

Forex RCI: Tribunal decides whom to call as witness, says ex-RCI head

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Dr Mahathir, ex-finance minister Daim Zainuddin and former senior Bank Negara officials should be called to fill the narrative on forex losses, says Haidar Mohamed Noor.

PETALING JAYA: The Royal Commission of Inquiry (RCI) will decide on witnesses once the government determines the terms and reference for the inquiry into the foreign exchange (forex) losses suffered by Bank Negara Malaysia (BNM) some 25 years ago, a retired judge said.

Haidar Mohamed Noor, who chaired the RCI into the V K Lingam video clip in 2007, said the calling of witnesses was the exclusive right of the tribunal.

“The secretary of the RCI will then issue subpoenas for witnesses to appear before them,” he said.

Haidar said this in response to Dr Mahathir’s Mohamad lawyer hoping that the former prime minister would be called to testify before the RCI.

Mohamed Haniff Khatri Abdulla had said Dr Mahathir was not called to appear before the special task force which conducted a preliminary investigation to determine the quantum of losses.

Dr Mahathir was prime minister when the alleged scandal took place.

Haidar, who retired as chief judge of Malaya in 2003, said the task force was a “toothless committee” as its findings had no legal effect, unlike the RCI.

“Based on the subject matter, I believe Dr Mahathir, (former finance minister) Daim Zainuddin and Ahmad Mohd Don (Bank Negara governor from 1994 to 1998) will have to be called to fill in the narratives,” he said.

He said former BNM assistant governor Abdul Murad Khalid is also a notable witness.

The task force found that the central bank had incurred forex losses of at least US\$10 billion (about RM44 billion) between 1991 and 1993.

Among those who appeared before the task force were Nor Mohamed Yakcop, the man who resigned from BNM after the forex losses became public, former finance minister Anwar Ibrahim, and ex-opposition leader Lim Kit Siang.

Haidar said the RCI hearing was a semi-judicial proceeding and inadmissible statements could be accepted.

“There is no hard and fast rule to rely on provisions in the Evidence Act,” he said.

Haidar said the government would also provide the commission with legal officers from the Attorney-General’s Chambers to assist them in the inquiry.

He said the government would set a time frame to complete the inquiry and the commission would submit its report to the cabinet which would decide whether to make it public.

“As a formality, the commission members will present a copy of the report to the Yang di-Pertuan Agong to mark its function being over,” he said.

Meanwhile, retired Federal Court judge Gopal Sri Ram said the findings of a RCI could not be reviewed, as decided by the Federal Court in Lingam’s case.

(The RCI in 2008 concluded there were several individuals, who were involved in judicial fixing.)

“However, the attorney-general could rely on the RCI proposal to file criminal charges. Parties could also rely on evidence that could be used in civil suits,” he added.

Sri Ram said the RCI could issue a warrant of arrest to compel the attendance of any person.

On Wednesday, the Prime Minister’s Office said the cabinet had agreed to set up the RCI as there was sufficient evidence to justify further investigation into the matter.

It said the RCI was to protect public interests by determining the extent to which the losses had affected national reserves.

The task force, which was set up on Feb 15, was chaired by former chief secretary to the government Mohd Sidek Hassan.

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