

FT Islamic Council can't intervene in 'Allah' CD case

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The Federal Territory Islamic Council's (MAIWP) bid to intervene in the appeal on the seizure of Melanau clerk Jill Ireland's eight religious CDs with the word "Allah" eight years ago was dismissed by the Court of Appeal today.

A three-member bench made the unanimous decision to reject MAIWP's application, which was filed by its lawyer Hanif Khatri Abdullah.

However, Justice Tengku Maimun Tuan Mat allowed MAIWP to hold a watching brief and to submit on the case, if asked to by the court.

Only a party in a case has the right to make submissions.

"There is no merit to MAIWP's application," Justice Tengku Maimun ruled in dismissing the application.

The other judges sitting with her were Justices Zakaria Sam and Abang Iskandar Abang Hashim.

Hanif submitted that Ireland was wrong in filing a judicial review as the declaratory reliefs, including seeking the right to use the word "Allah", cannot be included in such an application.

MAIWP applied to intervene in today's proceedings based on Rule 15 of the Rules of Court 2012.

Reasons to intervene

MAIWP applied to intervene on several grounds:

- The Yang di-Pertuan Agong or sultan, as head of Islam for the relevant state, has the right to regulate all matters relating to Islam, including the use of the word 'Allah'.
- Sarawak native Ireland argues her right to use, import, export, distribute any Christian material with the word 'Allah' for her own edification in professing her religion are guaranteed under the Federal Constitution. However, MAIWP believes it has the right to regulate or prohibit such materials.
- Ireland's act of using materials with the word 'Allah' will cause confusion, leading to unrest and public disorder.
- Ireland's action contravenes section 298A of the Penal Code and thus, the police must be

empowered to investigate, seize such material which would pose a threat to security and arrest persons in possession of those materials.

- MAIWP has the right to refer such matters to the syariah court if any non-Muslim is in possession of materials with the word 'Allah', 'Kaabah', 'Solat', etc.

Ireland's lawyer Lee Heng Seng told the court earlier in his submissions that MAIWP should have applied under Rule 53 (1) and not Rule 15, and under judicial review applications, parties are entitled to seek declaratory relief.

He said that should MAIWP want to disallow the usage of the word Allah in the Federal Territories, following the declaratory relief sought by Ireland, then it could apply for such an amendment to the law in Parliament.

The appellate court accepted Lee's submission and ruled that MAIWP was wrong to apply their application based on Rule 15.

Appeal hearing put off to April 23

Initially, Justice Tengku Maimun (right) wanted to hear the appeal by the Home Ministry and the cross-appeal by Ireland today.

However, Hanif sought a postponement in light of today's decision and the appellate court fixed April 23 to hear the appeal and cross-appeal proper.

In July last year, Kuala Lumpur High Court judge Zaleha Yusof ordered the return of the CDs, but did not grant the declaratory relief sought by Ireland.

Ireland had bought the CDs from Indonesia and had stopped over at the KL International Airport (KLIA) while on her way back home to Sarawak. The CDs were seized by Customs officers at the airport.

The titles of the CDs are 'Cara menggunakan kunci kerajaan Allah', 'Cara hidup dalam kerajaan Allah', 'Ibadah yang benar dalam kerajaan Allah', 'Metode pemuridan kerajaan Allah', 'Pribadi yang bertumbuh dalam kerajaan Allah', 'Hidup benar dalam kerajaan Allah', 'Pemerintahan kerajaan Allah dalam hidup' and 'Rahasia kerajaan Allah'.

In January, the Federal Court dismissed the application by the archbishop of the Roman Catholic Church to review an earlier decision of the court not to grant leave to appeal the ban on the use of the word "Allah" in its weekly publication Herald.

Besides Ireland's case, there is another constitutional challenge by Sidang Injil Borneo, a Borneo-based church, on the use of the word "Allah".

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