

Dr M misled Cabinet, says report

RCI proposes criminal probe against former PM over Batu Puteh issue

KUALA LUMPUR: There is a basis for initiating a criminal probe against former prime minister Tun Dr Mahathir Mohamad, proposed the Royal Commission of Inquiry (RCI), which would examine issues surrounding the sovereignty of Batu Puteh, Middle Rocks and South Ledge.

In a highly redacted and declassified report tabled in Parliament, the Commission proposed that a criminal investigation be launched under Section 415(b) of the Penal Code, with penalties enforceable under Section 417 of the same code.

"In the context of Section 415(b), it must be demonstrated that Dr Mahathir had intentionally misled the Cabinet and deliberately influenced the government to abandon those applications, despite the fact that the decision was made unilaterally by himself without Cabinet approval," said the Commission in the report released yesterday.

The Commission also pointed out that if the Cabinet had been provided with the relevant action papers for the International Court of Justice (ICJ) and written opinions from international consultants, it is possible that the Cabinet would have arrived at a different view regarding both applications.

"In this case, Dr Mahathir may have deliberately influenced the Cabinet to forgo the applications, even though this contradicted the opinions of international consultants who believed there was a reasonable likelihood of success for the applications," noted the report.

The Commission also believes a criminal investigation can be initiated against Dr Mahathir under Section 418 of the Penal Code.

"It is the Commission's view that an investigation under this provision is warranted based on the facts that he deceived the government, knowing it could potentially result in wrongful loss to the Malaysian government.

"As Prime Minister, he had a legal obligation to protect the interests of the country," said the Commission.

It pointed out that the elements required to prove an offence under Section 418, include the accused had cheated a person, under the legal obligation to protect that person's interest, cheating was related to that obligation and the accused knew that his

Timeline of Batu Puteh tussle

Dec 5, 2024
RCI report made public in Parliament.

Feb 14, 2023
Batu Puteh RCI established with former chief justice Tun Md Raus Sharif as chairman.

2022
The then PM Datuk Seri Ismail Sabri Yaakob said possible negligence and oversight on Dr Mahathir's part in handling the Batu Puteh claim.

2018
The Pakatan Harapan government under then Prime Minister Tun Dr Mahathir Mohamad withdrew both applications.

Feb 3, 2017
The Malaysian government filed an application for a revision of the ICJ's ruling in awarding legal jurisdiction of Batu Puteh to Singapore. Scheduled hearing was on June 11, 2018.

1979
The dispute over Batu Puteh, Middle Rocks, and South Ledge between Malaysia and Singapore begins.

1851
The British East India Company (EIC) completed construction of Horsburgh Lighthouse on Batu Puteh.

Aug 12, 2024
The RCI submitted its final report to His Majesty Sultan Ibrahim, King of Malaysia.

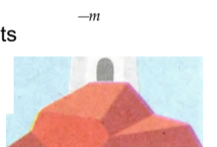
Jan 27, 2023
The then Attorney general (AG) Tan Sri Idrus Harun said the Cabinet stated act of withdrawing the review application was "not in order and improper."

2021
Johor Ruler Sultan Ibrahim demanded an explanation why the Federal Government had dropped the review application.

June 30, 2017
Putrajaya filed an application to interpret the ICJ's judgment to address its ambiguities and implications, particularly regarding the status of South Ledge.

2008
Case was referred to the ICJ, which ruled that Pedra Branca belongs to Singapore while Middle Rocks belongs to Malaysia, with the sovereignty of South Ledge remaining unclear.

1964
The management of the lighthouse on Batu Puteh was transferred to < > Singapore after the Straits Settlements were dissolved.



actions were likely to cause wrongful loss to the person involved.

In its finding, the Commission pointed out that Dr Mahathir might have deceived the government, which includes Cabinet members, leading them to decide not to proceed with both applications.

"This deception pertains to his duties, for which he had a legal obligation to safeguard Malaysia's interests.

"As Prime Minister, he was responsible for protecting and upholding the nation's sovereignty and welfare at all times."

The report noted that Dr Mahathir caused a wrongful loss

to the Malaysian Government by deciding not to proceed with the applications.

The Commission also recommended that the RCI secretary lodge a police report to initiate the probe.

In the dissenting view, commission members Tan Sri Zainun Ali and Datin Dr Prof Dr Faridah Jalil

expressed that Dr Mahathir's actions in deciding not to proceed with both applications amount to dereliction of duty rather than a criminal offence.

The Commission said the loss of sovereignty over Batu Puteh, as decided by the ICJ on May 23, 2008, should serve as a lesson, emphasising that weaknesses, carelessness and a complacent attitude in matters involving national sovereignty, as seen in that case, must not be repeated.

"It is also a lesson that a simple letter of inquiry from an external party, along with the written response provided, can at any time be used as evidence by outside parties to claim rights and sovereignty over the nation's territory.

"Careless and uninformed statements can be used by opponents and turn against oneself.

"Every action and decision regarding policy matters that involve national sovereignty and interests must be made carefully and in accordance with the law," the Commission said.