

**Abu Hassan Is Still Kota Siputeh Assemblyman, Rules Appellate Court  
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PUTRAJAYA, Aug 18 (Bernama) -- The Court of Appeal here Thursday ruled that the Kota Siputeh state seat in Kedah is not vacant and that Datuk Abu Hassan Sarif remains its assemblyman.

A three-man panel headed by Datuk Ramly Ali allowed the appeals by Abu Hassan and the Election Commission to reverse the decision of a Kuala Lumpur High Court declaring the seat vacant following Abdul Hassan's absence from two state assembly meetings in 2009.

The decision was unanimous by the panel comprising Justices Ramly, Datuk Linton Albert and Datuk Aziah Ali. Justice Ramly said the court agreed with the submission given by the EC and Abu Hassan. They did not give their grounds.

The court rejected the oral application of Kedah Assembly Speaker Datuk Dr Abdul Isa Ismail for a stay order of the decision to allow him to bring the matter up to the Federal Court. It told him to make a formal stay application.

The court also dismissed Abdul Isa's cross-appeal against the High Court's ruling in not issuing him a writ of quo warranto to request Abu Hassan to show under what authority he was qualified to be the Kota Siputeh state assemblyman.

The court also awarded RM5,000 in cost to Abu Hassan. The EC did not request for cost.

Then High Court judge Datuk Alizatul Khair Osman Khairuddin (now Court of Appeal judge) had on Nov 16 2009 allowed Abdul Isa's judicial review to declare Abu Hassan no longer the assemblyman for the seat and ordered the EC to hold a by-election for that seat.

On Nov 24 2009, the appellate court granted the EC's application to stay the High Court's order that a by-election be held, pending today's appeal.

Abdul Isa filed the judicial review on Oct 1 2009, after the EC accepted Abu Hassan's medical certificate and decided that there was no vacancy of the Kota Siputeh seat and that Abu Hassan was still the assemblyman.

In his application, Abdul Isa claimed that Abu Hassan failed to attend two consecutive meetings of the state assembly on April 19 and Aug 9, 2009, without leave from the Kedah Assembly Speaker.

In the appeal proceedings today, Senior Federal Counsel Amarjeet Singh representing the EC argued on the interpretation of the phrase "two consecutive meetings".

He said the two meetings in which Abu Hassan failed to attend did not construe as "consecutive meetings" under the Kedah Constitution as the meetings were held in different sessions of the assembly.

Abu Hassan's counsel Datuk Mohd Hafarizam Harun submitted that his client was sick which was evident from the clinic he sought treatment. The diagnosis on him was chest pain on exertion and he was given two days medical leave.

He said the Kedah Speaker acted unfairly against Abu Hassan when he neither accepted nor rejected the explanation letter from Abu Hassan, adding that the speed and manner with which the Kedah Speaker was pushing for by-election was questionable.

Sulaiman, meanwhile, submitted that his client (Abdul Isa) was correct to declare the seat vacant as there was no doubt that he did not give leave to Abu Hassan to be absent from the meetings.

After the verdict, Hafarizam, who is Umno legal adviser, told reporters outside the court that he was grateful that justice was finally done to his client who has been deprived of allowance as assemblyman since 2009.

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