

# Bid by Najib on addendum remitted back to High Court

**PUTRAJAYA:** In a 2-1 majority decision, the Court of Appeal has remitted Datuk Seri Najib Abdul Razak's bid to the High Court for a hearing on its merits, regarding his claim of the existence of a royal addendum allowing him to serve the remainder of his six-year prison sentence under house arrest.

Justices Datuk Azhahari Kamal Ramli and Datuk Seri Mohd Firuz Jaffril allowed the former premier's appeal to overturn the High Court dismissal of his application for leave to commence a judicial review on the matter.

Justice Datuk Azizah Nawawi, who led the panel, dissented, stating the appeal had no merit.

Azizah also denied Najib's application to adduce additional evidence to support his claim whereas Azhari and Mohd Firuz allowed it.

Najib, 71, is appealing the Kuala Lumpur High Court decision on July 3 last year, which dismissed his application for leave to commence a judicial review of the purported addendum issued by the 16th Yang di-Pertuan Agong.

In delivering the decision, Mohd Firuz said the court took note of the reasoning of the High Court judge for dismissing the leave application, which was largely based on Najib relying on hearsay evidence.

"Premised on the new evidence admitted by the applicant, we find that the issue of hearsay can no longer stand.

"Bearing in mind that an applicant in a judicial review only needs to show that he or she has a good, arguable case premised on

> Premised on new evidence admitted by applicant, panel finds issue of hearsay can no longer stand

the fact that his interest or rights have been aggrieved and the case is not frivolous and vexatious, we are minded to allow the appeal.

"We order the matter be remitted to the High Court for a hearing of the substantive judicial review application."

Regarding the application to adduce additional evidence, Mohd Firuz noted that Najib had written to respondents seeking confirmation of the existence of the addendum order but they did not respond.

"The High Court judge had decided that the information obtained from these various sources were hearsay."

Azizah, in her minority decision, said there was no appealable error made by the High Court in ruling that the evidence presented in the hearing was hearsay, Bernama reported.

"I agree with the finding of the High Court judge that there is no legal duty imposed on the respondents, particularly the Pardons Board, to confirm the existence or produce any order related to the exercise of the power of pardon."

She said neither the written law nor the Federal Constitution contains any provision requiring the Pardons Board to confirm or disclose the existence of a

pardon order, including the addendum order.

Earlier during proceedings, Najib's counsel Tan Sri Muhammad Shafee Abdullah produced a letter from the Pahang Sultanate Council regarding the addendum while submitting the application to present additional evidence.

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

Senior federal counsel Shamsul Bolhassan, representing the government and other respondents, said the addendum was never discussed or brought up during the Federal Territory Pardons Board 61st meeting on Jan 29 last year.

"The main order, as announced in February, had agreed to reduce Najib's jail sentence from 12 years to six, and the fine from RM250 million to RM50 million.

"That (main order) is the only one signed and sealed by the 16th Yang di-Pertuan Agong Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah and this order was directed to the then minister."

Meanwhile, Home Minister Datuk Seri Saifuddin Nasution Ismail said the Prisons Department has never received any directive

from the Federal Territories of Kuala Lumpur, Labuan and Putrajaya Pardons Board to allow Najib to serve the remainder of his prison sentence under house arrest.

He said on Feb 2 last year, the Prisons Department only received meeting minutes and an order to implement the decision made by the board during its meeting on Jan 29, 2024.

He added that the directive, signed by Al-Sultan Abdullah and witnessed by Minister in the Prime Minister's Department (Federal Territories) Dr Zaliha Mustafa, merely instructed the Prisons Department to reduce Najib's prison sentence to Aug 23, 2028 and cut his fine to RM50 million.

The order also stated that if the fine is not paid, the prison sentence will be extended by another year, making his release date Aug 23, 2029, he said.

"The letter received by the Prisons Department does not mention house arrest. As a department tasked with implementing the directive, the Prisons Department must act with integrity in executing the order.

"It is important to clarify that the Home Ministry and the Prisons Department have not concealed any decision made by the Pardons Board or failed to comply with it. We only act based on authentic and official directives, as received," Saifuddin Nasution said during a special press conference yesterday.

"With this, I hope to make it clear that the Home Ministry has fully carried out Tuanku's (Al-Sultan Abdullah's) directive. Any claims to the contrary are untrue."