



Karpal: Written judgments must be in BM
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Senior lawyer Karpal Singh raised a novel constitutional issue at the apex court today when he said all written judgments should be in Bahasa Malaysia. He said judges have to fulfil the requirements of the National Language Act, and that "all written judgments in English should be declared null and void".

raised a novel constitutional issue at the apex court today when he said all written judgments should be in Bahasa Malaysia. He said judges have to fulfil the requirements of the National Language Act, and that "all written judgments in English should be declared null and void".

Karpal was making a preliminary objection to the Court of Appeal decision which had dismissed Anwar Ibrahim's appeal over a defamation suit he had filed in 2006 against former premier Dr Mahathir Mohamad.

The appellate court had dismissed Anwar's appeal last December on the grounds that it was not submitted in the national language. Ironically, the court's judgement itself was also rendered in English.

Karpal is now asking the apex court to compel the Court of Appeal to write its judgment in Bahasa Malaysia, after which the appeal application could proceed.

Arguing that written judgments in English could be unconstitutional, Karpal later told reporters that the application on his preliminary objection may have serious ramifications.

"Most of the written judgments in civil or criminal cases are in English at all levels of the court," he said.

"Hence, this brings to question on the validity in the jurisdiction of all those judgments which are written in English."

Language issue a can of worms

Karpal (*right*) said that Section 8 of the National Language Act states that all proceedings (other than the giving of evidence) in the Federal Court, Court of Appeal, the High Court or any subordinate court shall be in the national language.

"This provision also applies to judges, as this does not provide them with the exception of writing judgments in English," he said.

Section 8 also says the court may either of its own motion or on the application of any party to any proceedings - and after considering the interests of justice in those proceedings - order that the proceedings (other than the giving of evidence by a witness) shall be partly in the national language and partly in the English language.

The lawyer was turning the tables on Justice Abdul Malik Ishak, who in dismissing Anwar's appeal, had said all court documents must be in the national language because the supremacy of Bahasa Malaysia is enshrined in the federal constitution.



Malik, who ironically wrote the judgment in English, said Article 152 of the constitution, read together with the National Language Act, states that all proceedings other than the giving of evidence shall be in the national language.

Lingam cries abuse of process

There was a colourful moment in court when Mahathir's lawyer VK Lingam tried to interrupt Karpal's submission, prompting the Bukit Gelugor MP to reply angrily, "You sit down Mr Lingam. I mean you as 'Mr' as you do not benefit to have the title of Datuk."

It was Lingam (*left*) who first opened the can of worms on language use when he asked the Court of Appeal to dismiss Anwar's appeal by challenging that Anwar's memorandum of appeal was filed in English and not Bahasa Malaysia.

It is ironic then that Lingam has accused Karpal's preliminary objection of being an abuse of the court process.

The controversial lawyer - who was involved in the high profile 'Lingam tape' incident - further argued that throughout the case, all proceedings from the High Court and the Court of Appeal had been conducted in English and hence, said that there was nothing wrong for the written judgments to be in English.

Lingam argued that a written judgment does not constitute a proceeding and was thus exempt from the language requirement.

He said that this should be a leave application where questions of law should have been submitted along with the affidavit, saying that this was not done.

Karpal: Huge implications

Karpal however argued, "Section 8 of the National Language Act states 'all proceedings' (must be in the national language) and this should include judgment and encompassing written judgments."

He concluded that all since three judgments on the case, from the High Court, the Court of Appeal and the appellate court's written judgment, were done in English, they would be rendered null and void should the Federal Court allows his preliminary objection.

Chief Judge of Malaya Justice Arifin Zakaria - who led a three member bench comprising Federal Court judge Justice James Foong and Court of Appeal judge Suriyadi Halim Omar - deferred making a decision on the preliminary objection.

Karpal later told reporters outside the court that never before in the country's 53 years of independence had such an application be made before the court.

"It will have huge implications as it may affect judgments from the High Court, Court of Appeal and Federal Court decisions written in English.

"It is advisable the court stop in delivering its judgment (in English) until a decision has been made on this issue," he said, adding that he is not opposing the use of the English language, but wanted a decision or clarification on the matter.



In 2006 Anwar had filed a defamation suit against Mahathir for remarking that the former was a "sodomist" at a 2005 Suhakam conference.

Anwar's DPM dismissal review postponed

Before the same panel, the court also postponed the review of Anwar's (*below*) application to challenge his unlawful dismissal as the deputy prime minister in 1998.

Karpal brought to the court's attention a letter he received last week from the registrar that there was no panel that could hear the case.

"The letter refers from a directive by Chief Justice Zaki Azmi, of wanting Anwar's unlawful dismissal case to be heard together with another case called Ahmad Jefri Jahri," he said.

Arising from the letter, Karpal told the court that he was not prepared to make his submission despite Arifin saying that his panel was prepared to hear the case.

Following this, Justice Arifin allowed the postponement to seek further clarification from the chief justice over the said letter.

Anwar, is seeking a review of an earlier panel's decision led by President Court of Appeal Alauddin Md Sheriff that dismissed the opposition leader's appeal against his dismissal, based on the grounds that the prime minister had absolute power to appoint or revoke the appointment of a minister.

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