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Appeals must be filed in Malay, rules court

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PUTRAJAYA: The Court of Appeal has ruled that it is mandatory for litigants to file a copy of their appeal records in Bahasa Malaysia.

Judge Datuk Abdul Malik Ishak said "the supremacy of the Malay language in our courts cannot be denied" as stated in the Federal Constitution and other subsidiary legislations.

He said the National Language Act also provided that all proceedings, other than giving of evidence, shall be in the national language.

"It requires the appellant (Datuk Seri Anwar Ibrahim) to file the memorandum of appeal in the national language.

No other language will be entertained," Malik said in his 31-page judgment as to why the Court of Appeal on Oct 20 struck out the appeal.

Anwar had filed an appeal to continue with his RM100 million defamation suit against former prime minister Tun Dr Mahathir Mohamad for calling him a homosexual in 2005.

Malik had sat with Datuk Azhar Ma'ah and Datuk Syed Ahmad Helmy Syed Ahmad to hear Dr Mahathir's application to strike out Anwar's appeal based on technical defects.

Dr Mahathir, represented by Datuk V.K. Lingam, said Anwar's appeal records were only in English and not in the national language.

He also said the appeal

records had not been signed by Anwar's lawyers and did not have a specific date, and this made the document defective.

Malik said Anwar's failure to file a memorandum of appeal in Bahasa Malaysia rendered the purported records of appeal "useless".

"It will not qualify as a record of appeal. It is our judgment that there is no proper or competent appeal before us."

Malik noted that Lingam had written to Anwar's lawyers in August 2007, giving notice that he would take steps to strike out Anwar's appeal if certain exhibits were not included in the records of appeal.

The judge said for the whole of last year, Anwar's lawyers had remained idle and that Dr

Mahathir's counsel "did not ambush" in applying to strike out the appeal.

"The application was done without any malice."

Anwar had filed the suit after Dr Mahathir spoke at a human rights conference about Anwar being a homosexual and a sodomist. Anwar said Dr Mahathir portrayed him as a person with no morals.

The High Court had in 2007 ruled that Anwar's suit was unsustainable and that Dr Mahathir's remarks were fair comment made in the public interest.

Lawyer Karpal Singh, who is appearing for Anwar, said an application for leave to appeal against the Court of Appeal ruling had been filed in the Federal Court.