

ABSTRAK

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Surat Edaran Mahkamah Agung (SEMA) Nomor 4 Tahun 2016 menyatakan bahwa “Pengadilan Agama secara *ex officio* dapat menetapkan nafkah anak kepada ayahnya apabila secara nyata anak tersebut berada dalam asuhan ibunya, sebagaimana hal tersebut diatur dalam Pasal 156 huruf (f) Kompilasi Hukum Islam”, tetapi dalam Putusan Nomor 1656/Pdt.G/2024/PA.Pdg tidak adanya penetapan terkait hak nafkah anak yang sebagaimana ditegaskan dalam SEMA Nomor 4 Tahun 2016. Sehingga memunculkan pertanyaan dalam bentuk (rumusan masalah), yaitu : 1) Bagaimana implementasi kewenangan *ex officio* hakim dalam penetapan nafkah anak ditinjau dari SEMA Nomor 4 Tahun 2016 di Pengadilan Agama Kelas 1A Padang, 2) Bagaimana pertimbangan hukum hakim dalam putusan nomor 1656/PDT.G/2024/PA.PDG mengenai tidak ditetapkannya nafkah anak jika dikaji dengan norma SEMA Nomor 4 Tahun 2016, 3) Apa saja faktor penghambat kepatuhan hakim Pengadilan Agama Kelas 1A dalam mengimplementasikan SEMA Nomor 4 Tahun 2016 terkait putusan perkara nomor 1656/PDT.G/2024/PA.PDG. Untuk menjawab rumusan masalah menggunakan jenis penelitian yuridis empiris, dengan pendekatan *case approach* (pendekatan kasus) sehingga didapatkan kesimpulan: 1) SEMA Nomor 4 Tahun 2016 memberikan kewenangan kepada hakim untuk menetapkan nafkah anak secara *ex officio* meskipun tidak diminta oleh para pihak, untuk melindungi hak anak pascaperceraian. Tetapi, penerapannya masih bergantung pada pertimbangan masing-masing hakim; 2) Hakim berpendapat bahwa putusan tidak boleh melebihi tuntutan para pihak (*ultra petita*) karena nafkah anak tidak dicantumkan dalam petitum, serta mempertimbangkan kehati-hatian, efektivitas putusan, dan kemampuan ekonomi ayah, jika dilihat berdasarkan SEMA Nomor 4 Tahun 2016 dan Pasal 156 huruf (f) Kompilasi Hukum Islam, hakim sebenarnya memiliki kewenangan *ex officio* untuk menetapkan nafkah anak guna menjamin perlindungan hak dan kepentingan terbaik anak pascaperceraian; 3) Faktor penghambat penerapan kewenangan *ex officio* hakim meliputi kurangnya pemahaman para pihak mengenai hak nafkah anak, keterbatasan informasi tentang kemampuan ekonomi ayah, serta perbedaan pemahaman hakim dalam penggunaan kewenangan tersebut, diperlukan konsistensi yang lebih kuat agar perlindungan hak nafkah anak pascaperceraian dapat terjamin secara efektif dan berkelanjutan.

Kata Kunci: *Ex Officio*, Hakim, Nafkah Anak.

ABSTRACT

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*The Supreme Court Circular Letter (SEMA) Number 4 of 2016 provides that "Religious Courts, by virtue of their ex officio authority, may determine child support to be paid by the father when the child is demonstrably under the mother's custody, as stipulated in Article 156 letter (f) of the Compilation of Islamic Law." However, in Decision Number 1656/Pdt.G/2024/PA.Pdg, no determination regarding child support was made, despite the provision contained in SEMA Number 4 of 2016. This raises the following research questions: (1) How is the implementation of judges' ex officio authority in determining child support reviewed in light of SEMA Number 4 of 2016 at the Class IA Padang Religious Court; (2) What are the legal considerations of the judges in Decision Number 1656/Pdt.G/2024/PA.Pdg regarding the absence of a child support order when examined in relation to SEMA Number 4 of 2016; (3) What factors hinder the compliance of judges at the Class IA Padang Religious Court in implementing SEMA Number 4 of 2016 in Decision Number 1656/Pdt.G/2024/PA.Pdg. This study employs an empirical juridical research method using a case approach. The findings indicate that: (1) SEMA Number 4 of 2016 grants judges the ex officio authority to determine child support even when it is not requested by the parties, as a means of protecting children's rights after divorce. Nevertheless, its implementation remains dependent on the discretion of individual judges. (2) The judges considered that a decision should not exceed the claims submitted by the parties (*ultra petita*) because child support was not included in the plaintiff's petition (*petitum*). They also took into account judicial prudence, the effectiveness of the judgment, and the father's financial capacity. However, based on SEMA Number 4 of 2016 and Article 156 letter (f) of the Compilation of Islamic Law, judges actually possess ex officio authority to determine child support in order to ensure the protection of children's rights and their best interests following divorce. (3) The factors hindering the implementation of judges' ex officio authority include the parties' lack of understanding regarding children's right to financial support, limited information concerning the father's financial capacity, and differing interpretations among judges regarding the exercise of such authority. Therefore, stronger consistency in the implementation of ex officio authority is required to ensure effective and sustainable protection of children's right to financial support after divorce.*

Keywords: *Ex Officio, Judge, Child Support.*