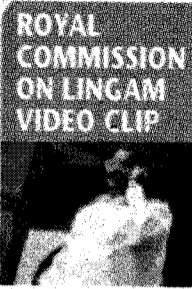


Dr M: Final decision was mine



ROYAL COMMISSION ON LINGAM VIDEO CLIP

By Anis Ibrahim
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KUALA LUMPUR: Former prime minister Tun Dr Mahathir Mohamad was the ninth witness when he took the stand at 10.05am yesterday.

Inquiry officer **Datuk Nordin Hassan:** Could you state your name, please.

Dr Mahathir: Mahathir bin Mohamad.

Nordin: Could you state your address?

Dr Mahathir: The Mines, Seri Kembangan.

Nordin: You were the prime minister of Malaysia from July 16, 1981 to Oct 31, 2003. Is that correct?

Dr Mahathir: Yes.

Nordin: During your term as prime minister, were you involved in the appointment of Malaysian judges?

Dr Mahathir: Yes, I was.

Nordin: Under the Federal Constitution, High Court judges, the chief judge of Malaya, the chief judge of Sabah and Sarawak, the chief justice and the president of the Court of Appeal are appointed by the Yang di-Pertuan Agong under the advice of the prime minister after consulting the Conference of Rulers and the chief justice. Is that correct?

Dr Mahathir: Yes, it is.

Nordin: In the appointment process, were you as the prime minister bound to the chief justice's recommendations?

Dr Mahathir: No, I'm not bound to them.

Nordin: Then referred to various correspondence between Dr Mahathir and former chief justice Tun Dzaiddin Abdullah tendered as evidence on Wednesday.

Dr Mahathir: confirmed the documents, which pertained to Tun Ahmad Fairuz Sheikh Abdul Halim's appointments as chief judge of Malaya and president of the Court of Appeal.

Nordin: Were you influenced by any outside parties in respect of Ahmad Fairuz's appointment as president of the Court of Appeal?

Dr Mahathir: I listened to discussions at social gatherings, people's views and their opinions. I took them into account but the final decision



Former prime minister Tun Dr Mahathir Mohamad entering the courtroom to give his evidence before the Royal Commission of Inquiry into the controversial Lingam video clip.

was always mine alone.

Nordin: Were you influenced by any outside parties in respect of Ahmad Fairuz's appointment as chief justice?

Dr Mahathir: Not specifically but, as I said, I listened to informal views and opinions in my conversations at social events. The final decision was always mine alone.

Nordin: then referred to a letter by Dr Mahathir informing Dzaiddin that judicial commissioners Datuk Sulaiman Daud and V. Thiripurasingham would be appointed as High Court judges instead of the latter's original recommendations of lawyers Dr Andrew Chew Peng Hui and Zainuddin Ismail.

Nordin: You said you did not agree to Chew and Zainuddin being High Court judges.

Dr Mahathir: That is correct.

Nordin: Could you inform the commission what your reasons were for rejecting them?

Dr Mahathir: I don't remember my reasons.

Nordin: Have you ever watched a video recording of a lawyer speaking on the telephone, discussing judicial appointments?

Dr Mahathir: Only on television.

Nordin: (referring to the transcript of the video clip): Did you receive any memorandum from (former chief justice) Tun Eusoff Chin and Datuk V.K. Lingam, as the recording suggests?

Dr Mahathir: I don't remember receiving any memorandum from V.K. Lingam, but during my office as prime minister, I might have received a letter from Eusoff Chin, although I cannot remember.

Nordin: The clip also mentions the names of five individ-

uals who were recommended for High Court judges. Is it true that Chew and Zainuddin were rejected because they disagreed with Ahmad Fairuz's appointments as chief judge of Malaya?

Dr Mahathir: I am unaware that the chief judge of Malaya's appointment was the reason.

Nordin: As the recording suggests, did you telephone Ahmad Fairuz and (businessman) Tan Sri Vincent Tan in respect of the six Court of Appeal judges which Dzaiddin recommended?

Dr Mahathir: To date, I cannot recall.

Nordin: Did Vincent Tan ever telephone you in relation to Ahmad Fairuz's appointment as chief judge of Malaya?

Dr Mahathir: No.

Nordin: As the recording suggests, did you telephone (then deputy minister in the Prime Minister's Department) Datuk Seri Tengku Adnan Tengku Mansor every time Dzaiddin sent a letter to you and ask Tengku Adnan to discuss it with Vincent Tan?

Dr Mahathir: No.

Nordin: As the recording suggests, did V.K. Lingam, Tengku Adnan and Vincent Tan ever meet you to discuss the recommendation to appoint (the late) Tan Sri Abdul Malek Ahmad as chief judge of Malaya?

Dr Mahathir: No.

Nordin: Is it true that Malek Ahmad was not appointed chief judge of Malaya because he was "anti-PM", as the recording suggests?

Dr Mahathir: He was rejected not for that reason.

Nordin: informs the commission that he has no further questions. Dzaiddin's counsel, Wong Chong Wah, begins his questioning.

Wong: Do you recall that be-

fore Ahmad Fairuz was recommended as chief judge of Malaya, Dzaiddin had nominated Malek Ahmad?

Dr Mahathir: I can't remember precisely, but there was a lot of talk of the possibility that Malek Ahmad be appointed to that post.

Wong: Do you remember whether, when Dzaiddin recommended Malek Ahmad, you rejected his suggestion?

Dr Mahathir: I can't remember him recommending to me.

Wong: A letter dated Aug 19, 2002, from Dzaiddin to you, suggests that he had made an earlier recommendation for Malek Ahmad to be chief judge of Malaya. Did you agree to Dzaiddin's recommendation at that stage?

Dr Mahathir: I don't remember whether I agreed or not. I've read this letter but I don't recall any decision I made on Malek Ahmad.

Christopher Leong, for the Malaysian Bar, then begins his questioning.

Leong: Referring to the exhibits pertaining to Ahmad Fairuz's appointments, would Tengku Adnan as a deputy minister in charge of law have access to them?

Dr Mahathir: I'm not very sure but normally the people who have no relation to it will have no access.

These are documents marked "Rahsia" (secret), but perhaps my typist, my secretary in some circumstances, might have access. I really cannot say if someone had no access.

Leong: Do you know Tan Sri Vincent Tan?

Dr Mahathir: Yes.

Leong: How long have you known him?

Dr Mahathir: I have known him for many years. I know him very well.

Leong: Do you know Datuk V.K. Lingam?

Dr Mahathir: I read about him when he was involved in another case but I've only known him recently when I engaged him for a case where Anwar Ibrahim sued me for defamation.

Leong: How did you know about him to engage him?

Dr Mahathir: I heard about him.

Leong: The recording suggests that Vincent Tan had brought V.K. Lingam to your house.

Dr Mahathir: That's not true.

Leong: You've never met him at your house?

Dr Mahathir: After I engaged him as my lawyer, he's been at my house once or twice.

Leong: Is he still your lawyer?

Dr Mahathir: Yes, he is.

Leong: According to the transcript, it appears that the person who is speaking was in possession of an official secret, that Chew and Zainuddin had been rejected as High Court judges. Could you assist the commission and tell them how he knew?

Dr Mahathir: He may have seen a document.

Leong: The transcript of the conversation in December 2001 also mentions that the person knows about six people who have been recommended as Court of Appeal judges. In June 2002, six persons were indeed appointed to the Court of Appeal.

Would it be safe to say that the process of appointment takes between three and six months?

Dr Mahathir: Yes.

Leong: Once again, it seems that the person talking appears to have knowledge of an official secret.

Dr Mahathir: It appears to be so.

Leong: I presume Tun wouldn't know how he came to know an official secret?

Dr Mahathir: No.

Leong: A letter dated Aug 19, 2002 from Dzaiddin to you suggests that he had made an earlier recommendation for Malek Ahmad as chief judge of Malaya.

Dr Mahathir: Could be.

Leong: We all know that Malek Ahmad did not move up to that position and when Dzaiddin re-submitted his recommendation for Malek Ahmad, it appears that his nomination was rejected. What was the reason for not agreeing to the recommendation?

Dr Mahathir: I have no reasons. After listening to what people say, to their views, I form my own conclusions and I make my decisions. I don't tell people why. I don't have to explain why; the prerogative lies with me. I don't have to tell why.

Leong: There is a suggestion that you had your own candidate?

Dr Mahathir: I will ask people who know about this, like senior civil servants and take their views into consideration.

Leong: We have a position here that the recommendation of a chief justice who is most familiar with the best qualities of his brother judges is rejected. The information you obtained to make your decision, Tun, must have been very important to override the 'CJ. Who is your source?

Dr Mahathir: There is no precise main source, but I listen to people. I take them into consideration. They include civil servants, senior police personnel, the Anti-Corruption Agency.

Leong: Would Vincent Tan be one of your sources?

Dr Mahathir: Could be.

Leong: Did you receive any memorandum from Eusoff Chin after he retired as chief justice?

Dr Mahathir: After he retired, I practically lost contact with him.

Commissioner Datuk Mahadev Shankar asks Dr Mahathir for clarification at this point.

Mahadev: Were your reasons for rejecting Malek Ahmad ever discussed with Dzaiddin?

Dr Mahathir: I normally don't explain to anybody my reasoning when I make decisions. I listen to a lot of people, make my assessments, then make my decisions. I don't tell anyone why.

Shankar: Not even the chief justice (Dzaiddin) who recommended them to you?

Dr Mahathir: No.