

Suit against Muhyiddin struck out

The Star - 8/8/2020 Pg. 2

Court ruled Dr M had no locus standi for legal action against Bersatu president

KUALA LUMPUR: Prime Minister Tan Sri Muhyiddin Yassin (*pic*) and three others succeeded in their bid to strike out the suit brought by Tun Dr Mahathir Mohamad and five others over the nullification of their membership in Parti Pribumi Bersatu Malaysia (Bersatu).

In allowing the application of Muhyiddin and three other defendants, High Court judge Justice Rohani Ismail ruled that Dr Mahathir and the other plaintiffs had no locus standi to bring the legal action against the defendants.

She also held that the court was guided by the provision of law and cases referred under Section 18C of the Societies Act 1966. The court found Section 18C is applicable in the present case.

"As such the court has no jurisdiction to entertain or determine the claim of the plaintiffs," she said.

Section 18C states that any decision of political parties are final and

cannot be challenged in courts.

Justice Rohani ordered the plaintiffs to pay RM30,000 costs to all the defendants.

The judge also dismissed the plaintiffs' application to obtain injunctive relief to preserve their status quo as members in Bersatu until the hearing of the suit as the court had struck out the whole action.

On June 9, Dr Mahathir, his son Datuk Seri Mukhriz, Dr Maszlee Malik, Datuk Amiruddin Hamzah, Datuk Marzuki Yahya and the party itself filed the suit over the nullification of their membership in Bersatu, as the first to sixth plaintiffs.

They named Muhyiddin, who is Bersatu president and acting chairman, party secretary-general Datuk Seri Hamzah Zainudin, party executive secretary Capt (Rtd) Muhammad Suhaimi Yahya, and Registrar of Societies (ROS) director-general Masyati Abang Ibrahim as the first to fourth defendants.



In elaborating on the locus standi point, the judge said on June 4, the Bersatu Supreme Council had confirmed the party's decision that the first plaintiff, Dr Mahathir, had resigned from the chairman's post on Feb 24.

As such, by virtue of Clause 16.9 of the Bersatu's Constitution, Muhyiddin, who was the first defendant,

was acting as Bersatu chairman.

She said it was trite that every registered society was governed by its Constitution, and the provisions of the Societies Act 1966.

It was also trite that the Constitution of a registered society operates as a contract between its members.

"Clause 10.2 of Bersatu's Constitution provides for the automatic loss of membership by certain pre-defined events when it states that 'the membership of a person is automatically ceased if one of the followings occur' that includes Clause 10.2.6 which states that 'the member brings matters pertaining to the party or his membership to court'," she said.

The judge also said prior to the Dewan Rakyat sitting on May 18, Dr Mahathir and Mukhriz had written to the Minister in the Prime Minister's Department (Parliament and Law), stating that their seats will be on the opposite side of the

House with the Pakatan Harapan MPs, opposing the present government of which Bersatu is part of.

She said at that sitting, the first to fifth plaintiffs had crossed over and sat at the opposite side with the Pakatan Harapan MPs

The judge said the court was of the opinion that the action by all five plaintiffs fell within Articles 10.2.2 and 10.2.3 of Bersatu's Constitution.

"As such, they have ceased to be the members of Bersatu as concluded and confirmed during the party's supreme council's meeting on June 4.

"Therefore, the court is of the view that the filing of this action by the plaintiffs and the event taken on May 18 by the first to the fifth plaintiffs have violated Clause 10.2 of Bersatu's Constitution.

"Thus, the plaintiffs have no locus standi to bring or maintain this action against the defendants," she said.