

Will Khalid dissolve the state assembly?

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ANALYSIS Following the sacking of Abdul Khalid Ibrahim from PKR, the burning question is what's next for the now party-less Selangor menteri besar.

Lawyer and constitution expert Syahredzan Johan said Abdul Khalid's sacking has no bearing on his position as menteri besar as long as he continues to command majority support in the state assembly.

Therefore it is expected in the next few days, Pakatan Rakyat will move to win over its 43 state assemblypersons, including Abdul Khalid's loyalists.

When Pakatan is confident it has the numbers to oust Abdul Khalid, Syahredzan said one option is to move a motion of no confidence against the menteri besar in the state assembly.

However, Abdul Khalid may pre-empt this by asking the Selangor sultan to dissolve the state assembly and pave the way for fresh polls.

"He can actually request for dissolution without having a vote of no confidence or any show of support by the majority," Syahredzan told Malaysiakini.

If Abdul Khalid chooses to do this, it has to be soon as Malaysiakini understands the sultan will leave for a two-week overseas trip after a function with the menteri besar tomorrow.

Syahredzan said while legally, the Selangor regent can dissolve the state assembly while the monarch is away, it is unlikely to happen.

"I would imagine when dealing with something like this, the sultan would want it to be done in person," said Syahredzan, the former Bar Council constitutional law committee co-chairperson.

Abdul Khalid in a statement this evening said he will meet the sultan soon for "advice" but gave no hint about a possible request for dissolution.

Even if Abdul Khalid wants to dissolve the state assembly tomorrow, another constitution expert Abdul Aziz Bari commented that the sultan too has a role to play and should not simply accede to the menteri besar's request.

"When a menteri besar is sacked (from the party), the likelihood is he has lost support.

"So the sultan, instead of acceding to the request for dissolution, should tell Khalid to go back to the House and see if he still has a majority," he told Malaysiakini.

He added if the House decides that Abdul Khalid has lost majority support, he must then resign or the sultan should sack him from his post.

Exco members to resign?

But what if Abdul Khalid beats all odds against a well-oiled party machinery and succeeds in retaining a majority with the help of Umno and loyalists in Pakatan?

"Then Abdul Khalid can stay on as menteri besar, but bear in mind it is no longer a Pakatan Rakyat government," said Abdul Aziz.

"All his exco members will need to resign as the government was formed through Pakatan Rakyat and Abdul Khalid will need to submit his new list of exco members (to the sultan)," he said.

Already, discussions are in the works to have Pakatan exco members quit from the government with DAP holding its central executive committee meeting tomorrow.

"We no longer recognise Khalid's MB status. We will not cooperate with a non-Pakatan Rakyat MB," Selangor DAP chief Tony Pua told Malaysiakini.

Syahredzan (left) said while the current Pakatan exco members have no legal obligation to resign, staying on under a party-less menteri besar would put them in an untenable situation.

He added Abdul Khalid will also be hard pressed even if he retains a majority without Pakatan's support, as he may need to appoint a new exco lineup which may include representatives from archrival Umno.

'Circumventing the House'

Such a scenario may see a paralysis in the Selangor state government, thus ultimately pushing the ball to the sultan and the state assembly.

In the 56-seat state assembly, PAS and DAP control 15 seats each while PKR now has 13 seats (minus Abdul Khalid's) and Umno has 12.

The main dissenter in the move to replace Abdul Khalid is PAS and a PKR-DAP combination alone is insufficient to oust the menteri besar.

However, Syahredzan said going by the Perak constitutional crisis precedent, there is a third option where Abdul Khalid and Pakatan can avoid a state assembly vote altogether by determining their support through "extraneous" methods such as statutory declarations.

He said the Federal Court had held the new BN government in Perak in 2009 was valid despite not going through a vote of confidence in the House after a series of defections from Pakatan.

Instead of a vote in the House, the three defectors signed a statutory declaration backing BN and subsequently met the Perak sultan to express their new allegiance.

So it comes as no surprise that PKR has in recent days instructed its state assemblypersons to sign a statutory declaration to declare that they have lost confidence in Abdul Khalid.

Nonetheless, Syahredzan said the politically correct and morally right method was still to go through a vote in the state assembly.

'Little recourse'

As for whether Abdul Khalid has any recourse to reverse his sacking, Syahredzan said the embattled menteri besar has little choice for remedy.

This is because the Societies Act has left disciplinary matters completely to political parties and has an ouster clause against bringing it to court, he said.

"For me, such an ouster clause is unconstitutional but if the courts were to go by the book, then he cannot challenge the party's decision," he said.

Syahredzan said Abdul Khalid will not only need to file a review over the disciplinary board decision but also challenge the constitutionality of the ouster clause.

He speculated that the PKR disciplinary board may have sacked Abdul Khalid today to prevent him from obtaining an injunction order to stop his sacking.

However, PKR has given Abdul Khalid 14 days to appeal his sacking.

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