

Bid by six to be absentee voters to be heard Nov 14
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The six overseas Malaysians based in the United Kingdom who last week filed a judicial review application at the Kuala Lumpur High Court will know on Nov 14 on whether they would be granted leave (permission) to go on with their application.

The application will be heard before Justice Rohana Yusof. Their application was filed by the law firm of Chooi and Co.

In judicial review applications, it is not automatic for an application to be heard as leave (permission) had to be gained to ensure it is not frivolous.

The six Malaysians had submitted their application to the Election Commission between January and March 2011 to be absentee voters.

However, the EC resorted to registering them as normal voters, without their knowledge.

This resulted in the six filing the judicial review application last week, and the documents were served on the EC on Friday.

The six are Dr Teo Hoon Seong and Dr Yolanda Sydney Augustin, electrical engineer V Vinesh, entrepreneur Paramjeet Singh, interpreter Sim Tze Wei and software designer Leong See See.

In the grounds to their application, they claimed they were not told why their application to be absentee voters had been rejected.

The six, through their lawyers, in a letter dated Aug 22 this year wanted the EC to rectify the mistake and make them absentee voters.

However, the EC in its letter dated Sept 9 had rejected their request on the grounds that they do not qualify to be absentee voters.

Challenge to legality of Sept 9 letter

Following this, the six applicants wanted to challenge the legality of the Sept 9 letter and wanted the EC to register them as absentee voters.

If leave is granted, the six are seeking for:

- * a declaration that they are Malaysian citizens who are living overseas and they have the right to be registered as absentee voters;

- * a certiorari order (to quash) the EC's decision following its letter dated Sept 9 in not registering them as absentee voters;

- * a mandamus (to compel) order the EC to register them as absent voters; or alternatively,

- * a mandamus order to compel the EC to respond within 14 days of the court order to take the necessary action for them to become absentee voters or postal voters for the purpose of the next general election;

* other relief deemed necessary before the court.

In their application, the six claimed that under Article 119 of the federal constitution they, as those who had attained the age of 21 and above, should be given the right to vote and had lived in a constituency in Malaysia or are absentee voters.

According to Article 119 (4) an absentee voter means someone who cannot attend to the election as provided by the law.

The application also states that according to Regulation 2 of the Election Regulations 2002, absentee voter are citizens who have attained the age of 21 and they claimed their constitutional rights had been violated as the EC does not want to register them as absentee voters.

It violates Article 8 on equality rights and also Article 10 ie the rights to freedom of expression. They further claim that the action of not wanting to register them as absentee voters was ultra vires or a form of discrimination.

They claimed they may not be able to take leave to come back to Malaysia to vote.

The six claimed that 700,000 Malaysians working overseas could not return in time to vote and should be classified as absentee voters.

All of them alleged the EC has no valid reason not to impose a postal voting system on Malaysians working in the private sector overseas, as the system is used for Malaysian students overseas, government servants and armed forces personnel, along with their spouses.

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