

## **Karpal gets judge replaced in Sodomy II appeal**

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**By Hafiz Yatim**

The Court of Appeal has allowed lawyer Karpal Singh's application for the recusal of Justice Tengku Maimun Tuan Mat (right) in hearing the appeal against Anwar Ibrahim's acquittal in the Sodomy II case.

Justice Ramly Ali, leading a three-member bench, said the replacement will be decided tomorrow.

"The court will find another judge to replace her," said Justice Ramly.

Normally a quorum at the Court of Appeal is decided by the Court of Appeal president Justice Md Raus Sharif.

Justice Ramly also said the hearing of the application to bar government-appointed lawyer Muhammad Shafee Abdullah will be heard tomorrow.

Justice Ramly however said the prosecution's appeal proper over Anwar's acquittal would not be heard tomorrow, but the same bench will hear the case at a later date.

The other judge besides Ramly and Tengku Maimun was Justice Mohd Zawawi Salleh.

Karpal informed the court of the preliminary objection to Justice Tengku Maimun's presence as the second judge in the quorum to hear the appeal.

He said Justice Tengku Maimun had heard a civil suit filed by Anwar against former prime minister Dr Mahathir Mohamad in 2007.

This was when Mahathir had made adverse comments on Anwar during a Suhakam conference alluding to his former deputy's alleged sexual behaviour.

Finding of fact by Tengku Maimun

"Justice Tengku Maimun in striking out the suit had made a finding of fact and had said although the conviction of Sukma Darmawan has been set aside, there is in existence a judicial finding that the plaintiff had taken part in homosexual acts.

"The finding was made in the High Court whereby the plaintiff (Anwar) was convicted on a charge of sodomising Azizan Abu Bakar, and this was upheld by the Court of Appeal.

"Anwar's appeal was allowed at the Federal Court (in 2004) where there was a specific finding by the majority that ...we find evidence to confirm that the appellants were involved in homosexual activities and we are more inclined to believe that the incident at Tivoli Villa did happen, sometime..." Karpal read out.

Hence, the senior lawyer pointed out that there is a danger of bias as Tengku Maimun had held the view then, and now she is hearing this appeal.

Karpal said he came to know the matter when co-counsel Ramkarpal Singh raised the matter to him on Friday in having the deputy registrar list the name of judges who had heard Anwar's cases before.

The government-appointed prosecutor Muhammad Shafee Abdullah said the matter should have been brought earlier to his attention.

Shafee said the matter was not brought up by Ramkarpal when it was fixed for case management on Friday.

Anyway, he said the case was six years ago and involved a striking-out application resulting in the matter not proceeding through a full trial.

The hearing of the appeal attracted a packed court room that included PKR president Dr Wan Azizah Wan Ismail, party vice-presidents Chua Jui Meng and Nurul Izzah Anwar and secretary-general Saifuddin Nasution Ismail.

Others were party disciplinary committee chairperson and Wangsa Maju MP Dr Tan Kee Kwong and foreign observers who included a representative from Lawasia and the International Parliamentary Union, Mark Trowell, and representatives from the International Federation of Human Rights, International Bar Association and Institute of Legal Studies Philippines.

Anwar was acquitted of sodomising his former aide Mohd Saiful Bukhari Azlan at the Desa Damansara condominium on June 26, 2008 following a decision by the Kuala Lumpur High court last year that it was unsafe to convict the politician.

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