

**No legal requirement to request for more names to appoint MB, say legal experts**

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The sultan of Selangor will be seen as acting outside the state constitution for requesting more names when it is clear that the majority of assemblymen support Datuk Seri Dr Wan Azizah Ismail as menteri besar, constitutional law experts and a lawyer said.

The legal experts said Pakatan Rakyat (PR) leaders and its assemblymen had acted within the law in standing firm with Dr Wan Azizah as their only candidate.

Associate Professor Dr Azmi Sharom of the University of Malaya law faculty said the state constitution stated that the ruler shall appoint an MB, a member of the legislative assembly, who in his judgment is likely to command the confidence of the majority assemblymen.

"The sultan must be guided by the state law," he added.

Azmi said the written constitution came first and in Selangor, there was a document for guidance.

"If the house clearly has confidence in one person then that is the candidate who should be appointed."

He said this in response to Tan Sri Abdul Khalid Ibrahim's statement yesterday that PR had to submit more than two candidates to the palace to replace him.

PR has submitted Dr Wan Azizah's name to the palace although component party PAS has refused to endorse her. She is also awaiting an audience with the sultan.

The Kajang assemblyman has the support of 29 of the 56 assemblymen in the state legislature to take the top job in the country's wealthiest state.

Lawyer Syahredzan Johan said the sultan had the discretion but added this was only limited to a situation where it was unclear who commanded the confidence of the majority.

"Where it is clearly established that one assemblyman commands the majority, then that person must be appointed," he said.

Accordingly, he said it should be Dr Wan Azizah who is the rightful menteri besar because she commanded the support of 29 others.

He added that by convention, the ruler only appointed his head of government from a coalition that had won the most seats.

"It is PR in Selangor," he said.

On August 14, Dr Wan Azizah showed proof that 30 elected representatives were supportive of her to replace Khalid.

The Selangor assembly comprises 56 members – DAP (15), PAS (15) PKR (13) Barisan Nasional (12) and Khalid as independent.

Two PAS assemblymen have openly voiced their support for Dr Wan Azizah

for the MB's post.

Syahredzan said he understood that the sultan of Selangor as a matter of practice had asked for more than one name in the past but added it was not "a procedural requirement" to give more than one name.

"The matter is settled if the majority insist on one person to be appointed MB," he said, adding that PR could stick to one name and be acting within the ambit of the law.

Professor Gurdial Singh Nijar of University of Malaya's Law Faculty said the Selangor MB imbroglio had been decisively solved but only partially by the sultan with the resignation of Khalid.

He said the statement from the palace suggesting that the request for more than two names was based on existing conventional practice.

He also said the Selangor constitution mirrored identical provisions in the Federal Constitution.

Gurdial said the Federal Constitution was based on the United Kingdom Westminster model and that it might be instructive to reflect on the UK practice in the choice of a prime minister when the incumbent resigned.

"In reality, the Queen's prerogative is governed by the fundamental constitutional convention grounded in political necessity that she must appoint as PM the man or woman who can form a government which will have the confidence of the house.

"Normally this convention clearly indicates the party leader, who having majority support in the house, has an indisputable claim to be appointed,"

he said.

Gurdial said in cases where parties have their own arrangement for electing a successor, there was no room for the exercise of discretion by the Queen.

"The golden rule is not to draw the monarch into controversy or political negotiations," he said. – August 27, 2014.

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