

Parliament sitting on May 18 unconstitutional, unlawful - Lawyer

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KUALA LUMPUR, July 30 -- The Third Session of the 14th Parliament sitting on May 18 for half a day, involving the Yang di-Pertuan Agong's speech with no debates, was unconstitutional and unlawful, the High Court here was told today.

Lawyer Bastian Vendargon, representing lawyer, R. Kengadharan, and a social activist, D. Arumugam in a suit against Prime Minister Tan Sri Muhyiddin Yassin and former Dewan Rakyat Speaker Tan Sri Mohamad Ariff Md Yusof, submitted that in doing so, the government had exercised its powers for an improper purpose, which was to prevent the Parliament from carrying out its constitutional duties.

"By barring Members (of Parliament) from doing anything apart from sitting still, while the Agong delivers His Majesty's address, the actual purpose of the government's agenda is plainly to exert full and illegitimate control over Parliament. Not only is this unconstitutional, it is also unlawful, being an improper exercise of the power conferred.

"Moreover, the purported 'reason' for a one-day sitting based on the COVID-19 pandemic is merely a fig leaf. Legislatures in the United Kingdom, Singapore and Canada, for example, have convened to pass legislation necessitated by COVID-19," he added.

Kengadharan, and Arumugam filed the suit last May 15, naming Muhyiddin and Mohamad Ariff as the first and second defendant respectively, to seek a declaration that the one-day sitting was unconstitutional.

Senior federal counsel Suzana Atan, however, submitted that matters relating to the calendar and the Order of Business of the Parliament are all related to the Dewan Rakyat's proceedings and immune from judicial interference by virtue of Article 63 of the Federal Constitution.

Therefore, she said, the court should decline the plaintiffs' invitation to exercise its judicial authority over Dewan Rakyat proceedings.

"In any event, their (plaintiff) complaint is devoid of merit as the amendments to the calendar and Order of Business were all in compliance of the provisions of the Standing Orders. Even if the plaintiffs hold a contrary view, the non-compliance of the Standing Orders are mere irregularities.

"For these reasons, we pray that the plaintiffs' application to be dismissed with costs," said Suzana who is assisted by senior federal counsel S. Narkunavathy.

The presiding judge, Datuk Ahmad Kamal Md. Shahid, then fixed Sept 3 to deliver his decision.

According to the lawsuit, Kengadharan, and Arumugam are seeking a declaration that the May 18 Parliament sitting was null and void as it only heard the Yang di-Pertuan Agong's speech and therefore contravened Article 55 (1) of the Federal Constitution.

They claimed the first sitting was illusory as there were no other important events that took place as stated under the Standing Order 14 of the Dewan Rakyat.

Dewan Rakyat secretary Nizam Mydin Bacha Mydin, in his affidavit filed on behalf of Muhyiddin and Mohamad Ariff, said the May 18 Parliament sitting was in accordance with the Federal Constitution and the Dewan Rakyat Standing Order.

According to Nizam Mydin, the application by Kengadharan, and Arumugam has no merit as the validity of any Dewan Rakyat proceedings cannot be challenged in any court as stipulated under Article 63 (1) of the Federal Constitution.

On May 13, Mohamad Ariff, in a statement said he had received a notification letter signed by Prime Minister as the Ketua Majlis stating that the government has decided that the agenda for the First Meeting of the Third Session of the 14th Parliament, which will take place for one day, has been amended to focus only on the Royal Address.

He said this was due to the fact that the COVID-19 pandemic in the country was not fully over.

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