

Bar remains mum on Sri Ram as Anwar's lead counsel

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The Malaysian Bar will reserve its comments on retired judge Datuk Seri Gopal Sri Ram appearing as lead counsel for Datuk Seri Anwar Ibrahim in the sodomy appeal as the proceedings are ongoing.

"The Malaysian Bar will make no further comment while the hearing of the appeal is ongoing in the Federal Court," its president, Christopher Leong, said in a statement today.

He said the Bar was concerned that justice might not be done or might not be perceived to be done.

Sri Ram's appearance as Anwar's counsel caused a stir among a group of lawyers and individuals who yesterday questioned the Bar's resolution which prohibited an ex-judge from appearing as counsel.

The group, who included lawyer Datuk Zulkifli Noordin, wanted the Bar Council to take a stand on the position of Sri Ram who retired as Federal Court judge in 2010.

They said the resolution was passed by the Malaysian Bar in its annual general meeting last March in response to Sri Ram from acting in a constitutional case.

"Yesterday, and suddenly out of the blue, we hear that Sri Ram has agreed to act for Anwar and the Malaysian Bar president maintains a deafening silence," the statement said.

It said the Bar's stand could only be described as hypocritical in the face of the actions of Sri Ram and that the Bar failed to comply with its own resolution.

Leong today said the Bar read with interest and amusement some of the recent comments with respect to retired judges appearing in court as counsel.

"The stance of the Malaysian Bar on this issue is as stated in the resolution passed at our AGM held on 15 March 2014. The resolution is clear and speaks for itself."

He said notwithstanding the concerns of the Bar, which were articulated in court, the Federal Court had ruled that there was nothing in law that stopped a retired judge from appearing as counsel in court.

He said the Bar also noted the controversies involving the propriety or otherwise of the appointment and appearance of Umno lawyer Tan Sri Muhammad Shafee

Abdullah as lead prosecutor in Anwar's appeal.

"Again, the Federal Court has decided that there is nothing improper in this regard."

The Bar in March passed a resolution that a retired judge of the superior courts should be prohibited from appearing as counsel in court.

The resolution called on the incoming Bar Council to propose an amendment of the Legal Profession Act 1976 to the Attorney-General for urgent presentation to Parliament

It also called on the council to take all reasonable steps to educate the public on the reasons for the proposed amendment to the law.

In September last year, the Federal Court ruled that retired judges could appear in court.

This ruling came when a director of a construction company made an application to prevent Sri Ram from appearing for a developer.

The Bar Council then supported the application to prevent Sri Ram from appearing in court.

Gideon Gan, who represented the company's director, said Sri Ram's appearance before his peers would undermine the administration of justice.

"There was a great risk that the impartiality of the bench might be questioned again and will be injurious to public interest," Gan said in an affidavit to support his application.

But, Datuk Harpal Singh who appeared for Sri Ram replied that the Legal Profession Act 1976 did not prevent a retired judge from appearing.

He said the application also violated Sri Ram's right to livelihood under Article 5 of the Federal Constitution.

"Sri Ram can appear in court because he has a valid practicing certificate."

The controversy started in July last when Sri Ram said retired judges could appear in court in exceptional case like constitutional and contract cases to assist the court in making decisions.

Chief Justice Tun Ariffin Zakaria then threw his support behind ex-judges, citing the right to livelihood, love for the law and restraint to trade if the doors were closed.

Leong, in response, said the public may perceive that ex-judges have an unfair advantage because they would be appearing before their friends on the bench. – October 30, 2014.

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