

PAS, DAP, PKR Fail To Nullify GE13 Results
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PUTRAJAYA, June 18 (Bernama) -- The Federal Court Thursday dismissed the bid by PAS, the DAP and PKR to nullify the 13th general election results in all 222 parliamentary constituencies.

Chief Justice Tun Arifin Zakaria, chairing a five-member panel, said the claims by the three opposition parties, which questioned the conduct of the Election Commission, were inextricably connected with the conduct of the elections and therefore fell under Article 118 of the Federal Constitution.

The Article states that questions of conduct related to general elections can only be challenged through an election petition and such petitions need be heard before a specialised Election Court.

With the ruling, any allegation of misconduct of elections must be filed by way of an election petition and be heard at the Election Court and not in a civil court.

In this case, the opposition parties had filed their case through civil suit at the Kuala Lumpur High Court, noted the panel, whose other members were Court of Appeal president Tan Sri Md Raus Sharif and Federal Court judges Tan Sri Abdull Hamid Embong, Tan Sri Hasan Lah and Tan Sri Zainun Ali.

In a unanimous decision, the panel denied the three leave to appeal against a Court of Appeal ruling with no order as to costs.

PAS, the DAP and PKR had sought leave to appeal to the Federal Court against the Court of Appeal ruling which rejected their appeal to reinstate their civil suit against the EC.

On Feb 7 last year, the Court of Appeal in a majority 2-1 decision upheld a High Court decision allowing the EC's application to strike out the suit filed against them by PAS, the DAP and PKR, the three parties in the Pakatan Rakyat opposition pact.

The majority decision on Nov 7 last year held that the three parties should proceed with their challenge by way of election petition at the Election Court.

Panel head Justice Datuk Alizatul Khair Osman Khairuddin said the civil court did not have the jurisdiction to hear an election case and the application seeking removal of election commissioners.

Justices Alizatul and Datuk Rohana Yusuf gave the majority decision while Justice Dr Prasad Sandosham Abraham dissented, saying that the High Court had the jurisdiction to hear any allegation of breach of constitutionality against the EC.

PAS, DAP, PKR and five individuals, Dzulkefly Ahmad, M. Manogaran and Saifuddin Nasution Ismail, who were candidates in the general election, and two voters, Arifin Abd Rahman and R. Abbo, filed the suit in July 2013 against the EC chairman Tan Sri Abdul Aziz Mohd Yusof, his then deputy Datuk Wan Ahmad Wan Omar and five other members of the commission.

Among others, the political parties wanted a declaration that the results announced by the EC at the conclusion of 13th general election held on May 5 2013 for all 222 parliamentary seats were null and void.

They sought the removal of the current EC leadership and fresh polls to be conducted and for a declaration that the EC members had practiced fraud on the Malaysian electorate by the misuse of indelible ink for voting.

Counsel Tommy Thomas represented the three opposition parties while Senior Federal Counsel Amarjeet Singh appeared for the EC.

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