

Court throws out Bersih bid to question Hisham
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By Koh Jun Lin

The application to cross-examine Home Minister Hishammuddin Hussein and Inspector-General of Police Ismail Omar for declaring Bersih 2.0 as an "illegal" movement last year was today dismissed by the Appellate and Special Powers Division of the High Court in Kuala Lumpur.

Justice Rohana Yusof, who made the decision in chambers, said the affidavits before her, including one that Hishammuddin submitted today, were sufficient grounds and that there was no need for a cross-examination.

The application to cross-examine Hishammuddin and Ismail that was filed by the Bersih 2.0 steering committee also came four months too late, for it should have been filed within 14 days of Hishammuddin's initial affidavit filed in December last year, the judge ruled.

The Bersih 2.0 steering committee application was filed after Hishammuddin declared the non-governmental organisation calling for clean and fair elections an illegal organisation when it began organising the July 9 Bersih rally in Kuala Lumpur last year.

Justice Rohana said the decision is consistent with her ruling in another case last year, when she rejected an application to cross-examine former Home Minister Syed Hamid Albar that came 15 months late.

The minister and the IGP had objected to the Bersih 2.0 application on grounds that all the documents and affidavits they filed were in order and the court could decide on the substantive issues based on those, without having to call them.

Hishammuddin's change of stance

The judge last month sought clarification from Hishammuddin and Ismail for their grounds for labelling the Coalition for Clean and Fair Elections (Bersih) as an illegal organisation on July 1 last year.

The judge's call came after Hishammuddin announced, in an apparent change of stance, that the Bersih 3.0 rally planned for April 28 would be allowed as it was not a security threat.

Therefore, the home minister filed a fresh affidavit today "to clear up" the matter.

dap islamic state forum 260707 shanmuga kanesalingam"He (Hishammuddin) says that Bersih is still unlawful. His comments in the mass media are about the Peaceful Assembly Act only, and have nothing to do with whether Bersih is lawful or not," the applicant's counsel, K Shanmuga (right), said when relaying the judge's decision to reporters.

Senior federal counsel Azizan Md Arshad, who was also present, responded in the affirmative when asked by Shanmuga to confirm if this was the case.

The Bersih legal team wanted to cross-examine Hishammuddin and Ismail to learn their grounds for the decision to outlaw Bersih 2.0 ahead of its street rally in Kuala Lumpur on July 9 last year.

In turn, they had offered Bersih 2.0 co-chairperson Ambiga Sreenevasan for cross-examination by counsel representing the government.

'Bersih has no political affiliations'

Bersih was represented by senior lawyer Tommy Thomas, Shanmuga and Aston Paiva while Azizan appeared for the home minister, police and the government.

Bersih in its judicial review application argued that it was different from Bersih 2007 - which comprised political parties and civil society organisations - because it does not have any political affiliations.

It also stated that it had held numerous meetings with the government and the Election Commission prior to the declaration that it was illegal.

It further claimed that Bersih 2.0 was not a society within the meaning of the Societies Act and

that the government had no power to declare a group of organisations as “unlawful”.

The full hearing on the judicial review is to begin on June 26.

Ambiga, along with steering committee members Dr Ahmad Farouk Musa, S Arul Prakkash, K Arumugam, Haris Fathillah Mohamed Ibrahim, Andrew Khoo Chin Hock, Liau Kok Fah, Maria Chin Abdullah, SP Subramaniam, Toh Kin Woon, Wong Chin Huat, Yeo Yang Poh, Yeoh Yong Woi and Zaid Kamaruddin filed the judicial review application on July 8, 2011.

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