

## **Court allows Muhyiddin to strike out Mahathir's suit over membership in Bersatu**

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KUALA LUMPUR, Aug 7 -- Prime Minister Tan Sri Muhyiddin Yassin and three others succeeded in their bid to strike out the suit brought by Tun Dr Mahathir Mohamad and five others over the nullification of their membership in Parti Pribumi Bersatu Malaysia (Bersatu).

In allowing Muhyiddin and three other defendants' application, High Court Judge Datin Rohani Ismail ruled that Dr Mahathir and the other plaintiffs had no locus standi to bring the legal action against the defendants.

She also held that the court had guided by the provision of law and cases referred under Section 18C of the Societies Act 1966 to which the court found that Section 18C was applicable in the present case.

"As such the court has no jurisdiction to entertain or determine the claim of the plaintiffs," she said.

Section 18C states that any decision of political parties are final and cannot be challenged in courts.

Justice Rohani ordered the plaintiffs to pay a total of RM30,000 costs to all the defendants.

Justice Rohani also dismissed the plaintiffs' application to obtain injunctive relief to preserve their status quo as members in Bersatu until the hearing of the suit as the court had struck out the whole action.

On June 9, Dr Mahathir, his son Datuk Seri Mukhriz, Dr Maszlee Malik, Datuk Amiruddin Hamzah, Datuk Marzuki Yahya and the party itself filed the suit over the nullification of their membership in Bersatu, as the first to sixth plaintiffs.

They named Muhyiddin, who is Bersatu president and acting chairman; party secretary-general Datuk Seri Hamzah Zainudin; party executive secretary Capt (Rtd)

Muhammad Suhaimi Yahya; and Registrar of Societies (RoS) director-general Masyati Abang Ibrahim as the first to fourth defendants.

In elaborating on locus standi point, the judge said on June 4, 2020, Bersatu Supreme Council had confirmed the party's decision that the first plaintiff, Dr Mahathir, had resigned from the chairman's post on Feb 24 and, as such by virtue of Clause 16.9 of the Bersatu's Constitution, Muhyiddin who was the first defendant was acting as the Chairman of Bersatu.

She said it was trite that every registered society was governed by its constitution and the provisions of the Societies Act 1966, and it was also trite that the constitution of a registered society operates as a contract between its members.

"Clause 10.2 of Bersatu's constitution provides for the automatic loss of membership by certain pre-defined events when it states that "the membership of a person is automatically ceased if one of the followings occur" that include Clause 10.2.6 which states that "the member brings matters pertaining to the party or his membership to court"," she said.

The judge also said prior to the Dewan Rakyat sitting on May 18, 2020, Dr Mahathir and Mukhriz had written to the Minister in the Prime Minister's Department (Parliament and Law), stating that their seats will be on the opposite side of the House with the MPs of Pakatan Harapan opposing the present Government of which Bersatu is part of it.

She said at the sitting of Dewan Rakyat on May 18, the first to fifth **plaintiffs** had crossed over and sat at the opposite side with the MP's of Pakatan Harapan.

The judge said the court was of the opinion that the action by all five plaintiffs fell within Articles 10.2.2 and 10.2.3 of Bersatu's constitution.

"As such, they have ceased to be the members of Bersatu as conclude and confirmed during the party's Supreme Council's meeting on June 4, 2020.

“Therefore, the court is of the view that the filing of this action by the plaintiffs and the event taken on May 18 by the first to the fifth plaintiffs, they have violated Clause 10.2 of Bersatu’s constitution.

“Thus, the plaintiffs have no locus standi to bring or maintain this action against the defendants,” she said.

On the issue of naming the party as the seventh plaintiff in the suit, the judge said by virtue of Section 9(c) of the Societies Act, the act of naming Bersatu as the plaintiff was unlawful.

This was because an association has no standing and was incompetent to sue as a plaintiff as an association could not sue under its name, she said.

On June 17, Muhyiddin, Hamzah, Muhammad Suhaimi and the Registrar of Societies as defendants had filed an application to strike out the suit on grounds that it was a bad action, abuse of the court process, and that Dr Mahathir and the other plaintiffs had no locus standi to file the legal action.

**-- BERNAMA**

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