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Only High Court has jurisdiction to grant order for judicial review, says judge in vaccine side effects matter

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KUALA LUMPUR (May 30): Only the High Court has jurisdiction to grant an order for a judicial review and that power does not lie with a tribunal court or an arbitrator.

Justice Datuk Amarjeet Singh Serjit Singh said this on Monday (May 30) in his decision to refuse an ex parte (single party) registration award granted by the special tribunal on Covid-19 which, among others, found the government to be liable for adverse side impact suffered from the Covid-19 vaccine.

"[The] arbitrator has no power to issue judicial review ex parte or otherwise. Only the High Court can grant an order of judicial review," he said in refusing to register the ex parte award.

Among the claimants in this matter are 10 individuals who claimed to be adversely impacted by the National Covid-19 Immunisation Programme.

They named the previous government of Malaysia, former prime minister Tan Sri Muhyiddin Yassin, current Prime Minister Datuk Seri Ismail Sabri Yaakob, current Health Minister Khairy Jamaluddin Abu Bakar, his predecessor Datuk Seri Dr Adham Baba and Health Ministry director-general Tan Sri Dr Noor Hisham Abdullah and several other Cabinet ministers as respondents.

The 10 individuals, among others, consist of two next of kin of those who had passed away, two who claimed to have suffered adverse events following immunisation and two who claimed workplace discrimination as they had been dismissed from their employement for refusing the vaccine.

They sought an ex parte order for civil liability actions, criminal liability and judicial review and on March 3, 2022 the special tribunal on Covid-19 found there was merit to their application.

The award was for them to register the application with the High Court.

However, Justice Amerjeet said that they will have to file a fresh application for a judicial review with the High Court (Appellate and Special Power) division.

"You are going around in circles. The arbitrator had no power to do what he did. There is nothing stopping you from filing a proper judicial review application. I cannot understand why you went to the arbitrator in the first place," he said.

They were represented by lawyers Mohamad Zainuddin Abu Bakar and Ahmad Juflis Faiza.

Speaking to the press later, Mohamad Zainuddin said that they will file a fresh application for a judicial review directly to the High Court.

Senior Federal Counsel Zureen Elina Mohd Dom appeared for the Attorney General's Chambers as amicus curiae (friend of the court). Amicus curiae is not a party to the matter but has an interest in it.

Edited by *Surin Murugiah*