

NAJIB WINS ADDENDUM APPEAL

Court grants ex-PM
leave for judicial
review, case goes
back to High Court

RAHMAT KHAIRULRIJAL
PUTRAJAYA
rahmat@nst.com.my

DATUK Seri Najib Razak has been granted permission to initiate a legal bid to review the existence of an addendum order issued by the former Yang di-Pertuan Agong, which he claims allows him to serve the remainder of his jail sentence under house arrest.

A three-bench Court of Appeal panel led by Datuk Azizah Nawawi, in a split decision, also allowed the former prime minister to adduce additional affidavits to support his application.

Other members of the bench were Datuk Azhahari Kamal Ranli and Datuk Seri Mohd Firuz Jaffril.

Firuz said the evidence concerned was not available when they (the appellant) initially filed for leave to initiate a judicial review before the High Court last year.

"Reasonable and due diligence must be exercised to ensure that the evidence in question would influence the outcome of the case.

"This principle applies to everyone, regardless of stature, race or religion. It is the appellant's case that they could not procure the addendum for the purpose of the judicial review application.

"They (the applicant) had written to the six respondents seeking to confirm the existence of the addendum, but never received a response."

Firuz said the applicant, who received the purported addendum order, was seeking the consent of the sultan of Pahang to use the document in the judicial review application submitted on Dec 20.

"Without the consent, it was not possible for the applicant to file the addendum into court nor can the applicant compel the sultan to furnish the said addendum.

"The fact that there is no rebuttal affidavit from the respondent challenging the existence or the authenticity of the addendum order is rather compelling,"



Ex-prime minister Datuk Seri Najib Razak (centre) leaving the Palace of Justice in Putrajaya yesterday. BERNAMA PIC

he said.

Regarding Najib's appeal to reverse the lower court's decision to dismiss his leave to initiate the judicial review, the court stated that the issue of hearsay no longer stood due to the new evidence presented in this case.

The court also ordered the case to be remitted to the High Court for hearing of a substantive judicial review application.

Azizah, in her minority decision, said there was no appealable error made by the lower court in ruling that the evidence presented in the hearing was hearsay.

"A lower court judge found that the affidavit is inadmissible as the content was hearsay and not direct evidence.

"I believe in the finding of the High Court judge that there was no legal duty imposed on the respondents, particularly the part to confirm the existence of the addendum."

On the issue of adducing additional evidence by Najib's eldest son, Datuk Mohamad Nizar, Azizah said it could not be concluded that Nizar had failed to obtain the document, as he often met the ruler.

The court fixed Jan 13 for case management.

The addendum purportedly allowed Najib to serve the remainder of his six-year prison sentence under house arrest. Previously, the High Court had dismissed his application.

Among the new evidence ad-

duced by Najib's team was a letter from the Pahang Sultanate Council affirming the existence of the addendum order.

The letter, dated Jan 4, was addressed to Najib's eldest son, Nizar, by the Comptroller of the Royal Household of the Sultan of Pahang, Datuk Ahmad Khirrizal Ab Rahman.

Najib's lead lawyer, Tan Sri Muhammad Shafee Abdullah, produced the document while submitting Najib's application to adduce additional evidence.

The letter read:

"I respectfully inform that His Royal Highness Sultan of Pahang Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah, in his capacity as the 16th Yang di-Pertuan Agong, has decreed that Datuk Seri Najib Razak serve the remainder of his prison sentence through house detention via an addendum order dated Jan 29, 2024.

"In this regard, through this letter, I, on behalf of His Royal Highness Sultan of Pahang as the 16th Yang di-Pertuan Agong, hereby affirm that the said addendum decree of His Majesty is valid and authentic."

The appellate court's ruling clearly cheered Najib up, with Shafee saying his client had given a thumbs-up in court.

"From afar I saw he gave a thumbs up. He is hoping to see and start breathing again," he said.

Najib, in a Facebook post, said: "Praise be to Allah. Today, we take another step forward."