

Court To Decide July 24, Objection To BN's Petition For Batu Seat
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KUALA LUMPUR, July 22 (Bernama) -- The Election Court has set July 24, on whether to strike out or go for full trial, the election petition filed by Barisan Nasional (BN) candidate Dr Dominic Lau Hoe Chai to nullify the 13th General Election result for the Batu parliamentary seat.

Election Court Judge Datin Zabariah Mohd Yusof today set the date after hearing submissions on preliminary objection (PO) by counsel Edmund Bon, representing Chua Tian Chang, better known as Tian Chua, and senior federal counsel Amarjeet Singh representing the returning officer for Batu and the Election Commission.

Datuk Mohd Hafarizam Harun acted for Lau.

At the outset, Bon had raised 10 grounds on why the election court should uphold PO raised by his client under the Election Petition Rule (EPR) 1954, as well as to strike out the petition.

Among the grounds were that the election petition was filed not by advocates for the petitioner but by a firm of solicitors, namely Messrs Raja Riza & Associates.

He submitted that the firm was not appointed under Rules 9 and 34 of the EPR, and neither was a firm of solicitors capable of being appointed under the EPR.

"The election petition was filed by an unauthorised practitioner, where Rule 9 of the EPR clearly stated that either the petitioner himself or his advocate file the petition," he said.

Bon contended that the petitioner had also failed to serve the notice of the petition personally to the first respondent (Tian Chua).

Mohd Hafarizam countered that under Rule 9 and 34 of the EPR, it did not specify any requirement for the petition to be filed by the petitioner or his advocates personally.

"Rule 34 of the EPR merely provides that upon appointment of an advocate, the said advocate shall also immediately leave a written notice at the office of the Registrar," he said.

Amarjeet urged the court not to strike out the petition but hear the merit of the petition, by way of full trial.

He said this especially, on the interpretation of Article 48(1)(e) of the Federal Constitution on the disqualification of any convicted member of parliament (MP).

Article 48(1)(e) of the Federal Constitution states that an MP is disqualified if sentenced to jail for a term of not less than one year or is fined not less than RM2,000, and has not received a pardon.

In 2009, the Magistrate's Court sentenced Tian Chua to six months' jail and fined him RM3,000 for injuring a policeman in 2007.

However, the PKR member of parliament succeeded in his appeal to the High Court to reduce the fine to RM2,000.

Earlier, Zabariah also dismissed the PO by petitioner (Lau) to Tian Chua's PO, with RM5,000 costs.

In the general election, Tian Chua defeated Lau by a majority of 13,284 votes.

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