

**'Zaid's election petition defective'**  
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The hearing of Hulu Selangor MP P Kamalanathan's application to strike out an election petition filed by PKR supreme council member Zaid Ibrahim has begun in the Kuala Lumpur High Court, which is sitting as an Election Court.

Zaid had yesterday lost in his preliminary objection against the striking out application when election judge Justice Azahar Mohamed ruled he was bound by a Federal Court ruling to allow such applications to be made before the petition is heard.

azlanKamalanathan had applied to strike out Zaid's petition on July 1 on the grounds that it was trivial and an abuse of the court process.

He claimed that Zaid had failed to identify the people said to have offered bribes by - or to have received these - from the premier during the election campaign, as alleged in the petition.

Kamalanathan further said that Zaid had failed to abide by the Election Petition Rules in filing the petition.

He said the pleading in the petition does not fall under Section 32(c) of the Election Offences Act 1954 (EOA), as it does not fall within the meaning of corrupt practices as stipulated under Section 10(a) of the Act.

Kamalanathan's lead counsel Firoz Hussein Ahmad Jamaluddin submitted on technical issues today.

He said non-compliance with the Election Petition Rules would affect the court's jurisdiction, as it has not been properly established.

This court has been specially set up to hear an election petition and derives its powers under the EOA.

Zaid was not in court this morning, but Kamalanathan was present from the start.

'No advertisement'

Firoz Hussein also submitted that the petition is defective as there has been no proper production of a notice of presentation of the petition, which should have been pasted at the Shah Alam High Court and advertised in a national language newspaper.

"It was clear that no advertisement was placed. Failure to comply should result in the petition being dismissed," he argued.

The lawyer also read out part of premier Najib Abdul Razak's speech on a pledge of RM3 million to SRJK(C) Rasa and an offer of RM50,000 to Felda settlers if Kamalanathan won in Hulu Selangor.

Firoz Hussein, however, pointed out that Zaid's lawyers had failed to provide a full transcript of the speech as is required based on an apex court ruling.

The lawyer said the petition had further failed to indicate whether Najib's audience included voters, and did not show evidence that the offer was sufficient to swing their votes to BN.

"As in all corruption cases, you must show the material facts at hand. Levelling such a claim without supporting it makes it defective," he submitted.

"The petitioner has failed to provide the correct charge based on the requirements of the EOA. It is clear the framing of the alleged charge is defective."

NoneFiroz also told the court that an apparent speech made by Najib, the words "Kita nak bangunkan tanah (Felda) ini, syarat pertama pastikan pilihanraya umum yang akan datang negeri Selangor ini kembali ke pangkuan BN" does not constitute a bribe.

("We want to develop this land on condition that, in the next general election, Selangor returns to BN rule.")

"It is clear that the purported promise did not relate to this (Hulu Selangor) by-election in question but to the next general election.

"For reasons stated above, we submit the petition is scandalous, frivolous and vexatious and it is an abuse of the court process. Hence, it ought to be struck out."

Further submissions required

Justice Azahar said he wants all parties to provide further submissions on whether it is compulsory for the petitioner to frame the alleged bribery charge according to what is stipulated in the Criminal Procedure Code.

(When a person is charged with a criminal offence, the charge must satisfy certain conditions stipulated in the code.)

Firoz Hussein argued this must be done, but lawyer Azahar Azizan Harun who is appearing for Zaid countered that Kamalanathan's counsel had misdirected the court to adopt this view.

"This court is a tribunal and it is not directed to find fault. Under the EOA, the judge can recommend action but not institute punishment. The judge can direct a Sessions judge to look into the alleged offence (bribery) if he (the judge) finds one," the lawyer argued.

"Hence, there is no need for the charge to be framed in detail."

NoneTomorrow, the judge will hear the Election Commission's preliminary objection on the grounds that Zaid had failed to provide sufficient proof over the alleged corrupt practice.

The court will then hear a reply from lawyers representing Zaid.

Zaid had filed the petition on May 24 to declare the result of the Hulu Selangor by-election - held on April 25 - as null and void. He lost by 1,725 votes, which saw the parliamentary seat return to the BN.

He alleged that corruption had taken place in the form of bribery and including promises made by Najib (left) to provide allocations to the voters if BN wins. He further alleged that Kamalanathan knew of the promises.

Zaid has named Kamalanathan, returning officer Nor Hisham Ahmad Dahlan and the Election Commission as the respondents.

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