

Suspension of The Edge Weekly, The Edge Financial Daily illegal, court told
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The Home Ministry's suspension of the The Edge Weekly and The Edge Financial Daily for three months on grounds they carried undesirable reports is illegal as the order was not published in a gazette, the High Court heard today.

Lawyer Darryl Goon said under Section 7(1) of the Printing Presses and Publications Act (PPPA) 1984, an undesirable publication could only be prohibited by order of the minister published in a gazette.

"This was not done so in this case, therefore, the suspension is illegal because there was no breach of Section 7(1)," he said in his submissions.

Goon, who is appearing for the newspapers' publisher, The Edge Communications Sdn Bhd, told judge Datuk Asmabi Mohamad the decision to suspend was illegal and ultra vires, and was also unconstitutional.

He said under the constitution, the only permissible restriction to the right to freedom of speech and expression are if it was in the interest of:

- * the security of the federation, friendly relations with other countries and public order and morality; and

- * to protect the privileges of Parliament.

"None of the grounds given by the minister come within the ambit of these permissible restrictions," he said in the judicial application to challenge the suspension.

The Home Ministry on July 24 suspended the publishing permits of both publications for three months from July 27.

A letter from the ministry stated that the papers' coverage of the 1Malaysia Development Berhad (1MDB) scandal was "prejudicial or likely to be prejudicial to public order, security or likely to alarm public opinion or is likely to be prejudicial to public and national interests".

This is the first time a publisher is seeking legal recourse following the suspension for its coverage of debt-ridden 1MDB.

Ministry secretary-general Datuk Alwi Ibrahim in a statement on July 24 said the suspension of the publications was made after the ministry had scrutinised their reports on 1MDB and the reply to the show-cause letter issued earlier.

The ministry gave three reasons for suspending the publications, which it said, violated Section 7(1) of the PPPA.

It said the headings and reporting by the two publications had raised questions and created negative public perceptions towards 1MDB, a Finance Ministry-owned firm, and implicating the government and national leaders.

Second, it also found the reports to be based on doubtful and unverified information, which it said might alarm public opinion and might be prejudicial to public order and national interests.

Third, the ministry said the 1MDB issue was being investigated by a special task force and it was, therefore, inappropriate for reportage on the issue to create negative perceptions.

Goon said the suspension was a breach against natural justice and the publisher was not given a reasonable opportunity to be heard.

"They were not told which articles were the subject matter of the complaint despite The Edge having published over 300 reports on 1MDB."

He said the suspension was irrational because no reasonable minister could have come to the conclusion that the articles on corporate governance were prejudicial to public order and national security.

Goon said the publisher was entitled to damages for the minister's abuse of his public office and constitutional compensation for violating the freedom of speech and expression.

Senior federal counsel Alice Loke Yee Ching said the duty of the court was only to ascertain whether the minister was reasonable in issuing the suspension order.

"It is not the function of the court to substitute the view of the minister," she said.

Loke said the newspapers carried speculative reports that there was financial mismanagement in 1MDB and their sources included Sarawak Report.

She said the headlines were provocative and mischievous and the minister had to issue the suspension order because of the negative sentiments it painted on the national leadership.

Loke said it was preposterous for the court to award damages to the publisher because there was no evidence the minister had acted in bad faith.

"The floodgates will be opened and damages will be sought each time the minister's decision is challenged."

Asmabi reserved judgment on September 21. – September 7, 2015.

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