

Gani's removal was constitutional, says new A-G
The Malaysian Insider
July 29, 2015

Tan Sri Abdul Gani Patail's removal as Attorney-General (A-G) was done in accordance with the Federal Constitution, which no longer requires a tribunal to decide on his service, a statement from the top prosecutor's office said today.

The statement, signed by new A-G Tan Sri Mohamed Apandi Ali (pic), said the article in the constitution requiring a tribunal to decide on the removal of an A-G, had been substituted by a new clause.

"Under the existing Clause (5) of Article 145, the Attorney-General holds office during the pleasure of the Yang di-Pertuan Agong," Apandi said.

"In the interest of the administration of justice, it is important that the public is not misled into thinking otherwise."

Several opposition lawmakers, including DAP Parliamentary leader Lim Kit Siang, lawyers Gobind Singh Deo and Ramkarpal Singh, have suggested that Gani's dismissal was unconstitutional, citing Clause (6) of Article 145 of the Federal Constitution.

They interpreted Article 145(6) as stating that a tribunal must be set up to remove an A-G, a procedure similar to vacate a Federal Court judge.

However, Apandi said that this procedure of removing an A-G only applied to those appointed to the post before September 16, 1963. Gani was appointed the A-G in 2002.

"Clause (6) of Article 145 of the Federal Constitution does not apply as it is a savings provision which only applied to the incumbent Attorney-General at the material time when the amended Article 145 came into force.

"This is clearly stated in Clause (6) of Article 145. The Attorney-General at the time was Cecil M. Sheridan who served as Attorney-General from 1959 to 1963."

Apandi also denied that Gani's removal violated the safeguards on dismissal and reduction in rank that is contained in Article 135 of the Federal Constitution.

This is because Clause (4)(b) of Article 132 states that Article 135 does not apply to the office of the A-G, he said.

"In any case, Tan Sri Abdul Gani Patail has neither been dismissed from nor reduced in rank in the Judicial and Legal Service," he added.

Apandi, formerly a Federal Court judge, was named the new A-G yesterday, replacing Gani who is reportedly suffering from a kidney ailment.

Gani, however, was reported in the media saying he did not know of his dismissal.

Gani's removal comes in the midst of the special task force's investigation into 1Malaysia Development Bhd (1MDB). His termination has fanned speculation that it was done to disrupt the investigations, as he is one of the four key members of the task force.

Besides probing into alleged financial scandals at 1MDB, the task force is also investigating allegations that funds from 1MDB-linked entities were channeled into Prime Minister Datuk Seri Najib Razak's personal accounts. – July 29, 2015.

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