

When will Najib petition YDPA a second time? — Hafiz Hassan

MALAY MAIL ONLINE

FEBRUARY 07, 2024

FEBRUARY 7 — Former prime minister Najib Abdul Razak is a prisoner. He is a convicted prisoner, to be precise. A convicted prisoner is one who is convicted by the court and has been sentenced to imprisonment.

In any case Najib, like any and all prisoners, is subject to the Prison Regulations 2000. The Regulations is made by the Minister in exercise of the powers conferred by Section 67 of the Prison Act 1995 [Act 537]. The Regulations is therefore a subsidiary legislation, but law nonetheless.

Regulation 113 states as follows:

(1) A prisoner may, if he wishes, petition the Yang di-Pertuan Agong or the Ruler or Yang di-Pertua Negeri, as the case may be, on the subject of his conviction or sentence, once as soon as practicable after his conviction and a second such petition shall be allowed when a prisoner has completed three years from the date of conviction, and thereafter such petitions shall be granted at two yearly intervals, unless there are any special circumstances which the Officer-in-Charge may consider should be brought to the notice of the Yang di-Pertuan Agong or the Ruler or the Yang di-Pertua Negeri, as the case may be.

(2) A prisoner may, if he wishes, petition the Yang di-Pertuan Agong or the Ruler or the Yang di-Pertua Negeri, as the case may be, on any other subject at any time, provided that no petition shall be permitted if the reply to a previous petition on the same subject is still outstanding.

(3) Notwithstanding subregulations (1) and (2), this regulation shall not apply to a transferred prisoner to Malaysia under the International Transfer of Prisoners Act 2012.

It is clear from Regulation 113(1) that Najib is entitled, among others:

- to petition the Yang Di-Pertuan Agong (YDPA) on his conviction or sentence once as soon as practicable after his conviction. It is not required that he should have served a minimum period of sentence before petitioning the YDPA;
- to petition a second time when he has completed three years from the date of conviction.

Now that Najib's lawyer has announced that Najib will consider another application for a full pardon, the second application will be allowed when he has completed three years of his sentence.

Or will it be contended that since it is trite that the royal prerogative of mercy is the sole discretion of the YDPA, Najib should be able to petition directly to the YDPA without reference to Regulation 113?

That remains to be seen.

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Source: <https://www.malaymail.com/news/what-you-think/2024/02/07/when-will-najib-petition-ydpa-a-second-time-hafiz-hassan/116852>