevant to support the theory of the research conducted. This data was obtained through library research or derived from:

##### **1) Primary Law Materials;**

Primary Law Materials is research material sourced from library research obtained from legislation, include:

- a) Legislation of 1945;
- b) Law No. 13 of 2003 on Manpower;
- c) Government Regulation No. 50 of 2012 on the Implementation of Occupational Safety and

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<sup>8</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, KencanaPrenada Media, Jakarta, 2005, p.35

Health Management System;

- d) Minister of Manpower Regulation No. 8 of 2011 on personal protection equipment.

2) Secondary Legal Materials are legal materials that provide an explanation of primary legal materials such as legal facts, expert opinions, dictionaries, legal principles, internet, and legal textbooks.<sup>9</sup>

## Data Collection Method

### Observation

Observation is an observation technique that requires observations from a researcher both directly and indirectly to the object under study by using instruments in the form of research guidelines in the form of observation sheets

- b. Interview;

The interview is the process of obtaining information for the purpose of research by way of question and answers while meeting face to face between researchers and people interviewed.<sup>10</sup> The interview is a technique of collecting data by way of verbal question and answer which is done intensively and deeply.

- c. Documentation;

Documentation is a technique of collecting data by using documents as data sources. Documentation used as sources of information include documents and provides many advantages to the researcher.

- d. Literature Review

Literature Review is a series of activities written by the writer with the intention of obtaining secondary data by reading, taking notes, and quoting from various literature, mass media books and other information related to research. By using the field observation guide carried out on the object of research, namely Gas Station Number 21.381.09 at Rawa Makmur of Bengkulu City.

### Data analysis

Research data has been collected fully analyzed qualitatively.<sup>11</sup> The analysis of the research carried out is qualitative analysis, namely data based on the description of the sentence or data not analyzed using statistics or mathematics or the like, namely what the respondent stated in writing or real behaviour that was studied and studied as something intact.<sup>12</sup> Analysis can be formulated as a systematic process of decomposition and consistent with certain symptoms.<sup>13</sup>

## RESULTS AND DISCUSSION

<sup>9</sup> SumadiSuryabrata, *Metodologi Penelitian*, Eagle Press, Jakarta, 2012, p.38

<sup>10</sup> A.Chaeder Al-Wasilah, *Dasar-Dasar Merancang dan Melakukan Penelitian Kualitatif*, Pustaka Jaya, Jakarta, in 2006, p.154

<sup>11</sup> Burhan Bungin, *Metodologi Penelitian*, PT RajaGrafindoPersada, Depok, 2012, p.153-154

<sup>12</sup> SoerjonoSoekanto, *Dasar-Dasar Merancang dan Melakukan Penelitian Kualitatif*, University of Indonesia Press, Jakarta, 1990, p.32

<sup>13</sup> Soerjono Soekanto, *KesadaranHukum Dan KepatuhanHukum*, Rajawali, Jakarta, 1982, p.37

Implementation of Article 86 of Law Number 13 of 2003 concerning Manpower, Occupational Safety and Health toward the operator of the gas station number 21.381.09 at Rawa Makmur of Bengkulu City. Here is a form of protection given by as station number 21.381.09 at Rawa Makmur of Bengkulu City, the description as follows:

## 1. Safety Protection

### a. BPJS Ketenagakerjaan

*BPJS Ketenagakerjaan* provides protection for workers through 4 programs, among others:

- 1) Work Accident Security (*JKK*)
- 2) Old Age Security (*JHT*)
- 3) Death Security (*JKM*)
- 4) Pension Security (*JP*).<sup>14</sup>

### b. Direct Safety Protection from SPBU

In addition, the protection provided in the form of *BPJS Ketenagakerjaan* and *BPJS Kesehatan* by the company also provides protection directly in the field when working. Safety protection provided directly to the operators of the gas station number 21.381.09 at Rawa Makmur of Bengkulu City;

- 1) Given safety (protective footwear shoes).
- 2) Provided *APAR* (fire extinguisher).
- 3) Doing *SOP* (Standard Operating Procedure) for each job.

## 2. Health Protection From SPBU

### a. BPJS Kesehatan

*BPJS Kesehatan* provides protection for workers through the program includes:

- 1) Sick
- 2) Operation
- 3) Traffic accident
- 4) Cancer and diseases are concerned with health and others.

### b. Direct Health Protection from SPBU

Occupational health protection that provided directly for the operators of gas station number 21.381.09 at Rawa Makmur of Bengkulu City are;

- 1) Provide sweetened condensed milk (extra pudding)
- 2) Providing medicine or *P3K* box.

## 3. Efforts made by the company in implementing occupational safety and health protection for the operator of gas station number 21.381.09 at Rawa Makmur of Bengkulu City.

- a. Improving socialization on the protection of occupational safety and health by gas stations.

<sup>14</sup> Interview with the Chief of the gas station number 21.381.09 at Rawa Makmur of Bengkulu City, 15-09-2018, 11:00 a.m.

- b. Provision of Protective Equipment.
- c. Training for *SPBU* operators (Occupational Health Safety and Environmental Protection).

**4. Inhibiting Factors in Implementation legal protection for occupational safety and health for operators of the gas station number 21.381.09 at Rawa Makmur of Bengkulu City.**

- a. The presence motto 3S (Smiles, greetings, regards) from State Oil and Natural Gas Mining Company (*Pertamina*).
  - b. The lack of comprehensive knowledge of workers/operators.
  - c. Lack of awareness of the workers/operators on occupational health and safety protection.
5. Legal protection toward occupational health and safety toward operators of gas station number 21.381.09 at Rawa Makmur of Bengkulu City has been implemented properly by the company through the program of *BPJS Ketenagakerjaan* and *BPJS Kesehatan*, but still not maximal, it is seen by the lack of

implementation of the rules on occupational safety and health protection undertaken by the company for workers/operators gas station number 21.381.09 at Rawa Makmur of Bengkulu City related to the self-closing personal protective equipment on breathing apparatus.

## **CLOSING**

### **Conclusion**

Based on studies that have been done by the writer, it can be concluded the following matters: The implementation of Article 86 of Law Number 13 of 2003 concerning Manpower toward the operator of the gas station number 21.381.09 at Rawa Makmur of Bengkulu City is company has granted rights to employees operators in accordance with the provisions of Manpower Legislations in Indonesia. Occupational health and safety rights provided are in the form of *BPJS Ketenagakerjaan* and *BPJS Kesehatan* then added by providing sweetened condensed milk as a neutralizing the body due to the impact of working to breathe *BBM* steam. As well as personal protective equipment in the form of protective footwear shoes and fire extinguisher (*APAR*) as a fire alert).

### **Suggestion**

As input from the writer regarding the implementation of Article 86 of Law Number 13 of 2003 concerning Manpower toward the operator of the gas station number 21.381.09 of Rawa Makmur

Bengkulu City, namely: the company of gas station should provide protection for the operators to use mouth and respiratory protective masks. Then give a socialization in the form of blood checks for every few months for the operator to find out the health condition of the operator.

## REFERENCES

- A.Chaeder Al-Wasilah, *Dasar-dasar Merancang dan Melakukan Penelitian Kualitatif*, Pustaka Jaya, Jakarta, 2006
- Burhan Bungin, *Metodologi Penelitian Kualitatif*, PT RajaGrafindo Persada, Depok, 2012
- Peter Mahmud Marzuki, *Penelitian Hukum*, Kencana Prenada Media, Jakarta, 2005
- Soerjono Soekanto, *Kesadaran Hukum Dan Kepatuhan Hukum*, Rajawali, Jakarta, 1982
- , *Pengantar Penelitian Hukum*, Universitas Indonesia Press, Jakarta, 1990
- Soerjono Soekanto, Sri Mamudji, *Penelitian Hukum Normatif*, Rajawali Pers, Jakarta, 2012
- Soedjono Dirdjosisworo, *Pengantar Ilmu Hukum*, Jakarta: PT, Raja Grafindo Persada, 2012
- Sumadi Suryabrata, *Metodologi Penelitian*, Rajawali Pers, Jakarta, 2012
- Zaeni Asyhadie, *Aspek-aspek Hukum Jaminan Sosial Tenaga Kerja di Indonesia*, PT RajaGrafindo Persada, Jakarta, 2008.



