

# DR M NOT SUBJECT OF PROBE'

Ex-PM's judicial review application academic as RCI proceedings done, court told

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**T**HE Royal Commission of Inquiry (RCI) into the handling of issues related to the sovereignty of Batu Puteh, Middle Rocks and South Ledge never named Tun Dr Mahathir Mohamad as a subject of investigation, the High Court here heard yesterday.

Senior federal counsel Shamsul Bolhassan made this argument to dismiss Dr Mahathir's judicial review application to seek legal representation in the hearing that was completed last month.

"The term of reference is only for investigation and not for pointing fingers at Dr Mahathir,"

he said before judge Datuk Amarjeet Singh.

Shamsul said the former prime minister's judicial review application had become academic, as the RCI proceedings had been completed and the report submitted to the king last month.

The findings were scheduled to be presented and debated in Parliament next month.

However, Dr Mahathir's lawyer, Zainur Zakaria, argued that the application was not moot, as Section 18 of the Commissions of Inquiry Act 1950 was a legal requirement and failure to comply could invalidate the entire RCI proceedings.

The senior lawyer also submitted that the same section guaranteed the right of an individual under investigation to be represented by a lawyer throughout the entire proceedings.

"My client is the subject of the RCI, but was not allowed to be

represented by a lawyer during the closed-door proceedings."

The court set Oct 28 for a decision.

Dr Mahathir had filed the application through the Law Practice of Rafique, naming RCI chairman Tun Mohd Raus Sharif and his deputy Tan Sri Zainun Ali as the first and second respondents.



Tun Dr Mahathir Mohamad

The third to eighth respondents were RCI members Datuk Dr Baljit Singh Sidhu, Datuk Dr Johan Shamsuddin Sabaruddin, Professor Datin Dr Faridah Jalil, Datuk Mohammed Ridha Abd Kadir, Tuan Hai Dickson Dollah and commission secretary Zamri Misman.

Dr Mahathir was seeking a declaration that he was the individual being investigated by the RCI or was involved in matters being investigated by the commission under Section 18 of the Commissions of Inquiry Act 1950.

He is also seeking an order to

prohibit Raus from acting as the RCI chairman and disqualify Dr Baljit and Ridha from being members of the RCI.

However, on June 11, the same court dismissed Dr Mahathir's judicial review application, which sought, among others, to have the hearing opened to the public and the recusal of its panel members.

Dr Mahathir said Raus' appointment as RCI chairman posed a "real danger of bias" due to existing animosity between Raus and himself, which could affect the former's impartiality in making decisions for the proceedings.

On Feb 14, His Majesty Sultan Ibrahim, King of Malaysia, gave his consent to the establishment of the RCI.

In 2022, then prime minister Datuk Seri Ismail Sabri Yaakob said there was possible negligence and oversight on Dr Mahathir's part in the handling of the Batu Puteh claim.

Ismail Sabri said the cabinet was told by the special task force for the case that Dr Mahathir might have erred in withdrawing an application to review the International Court of Justice's

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award of Batu Puteh's sovereignty to Singapore.

Dr Mahathir subsequently said the withdrawal of the appeal was based on the advice of former attorney-general Tan Sri Mohamed Apani Ali's officers.

In 2008, the ICJ ruled that Batu Puteh belonged to Singapore, Middle Rocks to Malaysia and South Ledge to the state in the territorial waters in which it is located.

In June 2017, Malaysia applied to the international court for a review of its judgment. However, in 2018, the Pakatan Harapan government under the leadership of Dr Mahathir withdrew the application.