

Nurul Izzah remains Lembah Pantai MP

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By Hafiz Yatim

The Election Court in Kuala Lumpur has today struck out the election petition filed by Lembah Pantai Umno Youth chief Mohamad Sazali Kamilan against incumbent parliamentarian Nurul Izzah Anwar.

azlanElection judge Zabariah Mohd Yusof allowed seven out of 10 of the preliminary objections made by Nurul Izzah's counsel Edmund Bon.

She ordered Sazali, who is also a voter in the constituency, to pay costs of RM40,000.

Justice Zabariah said the petition had been served on Nurul Izzah by the law firm Raja Reza, whereas it should have been served by either Sazali or a lawyer representing Sazali and it cannot be the firm.

"Hence the election petition is liable to be struck out based on this ground alone," she said.

She also said the petitioner had also failed to comply with the requirements of Section 38 (1) (a) of the Election Offences Act 1954 (EOA) by failing to present the petition within the stipulated time of 28 days.

"On this, the preliminary objection is allowed," she said.

The election judge also noted that Sazali had sought a relief that the BN candidate Raja Nong Chik Raja Zainal Abidin be declared as the winner of the seat.

"However, the election judge can no longer declare another candidate to be the winner of the seat as Section 35 of the EOA had been repealed.

"Hence the prayer sought by Sazali by cannot be sustained and is bad in law," ruled Justice Zabariah.

In 1996 in the case of Dr Lee Chong Meng versus Wee Choo Keong for the Bukit Bintang parliamentary seat, election judge and former chief justice Ahmad Fairus Sheikh Abdul Halim had ruled that Wee's victory was null and void due to him being asked to pay a RM7,000 for contempt.

As a result of this, Lee was declared the winner of the Bukit Bintang parliamentary seat.

Failed to plead material facts

Justice Zabariah also held that the petitioner had failed to provide sufficient facts to support that Nurul Izzah's allegation over the Bukit Kiara land deal, on which Sazali had complained, had influenced voters not to vote for Raja Nong Chik.

"Sazali has failed to plead material facts to show that there is a cause of action against Nurul Izzah," she ruled in allowing the preliminary objection

Raja Nong Chik had lodged a police report over the allegation which was also carried in Malaysiakini, and is also a subject to a defamation suit by the former federal territories minister against the news portal and Nurul Izzah.

Nurul Izzah was represented by Edmund Bon, while lawyer M Reza Hassan and Shahril Abdul Razak appeared for Sazali.

Despite the victory, both Bon and Nurul Izzah urged that amendments to the EOA be made as the law had been in existence since 1954.

Bon said the portion saying the petition cannot be served by the lawyer's firm but only the petitioner or the advocate of the petitioner (a person), is being used all over the country.

"Complaints on election petitions have been made stating that the laws have been archaic since 1954 and the attorney-general has a duty to update the law. I have no qualms in urging amendments be made to the existing law to ensure clean and fair elections," he said.

"It must be made up to date. If there is injustice to the petitioner, it's because the rules have been designed not to hear the voice of the people. It cuts both ways," he said.

On the allegation of the ballot boxes had been tampered with, Bon said there is no evidence before the court to support the claim.

Nurul said she is thankful for the decision but there has to be a continuous effort to reform the existing law to ensure there is clean and fair elections.

"There should be rational avenues to argue the matter based on the provisions of

the law. We will continue with efforts to reform the existing law to ensure clean and fair elections as the existing 1954 laws cannot be enforced till today and have to keep up with the times," she said.

Nurul Izzah retained Lembah Pantai after fighting off a strong challenge from former federal territories minister Raja Nong Chik Zainal Abidin at the May 5 general election.

She polled 31,008 votes against Raja Nong Chik's 29,161, winning the seat with a majority of 1,847.

The PKR vice-president wrested the seat from then-minister for women, family and community development Shahrizat Abdul Jalil in 2008.

In the wake of his defeat, Raja Nong Chik has filed a defamation suit against Nurul Izzah and Malaysiakini over the incumbent MP's remarks made during the electoral campaign.

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