

23 DEC 1998

Court-Anwar (Suit)

COURT STRIKES OUT ANWAR'S SUIT AGAINST PM

KUALA LUMPUR, Dec 23 (Bernama) -- The High Court here today struck out a suit by Datuk Seri Anwar Ibrahim against Prime Minister Datuk Seri Dr Mahathir Mohamad and the government of Malaysia, challenging his dismissal from the Cabinet on Sept 2.

Justice Datuk Mohamed Saari Yusoff said the letter revoking Anwar's appointment had satisfied article 43 (5) of the federal constitution, and he did not see the need for further hearing or argument on the matter.

Anwar, 51, had sought a declaration that his removal as deputy prime minister and finance minister was unconstitutional and that Dr Mahathir had contravened article 43 (5) when dismissing him.

He wanted the court to declare that his dismissal was null and void, inconsequential and of no effect, and that he was still a cabinet minister.

Striking out the suit with costs, Mohamed Saari said the issue for determination was whether the revocation was unconstitutional.

He said although the revocation letter was not in format, he was of the view that it had satisfied article 43 (5).

Anwar's lawyer Karpal Singh had argued that according to the article, the prime minister only advised the Yang di-Pertuan Agong, and the revocation must be done by the king on the advice of the prime minister.

In her submission, senior federal counsel Datuk Zaitun Zauyah Puteh, who represented Dr Mahathir and the government, said article 43 (5) should be read together with article 40 (1A) which stated that it was mandatory for the king to follow, accept, and to act on the advice of the prime minister.

Mohamed Saari said normally the Yang di-Pertuan Agong himself did not inform a minister about the revocation of his appointment, and as there was no prescribed format he would ask his private secretary to sign the revocation letter.

"I could not see why PM himself cannot sign the letter conveying his decision.

"It's true that there's nothing to show that PM's letter was written at the behest of the king. Nevertheless, I'm of the view that as the King was informed of the decision, such omission is of no consequence," said the judge.

Mohamed Saari gave his decision after hearing further submissions from Karpal and Zaitun on the approach that should be taken to interpret article 43 (5).

They had also submitted on the issue on Monday, soon after the judge rejected Anwar's application to transfer the suit back to Justice Datuk James Foong's court.

Mohamed Saari had said he was instructed by Chief Judge of Malaya Datuk Wan Adnan Ismail to hear the case.

Karpal told reporters he would file an appeal tomorrow against today's decision.

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