

'BERSATU 5 HAVE

But they must first overcome applicability of legislative provision.

ADIB POVERA
AND HANA NAZ HARUN
KUALA LUMPUR
news@nst.com.my

TUN Dr Mahathir Mohamad and four other members of parliament must first overcome the applicability of Section 18C of the Societies Act 1966 if they plan to challenge their expulsion from Parti Pribumi Bersatu Malaysia (Bersatu) in court.

The section provides that any decision or matter relating to the affairs of a party shall not be challenged, appealed against, reviewed, quashed or called into question in any court on any ground.

+ Prominent lawyer Nizam

Bashir, however, said it is important to note that judicial review was by and large an entrenched right available to all citizens.

"I think it is only fair and appropriate to look at the initial letter claiming the cessation of membership (against Dr Mahathir and the four MPs).

"The goalpost-shifting which happens after is an afterthought and legally, it would be inappropriate to entertain any statements that were issued after the (initial) letter (of the cessation of membership involving the five MPs).

"I think the 'Bersatu 5' have a more than a fair chance to deal with their expulsion by way of legal proceedings for that purpose," he told the *New Sunday Times*.

'Bersatu 5' is a term coined for Dr Mahathir, his son and Jerlun MP Datuk Seri Mukhriz, and three others, whose Bersatu memberships were terminated after their actions allegedly went against the party's constitution.

The three others are Dr Maszlee

MORE THAN FAIR CHANCE'



Tun Dr Mahathir Mohamad

Malik (Simpang Renggam), Datuk Amiruddin Hamzah (Kubang Pasu) and Syed Saddiq Syed Abdul Rahman (Muar).

According to the initial letter on the expulsion of the five MPs, their memberships were nullified as their actions went against Article 10.2.2 and 10.2.3 of the party's constitution.

Both articles stated that a

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membership in Bersatu will be revoked if a party member declares quitting the party and that if a member joins or becomes a member of other political parties in the country.

"Have the five MPs actually done that?"

"Certainly, expressly, they have not done so. What they have done is, however, to merely intimate their preference on seating and which may be suggestive of their votes on a particular issue.

"The Bersatu Constitution — certainly where Article 10 is concerned — is silent on the consequences of doing so."

The letter on the cessation of membership against the five MPs appears to have constructed that Dr Mahathir and four others had committed an act similar to "crossing the floor".

Nizam said such an action generally happens in one of the two following ways.

First, when a member of a parliamentary party resigns from his existing party and joins another; and second, when a member of a

parliamentary party votes or abstains from voting, contrary to any direction issued by the party he belongs to.

"As none of the above scenarios have actually taken place, the cessation of membership letter appears to have been issued without cause and the posturing adopted by proponents of the cessation letter is similarly baseless. In short, the five MPs are still members of their political party."

Dr Mahathir and four other Bersatu MPs were issued termination letters, saying that their decision to sit in the opposition bloc during the May 18 Dewan Rakyat session led to their expulsion.

However, Dr Mahathir rejected the sacking, saying that it was done against the law and the party constitution.

It was also reported that Dr Mahathir's lawyer, Mohamed Haniff Khatri Abdulla, said the five MPs were considering legal action and that he would do so under the advice of the former prime minister and the others.