

Graft, polls rigging claims in suit against Najib

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Hafiz Yatim

In the suit filed against Prime Minister Najib Abdul Razak and 1MDB, PKR and a former PAS central committee member are claiming money laundering, corruption and rigging of the 13th general election (GE13) with the use of public funds.

The plaintiffs also claimed that Najib, as the finance minister, also breached his fiduciary duty.

They named BN secretary-general Tengku Adnan Tengku Mansor, the office-bearers of the ruling coalition that spent and won the 2013 general election, and the Election Commission (EC) as defendants.

The plaintiffs include former opposition leader and PKR de facto leader Anwar Ibrahim (photo), former PKR secretary-general Saifuddin Nasution Ismail, PKR vice-presidents Nurul Izzah Anwar and Chua Tian Chang (Tian Chua), and PAS' Dr Dzulkefly Ahmad.

Dzulkefly and Saifuddin had lost in the last general election.

The argue in their suit that Najib, who also leads the 1MDB board of advisers, could have used the money and allocation to flout with EC laws on the expenditure limit for elections.

The plaintiffs are seeking several declarations, among them that Najib committed corrupt practices with the fund of RM2.7 billion entering into his personal accounts; that the BN be de-registered; that the conclusion of the 222 parliamentary seats had been compromised; and that the results of GE13 be therefore set-aside.

They also want the court to rule that each of the defendants, either acting individually or with each other, had maliciously and dishonestly practised fraud on the Malaysian electorate by the commission of corrupt and illegal practices, and as a consequence the results of GE13 should be declared null and void.

Anwar, Saifuddin, Dzulkefly (photo), Nurul Izzah and Tian Chua are also seeking a fresh general election be held within 120 days of the order and that the said election be conducted freely and fairly, in accordance with the Federal Constitution.

They also want orders that an inquiry be held on 1MDB or 1MDB-related companies dealt with by Najib and BN for the purpose of the GE13, and that any payment that the prime minister received from 1MDB or other sources used for the said elections be disclosed.

The six of them further sought exemplary and general damages from the action.

The suit was filed today through the firm of Messrs Tommy Thomas.

Spending more than RM94.2 million in GE13?

In their 37-page statement of claim sighted by Malaysiakini, the plaintiffs claimed that 222 parliamentary seats and 504 state seats were contested in the last general election, making the total expenditure to be RM94.7 million (RM44.2 million for parliamentary and RM50.5 million for state seats).

This is based on each parliamentary and state constituency limited to a maximum election campaign expenditure of RM200,000 and RM100,000 respectively.

The plaintiffs also cited various reports in the mainstream and alternative media on BN's expenditure, including one by the Institute of Developing Economies (IDE) titled "Sarawak: One Election, Many Contests", which revealed that from the monitoring of news reports by the Borneo Post during the election campaign in Sarawak alone, the BN had given away approximately RM256.2 million in gifts, development projects and development promises.

They further cited an article which appeared in Malaysiakini after GE13, dated April 23, 2013, titled "Buying support – Najib's 'commercialisation' of GE13", that based on a conservative

estimate, Najib's administration had spent a total of RM57.7 billion on election-related incentives even before the campaign period and soon after April 2009 when Najib became prime minister.

They further claimed that from the sale of a power plant owned by Genting, its subsidiary donated US\$10 million in 2012 to Yayasan Rakyat 1Malaysia (YR1M), a charity under Najib and controlled by him.

All of them contended that YR1M and other government-linked charities spent millions of ringgit during the GE13 campaign in Penang, a key election battleground and this includes YR1M's donation of RM2 million to two schools, and a pledge to build low-cost houses in Penang just before GE13.

They said the regulators of YR1M had also not filed the required financial statements since it was formed in early 2013.

Two tranches in payment to Najib

They further cited two tranches of payments to Najib, the first in December 2014 through SRC International Sdn Bhd, a company wholly owned by the Finance Ministry, which had transferred RM40 million into its fully-owned subsidiary company, Gandingan Mentari Sdn Bhd.

SRC International was set up under the auspices of 1MDB in July 2011, prior to its ownership transfer to the Finance Ministry.

On that same day, Gandingan Mentari transferred RM40 million to Ihsan Perdana Sdn Bhd and two days later, sometime on Dec 26, 2014, Ihsan Perdana transferred a total sum of RM32 million into two separate accounts belonging to Najib.

The second tranche occurred on Feb 5, 2015, where SRC transferred RM5 million to Gandingan, which passed it on to Ihsan Perdana on the same day.

The next day, SRC International transferred a second sum of RM5 million to Gandingan, which remitted it to Ihsan Perdana on the same day; and on Feb 10, Ihsan Perdana transferred RM10 million into Najib's account.

A search with the Companies Commission of Malaysia revealed that Ihsan Perdana's nature of business is the provision of corporate social responsibility (CSR) programmes for YR1M, a charity where Najib is the chairperson and has control over the activities and business dealings of Ihsan Perdana.

They further alleged that through the articles published by The Wall Street Journal and Sarawak Report on July 2 this, monies from SRC International transferred to Najib's personal accounts were part of a sum of RM4 billion borrowed from Malaysia's public pension fund, Kumpulan Wang Persaraan (KWAP), which is unaccounted for.

The transfers were made sometime in February and March 2013.

RM2.7 billion into Najib's accounts in Ambank

Citing documents, SRC International claimed the transfers were for purpose of CSR programmes, where the SRC International director and CEO is one Nik Faisal Ariff Kamil, who also serves as director of its subsidiary, Gandingan, and as a director of Ihsan Perdana.

Ihsan Perdana's account is lodged with Affin Islamic Bank, whose board members included one Lodin Wok Kamaruddin, who also serves as chairperson of the 1MDB board of directors, and it transferred RM2.7 billion into two of Najib's personal accounts in Ambank.

The plaintiffs claimed the said sum of RM2.7 billion received and spent by Najib in the GE13 far exceeds the permitted expenditure of RM94.7 million for GE13, under Section 19 of the Election Offences Act, 1954.

The plaintiffs further contend that Najib has breached the following laws of Malaysia:

- Sections 17(a) and 17(b) of the Malaysian Anti-Corruption Commission Act, 2009, for giving and/or accepting gratification corruptly;

- Section 214 of the Financial Services Act, 2013, and its predecessor, Sections 8 and 9 of the Exchange Control Act, 1953, for undertaking or engaging in international

and/or domestic transactions which include, but are not limited to the act of making any payment without the written approval and/or permission of the central bank of Malaysia; and

- Sections 409 and 420 of the Penal Code for criminal breach of trust and cheating.

Malaysiakini has contacted the defendants and is awaiting their responses.

In a related development, EC chairperson Abdul Aziz Mohd Yusof, when contacted by Malaysiakini, declined to comment on the suit, saying only, "let the EC legal adviser study it".

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