

03/03/2000

Court finds no prejudice, Mokhtar to continue with Anwar's case

KUALA LUMPUR, Thurs. - The Court of Appeal today decided that judge Datuk Mokhtar Sidin will continue to hear Datuk Seri Anwar Ibrahim's appeal after being "convinced" that there will be no prejudice.

Court of Appeal president Tan Sri Lamin Mohd Yunus, who announced this following Anwar's fear that Mokhtar may be prejudiced against him, said Mokhtar had given an assurance that he had "nothing against him" (Anwar). Yesterday, Anwar had voiced fear of prejudice after relating an incident that occurred at the Conference of Rulers' meeting involving Mokhtar's elevation to the Court of Appeal.

Anwar said he was present at the meeting on behalf of Prime Minister Datuk Seri Dr Mahathir Mohamad and had later conveyed the meeting's decision to Dr Mahathir.

"I have asked Datuk Mokhtar Sidin how he feels towards the appellant (Anwar). He has said to me and my colleague (judge Datuk Ahmad Fairuz Sheikh Abdul Halim) that he has nothing against him.

"We are convinced. He has given the assurance that he will perform his function and discharge his duties as a judge without fear or favour in order to serve the ends of justice," said Lamin.

He said the same panel comprising, himself, Mokhtar and Ahmad Fairuz, would continue hearing Anwar's appeal against his conviction by the High Court last April for corrupt practices.

Anwar was sentenced to six years' jail for using the Special Branch to force two persons to retract their allegations of sodomy and adultery against him.

In his judgment, Lamin said Mokhtar's appointment to the Court of Appeal "can no more be the subject of further argument".

"Should there have been adverse comments against him in the process (of appointment), they are of no consequence.

"Further... since the deliberations in the official meeting of the Conference of Rulers were held in secrecy, they should remain where they are," he said.

He also said any opinion Anwar might have expressed at the Conference of Rulers must, in law, be assumed to be those of the Prime Minister.

This was because judicial appointments were a matter between the King and Prime Minister, and did not concern the Deputy Prime Minister.

The Federal Constitution provides that the King must act upon the Prime Minister's advice, while he only needs to "consult" the Conference of Rulers and is not bound by its advice.

"If the Conference of Rulers does not agree, or withholds its views or delays the giving of advice, with or without reasons, legally the Prime Minister can insist that the appointment be proceeded with," he said.

Lamin also advised Anwar to speak through his lawyers "so as to avoid any unpleasant situation", like possible contempt of court.

Leading counsel Raja Aziz Addruse then told the court that Anwar would like to convey that he was not questioning the elevation of Mokhtar, and that he accepted the assurance that there would be no prejudice.

Raja Aziz said Anwar also wanted to reiterate that he had not spoken through his counsel in order to protect them from possible contempt proceedings.

The court continued to hear submissions by counsel Gurbachan Singh who went into detail about the High Court's failure to consider that

investigating officer, SAC I Musa Hassan, was not independent. He also said the trial judge had erred by relying on minor inconsistencies to discredit defence witnesses while ignoring discrepancies in the evidence of prosecution witnesses. Hearing continues.

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