

Khusrin can't force S'gor MB to administer secrecy oath
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Constitutional law expert Abdul Aziz Bari today refuted claims by the former Selangor prosecution unit head Salehuddin Saidin, that newly appointed state secretary Khusrin Munawi can compel the MB, Khalid Ibrahim, to administer the oath of secrecy.

"I do not know the source or authority for his opinion," the International Islamic University law professor told Malaysiakini.

Abdul Aziz (left) who also sat on the special legal panel that helped draft the recently failed bill to amend the state constitution with regards to the appointment of state ex-officio members, found it strange for Salehuddin to say that the state secretary can compel the MB to allow him to do anything.

For one thing the state secretary, like the other two senior officers, is just an ex-officio member of the state cabinet just by virtue of his post.

"The constitution says he may take part in the proceedings in the house but he cannot vote as he is not elected," said the law lecturer.

Khusrin who was formerly the head of the Selangor Islamic Affairs Department (Jais) was appointed as state secretary by the federal government controlled Public Service Commission (PSC).

However, he was not allowed to take the oath of secrecy before the MB, necessary for him to attend exco meetings and be privy to state secrets, because the Pakatan-led state government contends that his appointment, which bypassed consultations with the state, is not valid.

Appointment shrouded in doubt

As such the professor argued that the provisions merely provide the state secretary with the right to attend meetings and nothing else, far from giving him the authority to compel the MB to do anything.

But more to the point, Abdul Aziz contends that the right is only reserved for a properly appointed state secretary.

"We must understand this to mean a lawfully appointed state secretary. Not one whose appointment is still shrouded in problems and doubts like Khusrin," sniped Abdul Aziz.

Furthermore he highlighted that if Khusrin (left) or the PSC were to take such legal action, they would open the floodgates to further litigation.

"To my mind if Khusrin does that, then Khalid can retaliate by questioning the legality of his appointment," he opined.

Salehuddin yesterday hit out at Khalid, calling the MB's denial of Khusrin's secrecy oath

"unconstitutional" as he is obstructing the former Jais chief from assuming his full duties as the Selangor state secretary,

"Constitutionally, Khusrin has the right to compel the menteri besar to allow him to take the oath of secrecy needed for him to attend state exco meetings," said Salehuddin yesterday.

He invoked Article 52 Clause 3 of the state constitution which provides that the state secretary should attend state executive council meetings, but he must take the oath of secrecy.

Sallehudin, who had resigned from the Attorney-General's Office to join former Selangor MB Khir Toyo's team who ran the state from 2000-2008, also advised Khusrin or the Public Service Department to get a court order to force the issue.

'Odd and undemocratic'

Furthermore, the UIA professor pointed out that the provision in state constitutions which put the three ex-officio members as exco members, needs changing.

"It is an anomaly, odd and undemocratic. I have said this many times but Pakatan Rakyat has to take over Putrajaya in order to change it. How can unelected officers sit in the cabinet that is answerable to the house. The exco should be fully elected,"

He said that the provisions have been used by the federal government to destabilise the states ruled by BN's opponent.

"We have seen this in Kelantan (1996-97), Perak (2009) and now in Selangor," related Abdul Aziz.

The constitutional expert said that in comparison, the federal position of chief secretary to the government, is as the cabinet secretary, but he is not a member of the cabinet.

This, he believed, is something left unmentioned by the federal constitution, unlike in the various states constitutions.

"This is obviously an inherent problem that has made our constitution less democratic," said Abdul Aziz in conclusion.