

BN has advantage in election petitions?

MalaysiaKini.com

Aug 7, 2013

By Lawrence Yong

BN currently has four election petitions that will go on to a full trial while Pakatan Rakyat is seeing red that all of their election petitions didn't even get past the first stage.

The four seats are Klias, Jelawat, Bachok and Gaal. BN lost in these contest by narrow majority to either PKR or PAS and are seeking to nullify the results to force by-elections.

NONEAs for Pakatan, 20 of their election petitions have been struck out based on preliminary objections by BN and filing errors. In all, BN has filed 21 election petitions while Pakatan filed 35.

PKR director of strategy Rafizi Ramli (right) was not surprised that things appear to be going in BN's favour.

"We have always been on the position that as much as possible, election petitions should go for full trial.

"While I find it encouraging that the bench has allowed some petitions ...but if it's only for seats where BN loss narrowly... it is highly suspicious," he told Malaysiakini.

Same judge

NONEPAS election director Dr Hatta Ramli (left) said that he was "dissatisfied" with the outcome and said that it was up to the public to decide whether the election petition system was fair.

"Where do we go for justice?" he asked. "If we say that we don't believe in petitions, then others say that we have not fully exhausted our avenues."

The election petitions for Jelawat, Bachok and Gaal, all situated in Kelantan, are being presided by Justice Zamani Abdul Rahim.

Zamani had struck out two elections petitions for the Selising and Machang state seat. They were filed by candidates for PAS and PKR respectively.

K Shan, a trained lawyer and veteran international election observer, said it was not unusual for election petitions to be struck out, but one can't conclude that the system is unfair without looking at each case individually.

"Election petitions are a very strict processes and very technical, the standards of evidence, burden of proof, the standards of the court are very high so it is expected that a lot of petitions would be struck out," he said.

When asked to comment on the fact that only BN's election petition would be heard in a full trial, Shan declined comment.

"You would have to examine it on the contents of each individual petition, because what is in the petition is not made public, I can't comment on that," said Shan, who heads election reform thinktank National Institute for Democracy and Electoral Integrity (NIEI).

Wrong signal

PAS' Hatta however argued that in some cases, the petitioner was not given a fair chance to make their arguments, such as in the case of Machang, where several of PKR's lawyers were not allowed to represent their client.

"There is a kind of dissatisfaction... We are not happy at all that not one of our petition has gone into full trial," Hatta said. PAS had all nine of its election petitions struck out.

Rafizi warned that if only election petitions filed by BN end up being heard, it would send the wrong signal to the public.

"This will only serve to reinforce the feelings that people cannot rely on the judiciary process," he said. "It is bad for democracy in our country."

Earlier this week, PAS Youth Ahmad Zamri As'ad Khzaimi had also urged Chief Justice Arifin Zakaria to look into alleged contradictions in the string of election petitions that were dismissed.

As'ad, who is PAS Youth's legal and human rights bureau (Juham) chief, noted with concern that the courts were not only rejecting petitions but were also punishing petitioners by ordering cost from RM30,000 up to RM150,000.

Source: <http://www.malaysiakini.com/news/237929>