

Kedah's Siputeh not vacant, Appellate Court rules
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PUTRAJAYA, Aug 18 — Kota Siputeh state seat in Kedah is not vacant, the Court of Appeal here ruled today.

Datuk Ramly Ali leading a three-man panel allowed the appeals by Datuk Abu Hassan Sarif — who now remains as the seat's assemblyman — and the Election Commission, Bernama Online reported.

The decision reverses the Kuala Lumpur High Court declaration that that the seat was vacant in lieu of Abdul Hassan missing two state assembly meetings in 2009.

Justices Datuk Linton Albert and Datuk Aziah Ali were in unanimity with Justice Ramly. The panel agreed with the submission but did not give their grounds.

Assembly Speaker Datuk Dr Abdul Isa Ismail's oral application for a stay order of the decision so he may raise the matter to the Federal Court was rejected by the court. He was asked to submit a formal stay application.

It rejected too Abdul Isa's cross-appeal against the ruling by High Court for not issuing him a writ of quo warrant to request Abu Hassan to show under which authority he was qualified as Kota Siputeh representative.

Abu Hassan was awarded RM5,000 in cost while the ED did not seek any accost.

On November 16 2009 High Court judge Datuk Alizatul Khair Osman Khairuddin — now with the Court of Appeal — allowed Abdul Isa's judicial review to declare Abu Hassan ceased to be assemblyman and instruct the EC to hold a by-election.

The appellate court on November 24 2009 however granted EC's application to stay the High Court order for a by-election pending an appeal to the Court of Appeal.

Separately Abdul Isa on October 1 2009 filed the judicial review after the EC accepted Abu Hassan's medical certificate and decided the Kota Siputeh seat was not vacant.

Abdul Isa's application claims Abu Hassan failed to attend two consecutive meetings of the state assembly — April 19 and August 9 2009 — without consent from the Kedah Assembly Speaker.

In today's proceedings, Senior Federal Counsel Amarjeet Singh on behalf of the EC argued the interpretation of "two consecutive meetings".

For him Abu Hassan did not fail to show up for "consecutive meetings" under the Kedah Constitution as the said meetings were held in different assembly sessions.

Datuk Mohd Hafarizam Harun on behalf of Abu Hassan stated his client was ill and received treatment in a clinic. There was a diagnosis of chest pain caused by exertion and was given two days of medical leave.

He said that the Kedah Speaker was unfair by neither accepting or rejecting Abu Hassan's explanation letter, and went on to saying the expeditious manner of the Speaker to want a

by-election was questionable.

Sulaiman Abdullah on behalf of Abdul Isa submitted that his client was in the right to declare the vacancy as there was no question that Abu Hassan did not receive leave to absent himself from those meetings.

Hafarizam — Umno's legal adviser — told court reporters after the verdict that he was grateful that his client finally saw justice after being deprived of assemblymen allowances since 2009.

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