

Ambiga fails in her bid to challenge Sabah travel ban

Malaysiakini

20 September 2017

By Hafiz Yatim

The Federal Court today denied National Human Rights Association (Hakam) president Ambiga Sreenevasan's leave application to challenge her Sabah travel ban.

A three-member bench comprising Justices Ahmad Ma'arop, Abu Samah Nordin and Azahar Mohamed, ruled that the 2002 decision in Sugumar Balakrishnan's case – in which the revocation of the plaintiff's Sabah entry permit was deemed constitutional – was still a good law.

The apex court further ruled that Ambiga's case did not pass the Section 96 Courts of Judicature Act threshold for the full merits of the case to be heard.

Gurdial Singh Nijar, representing Ambiga, told reporters the decision meant that the Sabah Immigration Department has absolute discretion not to allow anyone from Peninsular Malaysia into the state.

“They do not even need to give reasons as to why they decide to ban a person from going there,” he said.

In 2015, the Kota Kinabalu High Court had [dismissed](#) Ambiga's application.

Earlier, Gurdial said that the apex court's decision in the Sugumar case should be revisited in light of the landmark Semenyih Jaya Sdn Bhd case, where it was ruled that ouster clauses such as Section 59 and 59A of the Immigration Act 1959/63 should not be in force.

He said that as a legal practitioner, the case creates anxiety as it grants the Immigration Department discretion to bar someone without the need to provide any valid reasons to

do so.

This, he added, violates the principles of natural justice as well as Article 9(2) of the Federal Constitution, which states that every citizen has the right to move freely throughout the federation and to reside thereof.

Gurdial, a former law professor, said that Ambiga had written a letter to the Sabah immigration prior to her travels, only to be informed that she would not be allowed in. No reasons were given for this refusal.

He noted that Ambiga was scheduled to give a talk on behalf of NGO coalition Negara-ku, which she was a patron of at the time.

She was to have appeared alongside other speakers, such as former state secretary Simon Sipaun and opposition politician Jeffrey Kitingan, to discuss the issue of national integration.

Gurdial pointed to Section 67 of the Immigration Act, which states, among others, that Malaysian citizens cannot be barred from entering Sabah or Sarawak for the sole purpose of engaging in legitimate political activity.

“If Negara-ku is not a political activity, then what is?” he asked.

Senior federal counsel Shamsul Bolhassan said, however, that Ambiga's letter to Sabah immigration did not state that she was participating in a political activity.

“There was no mention of the Negara-ku activity at the time of the application. It was only made known, via affidavit, when the judicial review was filed, and by that time the event finished.”

Following this, Gurdial posed three questions of law to be decided on by the court if leave was granted.

However, Shamsul told the bench that these questions did not pass the criteria under Section 96 of the Courts of Judicature Act, as there were no novel issues not discussed in

the Sugumar case.

“It is not for the courts to decide with regards to the powers of the Immigration Department,” he said.

Sabah legal officer Mohd Hanafiah Kassim appeared for the Sabah Immigration Department and its director.

Mkini Dotcom Sdn. Bhd.

Source: <https://www.malaysiakini.com/news/395780>