

Court strikes out 1MDB-related misfeasance suit against Najib MalaysiaKini.com

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The High Court in Kuala Lumpur has thrown out DAP lawmaker Tony Pua's misfeasance in public office suit brought against Prime Minister Najib Abdul Razak.

Judicial commissioner Faizah Jamaludin ruled that Najib is not a public officer, even though he holds the office of both prime minister and finance minister.

The court, she said, was bound to a [decision](#) by the Appellate Court on a similar suit brought against Najib by former prime minister Dr Mahathir Mohamad.

"The court finds that he is not a public officer in pursuant to his capacity as the prime minister, finance minister, 1MDB advisory board chairperson and member of parliament," she said.

Pua, who is also on the Public Accounts Committee, had [filed the suit](#) against Najib in January. He was seeking general, aggravated and exemplary damages to be assessed by the court.

In his statement of claim, Pua had said Najib is a public officer since he is the Pekan MP, the prime minister and chairperson of the 1MDB board of advisors, and that in those capacities, had a direct role in 1MDB to approve appointments and removals in the company.

Pua further alleged that Najib had recklessly used his influence and position to procure guarantees for 1MDB bonds, and that he had maliciously approved associated companies to enter into various investment transactions and agreements.

However, the court was not persuaded that Pua could prove that Najib acted to injure the plaintiff when the alleged act was committed.

For a prima facie case to be established, Faizah said, Pua needs to show that Najib acted with a state of mind reckless indifference as to the consequence of his act.

She also ruled that Pua has no legal standing to bring the 1MDB-related suit against Najib and the government of Malaysia, and that it would be an abuse of the court process to allow the proceedings to continue.

"It is not necessary for me to decide for the purpose of striking out whether this is a public interest litigation," she said.

"Najib was once 1MDB advisory board chairperson, but not a shareholder in the state-owned company, leaving Pua merely a taxpayer with no locus standi to pursue the suit.

"The application for the defendants to strike out the case is allowed," Faizah said.

She also ordered Pua to pay RM5,000 in costs to Najib and the government respectively.

"The judge actually said that the taxpayer has no right to demand anything from a company run by the government," Pua said outside the court.

Najib was represented by lawyer Mohd Hafarizam Harun, while Gobind Singh Deo appeared for Pua. Gobind said he would seek his client's advice on whether to appeal the case.

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