

Court dismisses application to free Hindraf five
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The Ipoh High Court today dismissed a habeas corpus application to set free five Hindu Rights Action Force leaders detained in Kamunting under the Internal Security Act since December last year.

The five - P Uthayakumar, 47, T Vasanthakumar, 35, M Manoharan, 47, R Kenghadharan, 41, and V Ganabatirau, 35 - were picked up on Dec 13 during a police crackdown on Hindraf leaders and activists following a mammoth rally led by the human rights group in Kuala Lumpur on Nov 25.

hindraff isa detainees 141207 Judicial Commissioner Ridwan Ibrahim, who dismissed the habeas corpus application, ruled that the detention of the five was according to legal provisions and the government had correctly and rightfully used its discretionary powers under the law.

"In summary, the court finds that there has not been any contravention as alleged by the applicants of their constitutional rights to approve the habeas corpus application," said Ridwan.

He said the Advisory Board which recommended the extension of their detention also did not commit any wrong as it was not subject to use a judicial inquest in order to make a decision.

The court was also of the view that the Advisory Board had its own methodology and procedures governed by the interest of national security.

Appeal to be filed

hindraf 5 habeas corpus penang court 080908 01 Lead counsel for the five detainees Karpal Singh, who described the decision as "detrimental against the basic human rights and legal justice system of the country" plans to file an appeal at the Federal Court in Kuala Lumpur before the end of this week.

Hindraf supporters and the wives of the leaders detained were visibly disappointed.

"This is an injustice," said B Buvaneswari, the 32-year old wife of Ganabatirau.

"My husband and others were labeled as terrorist, then as threats to national security. However, until today, the government is yet to prove its case, but it has detained my husband indefinitely."

In his affidavit, Karpal had argued the Advisory Board did not follow procedures when conducting proceedings to determine the truth and the basis of the government's decision to detain the five leaders. He said it had been wrong to disallow the detainees and their counsels to cross examine the case investigating officer.

Under the Article 151(1)(b) of the federal constitution, Karpal said the detainees had such a

right. However, the investigating officer was only allowed to give his testimony to the board under camera, in closed door hearing.

Judge sees no fatal failure

Karpal also cited a landmark case - Sugumaran Kannan v Inspector General of Police, in which the presiding judge Syed Helmy Syed Ahmad allowed the habeas corpus application and freed the ISA detainee due to the board's 'fatal failure' to allow the cross examination on the relevant investigating officer.

Ridwan, however, adjudged that the advisory board did not breach any basic human rights of the detainees by not allowing the investigating officer to be cross examined.

Perak Hindraf coordinator A Vethamurthy, Manoharan's wife S Pushpaneela, 47, Kenghadharan's wife M Kalaivani were also present.

hindraf 5 habeas corpus penang court 080908 pushpaneela Pushpaneela (left) said the court decision deprived Kota Alam Shah constituents of her husband's services. Manoharan, who is the assmblyperson for the constituency. He won the seat during the March 8 general election even though he was in detention.

Kalaivani, who looked depressed, said she hoped her prayers to the god to free her husband would be answered during the appeal.

Some 70 people are being detained without trial under the draconian ISA, which has been criticised as being 'inhumane and unjust' by many human rights groups and civil movements over the years.

They have called on the government to repeal ISA and turn Kamunting Detention Centre into a museum.

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