

# Court dismisses Dr M's appeal to reinstate lawsuit

**PUTRAJAYA:** The Court of Appeal dismissed an appeal by Prime Minister Tun Dr Mahathir Mohamad to reinstate his lawsuit in which he seeks a declaration to invalidate a Royal Commission of Inquiry (RCI) report into foreign exchange losses suffered by Bank Negara Malaysia (BNM) in the 1990s.

Justice Datuk Ahmadi Asnawi, who chaired a three-member panel, held that the findings of the RCI were not subjected to challenge.

He said what Dr Mahathir was challenging were the findings of the RCI itself as contained in the RCI report.

Hence, Justice Ahmadi said, the Federal Court decision on the RCI into the controversial video clip case of former lawyer Datuk V.K. Lingam applied to Dr Mahathir's case.

In 2011, the Federal Court ruled that the findings of the RCI into the Lingam video clip could not be reviewed as the commissioners merely made findings and not a decision.

Justice Ahmadi, who presided with Justices Datuk Lau Bee Lan and Datuk Has Zanah Mehat, said Section 22 of the Commissions of Enquiry Act 1950 provided a wide discretion to the RCI to regulate its own affairs and its own procedure, including on the compilation of the report and regulations for presentation of the report to the Yang di-Pertuan Agong.

"We are also of the view that it is not the role of this court to tell the RCI how to run its affairs because Section 22 of the Act is very wide to govern the conduct," he said.

The panel affirmed that the Dec 17, 2018, High Court decision to strike out Dr Mahathir's

originating summons in which he sought a declaration that the RCI report on BNM's forex trading losses was invalid, incomplete and defective as it excluded the legal documents of witnesses, notes of proceedings, written and oral submissions.

In his suit filed in December 2017, Dr Mahathir also wanted the court to declare that any report by the RCI set up under the Commission of Enquiry Act would only be legal if it had all the written statements by the witnesses who testified in the proceedings, as well as the notes of the proceedings and submissions.

He named RCI chairman Tan Sri Mohd Sidek Hassan, its members comprising Datuk Wira Kamaludin Md Said, Datuk Seri Tajuddin Atan, Tan Sri Saw Choo Boon, K. Pushpanathan and Datuk Dr Yusof Ismail, former prime minister Datuk Seri Najib Razak, Cabinet members and the government, as defendants in the suit.

Dr Mahathir's counsel Mohamed Haniff Khatri Abdulla earlier submitted that his client was not seeking to quash the findings of the RCI but wanted a declaration that the report would only be complete and valid if it contained the relevant documents.

However, senior federal counsel Mazlifah Ayob, appearing for the respondents, argued that if the RCI report was declared null and void, the RCI's findings and recommendations would also be declared null and void, and that the Federal Court decision in the RCI Lingam video clip case was applicable to Dr Mahathir's case. — Bernama