

**Kota Siputeh Seat: Kedah Speaker Obtains Leave To Appeal
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PUTRAJAYA, Jan 30 (Bernama) -- The Federal Court here today gave the green light to Kedah Legislative Assembly Speaker Datuk Dr Abdul Isa Ismail to appeal against a Court of Appeal decision reinstating Datuk Abu Hassan Sarif as Kota Siputeh assemblyman.

Court of Appeal president Tan Sri Md Raus Sharif, chairing a five-man panel, allowed Abdul Isa's application for leave to appeal on one legal question.

The other four judges on the panel were Chief Judge of Malaya Tan Sri Zulkefli Ahmad Makinuddin and Federal Court judges Tan Sri Abdull Hamid Embong, Datuk Suriyadi Halim Omar and Datuk Hasan Lah.

The question which the Federal Court would have to determine in the appeal is whether on a true interpretation of Article 51 of the Kedah Constitution on the absenteeism requirement, in order to render a seat vacant, two consecutive meetings refer to two consecutive meetings in one session or two consecutive meetings simpliciter (per se).

The outcome of the appeal would affect the constitutions of Perlis and Johor because the provision in the Kedah state constitution on absenteeism of a elected representative is similar to the constitutions of Perlis and Johor.

On Aug 18 last year, the Court of Appeal reversed the decision of the Kuala Lumpur High Court declaring the Kota Siputeh state seat vacant after ruling that Abu Hassan was absent for two consecutive state assembly meetings in 2009.

In allowing the appeal brought by Abu Hassan and the Election Commission (EC), the three-member Court of Appeal panel chaired by Justice Datuk Ramly Ali held that Abu Hassan's absence for two days were not two consecutive meetings. Abu Hassan was reportedly absent from the assembly on April 19 and Aug 9, 2009.

The Court of Appeal held that the proclamation form on July 1, 2009, declared that the Aug 9 meeting would be the first meeting of the second session and had, in fact, terminated the first session of the assembly.

Abu Hassan had submitted to Abdul Isa his explanation and medical certificate for his absence but the speaker had rejected them.

Abdul Isa had taken the position that his (Abu Hassan's) absence from two consecutive meetings was without leave of the speaker as required under Article 512 of the Kedah Constitution.

The speaker then declared the seat vacant and wrote to the EC to hold a by-election but the EC refused.

The EC accepted Abu Hassan's medical certificate and decided that Abu Hassan's absence

on two consecutive occasions did not warrant a casual vacancy.

Abdul Isa then filed a judicial review application to challenge the EC's decision.

Abdul Isa was represented by a team of lawyers led by Sulaiman Abdullah. The EC was represented by Senior Federal Counsel Amarjeet Singh and Abu Hassan by Datuk Hafarizam Harun.

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