

**Court okays scholar to challenge Islamic enactment**  
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Two men, one of them the son of a former Perlis mufti, were given the green light today by the Federal Court to challenge the Negeri Sembilan Syariah Criminal Enactment under which they were prosecuted for teaching the Islamic religion without accreditation.

A three-man bench led by Court of Appeal president Alauddin Mohd Sheriff granted leave to Fathul Bari Mat Jahya, the son of former Perlis mufti Mat Jahya Hussin, and Nik Amirul Faiz Nik Md Yusof to file a petition for a declaration that Section 53 (1) of the 1992 enactment was unlawful as it contradicted the Federal Constitution.

The court granted leave after the respondents - the Negeri Sembilan Islamic Religious Council, the Negeri Sembilan state government and the federal government - consented to the application.

The two other judges on the bench were Zulkefli Ahmad Makinudin and James Foong Cheng Yuen.

Fathul Bari, 30, a Muslim chaplain at the patient counselling division of the National Heart Institute, and Nik Amirul Faiz, 25, an architect, and two others, were detained at a Maulidur Rasul (Prophet Muhammad's birthday) function in Kuala Pilah on Feb 28 where Fathul Bari was alleged to have given a religious talk.

They were subsequently charged in the Negeri Sembilan Syariah Lower Court.

Fathul Bari was charged for allegedly teaching the religion without accreditation while Nik Amirul and the other two followers, Abdullah Sanusi Othman, 40, and Khairudin Daud, 55, were charged for abetment.

The duo also filed another civil suit, at the Seremban High Court in February this year, against the state Islamic religious council and the state government for wrongful detention.

In that suit, Fathul Bari and Nik Amirul also sought similar declaratory relief and, alternatively, wanted the court to declare that the charge made against them was unconstitutional and null and void.

Today, the Federal Court stayed that High Court proceeding pending disposal of the duo's petition in the Federal Court.

In their notice of motion for leave to file the petition, the duo claimed that the Federal Constitution did not confer any power to the Negeri Sembilan state legislative assembly to establish legislation making it an offence for the teaching of Islam without accreditation.

On the contrary, Fathul Bari and Nik Amirul said, the Federal Constitution only conferred power on the state assembly to make laws in respect to the creation of and punishment for offences by persons professing the religion of Islam against the precepts of Islam.

They claimed that the Negeri Sembilan Syariah Lower Court did not have the jurisdiction to try and punish under Section 53 (1) of the Negeri Sembilan Syariah Criminal Enactment.

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