

BN Maintains Victory In Titiwangsa After Court Strikes Out Petition
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KUALA LUMPUR, July 24 (Bernama) -- Barisan Nasional (BN) today maintained its victory in the Titiwangsa parliamentary seat after the Election Court struck out a petition filed by PAS to nullify the 13th General Election (GE13) result.

Justice Datin Zabariah Mohd Yusof ruled that the petition filed by voter Rusli Yasmin was defective as it was non-compliant with Rule 4 of the Election Petition Rules 1954 (EPR).

"There is, thus, a failure to comply with the requirements of Rule 4(1)(b) of the EPR and the consequence of such failure would render such petition defective," she said.

Zabariah made the ruling after allowing the preliminary objection (PO) raised by Titiwangsa returning officer (RO) Abdul Halim Ismail, the Election Commission (EC) and the constituency's member of parliament (MP), Datuk Johari Abdul Ghani.

She also held that Rusli had failed to state facts to support the allegations of non-compliance that affected the result of the election as required by Section 32(a) and (b) of the Election Offences Act (EOA) 1954.

She ordered Rusli to pay RM40,000 to the RO and the EC, and another RM30,000 to Johari.

In an eight-page judgment, the election judge also held that the complaint by the petitioner that the ink used on the finger of voters in the general election was easily washed off, could not be facts that supported the non-compliance of any written law.

"There is no link/nexus of the facts stated in the petition with the regulation cited by the petitioner which the petitioner claimed that the respondents failed to comply," she said.

In the GE13, Johari defeated PAS candidate Ahmad Zamri Asa'ad Khuzaimi with a majority of 866 votes.

In another case, Zabariah also struck out the election petition filed by BN candidate Dr Dominic Lau Hoe Chai to nullify the 13th GE result for the Batu parliamentary seat on the grounds that it was defective.

Zabariah ordered Lau, as the petitioner, to pay RM50,000 in costs to Batu MP Chua Tian Chang, better known as Tian Chua, who was the first respondent in the case.

In the petition, Lau had named Tian Chua, the returning officer for Batu Mustafa Mohd Nor and the EC as respondents.

In allowing Tian Chua's PO against the petition, the judge said the petition was filed, not by the petitioner or an advocate duly authorised by him, and that was in contravention to Rule 9 and Rule 34 of the EPR, which only allowed the petitioner or his advocate to file it.

"The failure of the petition to comply with this rule is fatal, in that the jurisdiction of the Election Petition Court has not been properly invoked. Therefore, premised on this ground alone, the petition is struck out and dismissed," she said.

Zabariah also said there was no proper service of the petition to the respondents, pursuant to Rule 15(1)(c) of the EPR, and therefore, the petition was defective based on this ground.

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

Meanwhile, Zabariah set next Thursday to deliver decision on the election petition for the Lembah Pantai constituency brought by a voter from the constituency, Mohamad Sazali Kamilan.

Among the complaints raised by the petitioner was on the issue of the PKR candidate allegedly disturbing voters of Lembah Pantai by giving a false statement, via a news portal on May 4, urging them not to vote for BN candidate, Datuk Raja Nong Chik Raja Zainal Abidin.

Nurul Izzah Anwar (PKR) won the seat with a 1,847-vote majority.

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