

Sultan Perak acted unconstitutionally
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Sultan Raja Azlan Shah of Perak had acted beyond his parameters of power by ordering the Pakatan Rakyat state government to reinstate the transferred Jamry Sury as Perak Religious Department director.
MCPX

dap islamic state roundtable 100807 karpal singh DAP national chairperson and senior lawyer Karpal Singh said that under the country's law, said the Pakatan Rakyat-led Perak state government had every right to transfer Jamry since he was a state government servant.

"The palace cannot order the Perak government to reinstate Jamry. It's beyond the palace parameters of power," said Karpal.

The Pakatan Rakyat government was ordered to reinstate Jamry as the state religious department head barely 72 hours after he was transferred out from his post with a short notice.

Acting on the order from the Sultan of Perak Sultan Azlan, Raja Muda Raja Dr Nazrin Shah, in the name of Perak Islamic Affairs and Malay Customs Council, directed Menteri Besar Mohammad Nizar Jamaluddin to reinstate Jamry last week.

Citing a 1982 Federal Court ruling as a landmark case on this issue, Karpal argued that it was up to the Perak government to decide when and where it wanted to transfer a civil servant under its governance.

Karpal, the Bukit Gelugor member of parliament, said that the Perak government was right in its decision to transfer Jamry and that the Ruler of Perak did not have any say in the decision.

"The palace cannot order the state government to reinstate Jamry," said Karpal.

He said rulers should have sought legal advice from their respective state legal advisors before descending into areas beyond their domain.

Going beyond that, he said would mean, and must mean, as "acting unconstitutionally".

"Such precedent should not be allowed to stand for the sake of public interests," he added.

Disturbing trend

Karpal also cautioned that the disturbing trend of rulers interfering in the day-to-day running of government administration was not limited to Perak.

He said that in Terengganu, the palace arbitrarily imposed its will in the choice of the Menteri Besar although that choice, clearly, contravened the state constitution. This emulated by Raja of Perlis as well, he noted.

And in Penang, the state government faced a slightly different dilemma when the Yang di-Pertuan Agong declined to accept the resignation of Umno's Permatang Berangan state assemblyperson, Shabudin Yahaya as the State Islamic Religious Council president and ordered him instead to continue to serve in that position until his term expires in December 2009.

Karpal said the rulers should not interfere in matters that clearly do not provide for them to have a say and the constitution of Perlis, Perak and Terengganu had clearly stated that the rulers shall act on executive advice.

Following the constitutional amendments in 1993, the king and the state rulers are subjected to law, just like any other citizens.

"The exemption was that only the Special Court had jurisdiction over them," he said.

Failure to cooperate

Jamry's transfer was mooted by the Menteri Besar Mohammad Nizar Jamaluddin for apparently failing to cooperate with the Pakatan Rakyat administration. However his transfer was revoked by the Perak sultan.

As Perak religious department director, Jamry was also the secretary of the Perak Islamic Affairs and Malay Customs Council. The appointment was done with ruler's consent.

In a statement released by Sultan Azlan's private secretary Abd Rahim Mohamad Nor on Friday, Muhammad Nizar was informed to seek an audience with the Perak Sultan and the Raja Muda to obtain their consent before taking any steps in relation to Islamic affairs or Islamic bodies or agencies.

This included the issue of appointments, placements and transfers of officers and staff who manage Islamic affairs, what more those who hold prominent and important positions.

The working relation, which honors the Sultan, is convention and work culture which had always been adhered to by every mentris besar.

Any act committed without the approval of Sultan and Raja Muda is regarded as having ignored their respective positions as the head of Islamic Affairs and the head of the council.