

Bersih says court denied constitutional right of overseas voters
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KUALA LUMPUR, Jan 7 — Bersih has said it is unconstitutional for the High Court to dismiss yesterday the application of six Malaysians residing in Britain to be registered as absent voters.

The electoral reform movement said in a statement last night the High Court here “failed to uphold the constitutional right” of “not just the six applicants but up to approximately 700,000 overseas Malaysians.”

Judge Datuk Rohana Yusuf had ruled that the applicants “clearly” did not come under the allowed absent voter category.

The Elections (Registration of Electors) Regulations 2002 define “absent voters” as citizens who are members of the armed forces, public servants, full-time students, or their spouses who are allowed to cast postal votes.

But Bersih said Article 119 of the Federal Constitution clearly defines an absent voter as any qualified and registered voter who is not a resident in his or her constituency.

“It is the duty of the Election Commission (EC) to uphold the democratic rights of all citizens of Malaysia. However, the EC has failed to uphold the right to vote of overseas Malaysians,” the coalition of 62 NGOs said.

Bersih, whose July 9 rally last year drew tens of thousands of supporters to march for free and fair elections in the capital, insisted that reform of absentee voting is of “utmost importance” and called on the EC to immediately amend election regulations to “enfranchise all overseas Malaysians.”

Rohana said yesterday the six were not challenging the validity of Regulation 2 of the Elections Act, which defines the term “absent voter” but instead disputed a “perfectly valid” decision of the EC.

On October 25 last year, the plaintiffs applied for judicial review to compel the EC to register them as absent voters in the next general election.

They had sought a declaration that, as Malaysians staying abroad, they were entitled to be registered as absent voters, and directed the EC, named as the sole respondent, to register them.

They also sought to quash a decision by the EC, which notified them in a letter dated September 9 the same year, that it would not register them as “absent voters”.

“The application, in my view, is ludicrous and bordering on an abuse of the court process,” Rohana had ruled.

The government set up a parliamentary select committee to improve elections after international condemnation of its clampdown on the July 9 rally which saw over 1,500 arrests, scores injured and the death of an ex-soldier.

But opposition leaders, who strongly supported the march, have threatened further protests if electoral reforms including eight key demands by Bersih are not implemented before the next general election.

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