

It's official, Pakatan goes to court to dismiss all GE13 results
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Pakatan Rakyat today went for the jugular – asking the High Court to set aside results of all 222 parliamentary seats in GE13, disband the discredited Election Commission and order fresh polls.

This unprecedented move, probably the first in any Commonwealth country, was made necessary because the indelible ink fiasco caused massive cheating, destroyed the integrity of GE13, and deprived the opposition pact of a legitimate opportunity to form the federal government of Malaysia, said Pakatan Rakyat in a suit which was filed this morning.

It noted that some 30 parliamentary seats were lost by Pakatan Rakyat by fewer than 10 per cent of the votes.

“Therefore even if a small percentage of dishonest voters were able to wrongfully vote more than once because of the deliberate failure of the EC to implement indelible ink, they were sufficient to affect the results in a significant number of seats,” said the opposition in a statement of claim.

Copies of the statement of claim were distributed to the media at a press conference in the Parliament lobby.

In addition to zooming in on the many instances in which the full-proof ink was washed away with relative ease, the plaintiffs PKR, DAP and PAS also trained their guns on seven members of the EC. Each of them is being sued in their personal capacity and will have to pay exemplary damages if they lose.

In addition to the three Pakatan Rakyat political parties, other plaintiffs to this action are opposition candidates Dzulkefly Ahmad, M. Manogaran, Saifuddin Nasution, Arifin Rahman and R. Rajoo, who all lost by narrow margins.

In a detailed claim, the plaintiff painted a picture of an EC whose partisanship and bias towards Prime Minister Datuk Seri Najib Razak and the Barisan Nasional in the run-up to the polls caused it to lose public confidence and stray far away from its stated objectives, as laid out in the Constitution, namely, to be independent and impartial to all political parties.

The plaintiffs argued that the EC chairman Tan Sri Abdul Aziz Mohd Yusof and his deputy, Datuk Wan Ahmad Wan Omar, are accustomed to accepting instructions from the Prime Minister and members of the Cabinet, thereby shattering any semblance of neutrality.

But the spine of Pakatan Rakyat's case against the EC was the indelible ink fiasco in GE13. It lay the blame squarely on the commission for the deliberate and fraudulent failure of the ink that allowed voters to vote more than once.

The plaintiffs noted that Abdul Aziz assured Malaysians that the ink would contain 4 to 7 per cent of silver nitrate and would last for at least 7 days. This assurance was especially important in the case of advance voting, which took place on April 30, five days before polling day.

“A key mechanism to prevent such multiple voting was the use of indelible ink on all

advance voters which had to remain on their finger until 5 pm on May 5, 2013, when polls closed," the statement of claim read.

But numerous police reports were lodged that the advance voters easily removed the ink by using petrol, alcohol swabs and even soap. In addition, not a single EC returning office informed the EC Secretary of the systemic failure of the ink during the advanced voting phase and this "clearly infers that this was an instruction for the EC in order to cover up fraud", the claim said.

Two days before the polls, on May 3, opposition politicians Tian Chua and Nurul Izzah visited the EC's office in Putrajaya and requested the list of those who had voted on April 30, to independently verify if any multiple voting was going to take place on May 5. They also wanted the ink to be checked by an independent laboratory. But the EC did not accede to the requests.

Instead, Abdul Aziz threw a curve ball, announcing that the ink in Malaysia contained only 1 per cent silver nitrate.

"The EC dishonestly, maliciously and willfully decided to reduce the level of silver nitrate in the indelible ink to enable it to be easily washed off so that dishonest voters could vote more than once," the plaintiffs contended.

Abdul Aziz and other defendants tried to explain the lower level of silver nitrate, saying that a higher level of the silver nitrate would cause internal organ failure. Therefore, herbal ingredients had been used. But the Health Minister Dr S. Subramaniam on June 6 denied that his ministry had been asked to provide a safety report on the ink as alleged by the EC. In addition, a voter, a chemist by training, disputed that silver nitrate was a health hazard.

To top off this alleged double talk and half-truths about the silver nitrate, Tan Sri Shahidan Kassim, the Minister in the Prime Minister's Department, said that food dye instead of silver nitrate was used in the indelible ink.

As a result of fraudulent or dishonest conduct on a massive scale, as many as hundreds of thousands of voters washing off ink from their fingers and re-voting completely changed and polluted the election process in all 222 constituencies, the plaintiffs said.

The EC aided and abetted voters to vote more than once.

In addition to wanting the High Court to nullify GE13 and call for fresh elections, it also sought that:

- * all the EC members be removed from office because of their fraudulent behaviour.
- * that until the results of a fresh general election are known, the Federal Government shall remain in office as a caretaker government.
- * each of the defendants pay exemplary and general damages to the plaintiffs but without recourse to the Consolidated Fund. – July 15, 2013.

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