

Thursday June 14, 2007

#### Public wins round one in water case

KUALA LUMPUR: It is victory for the people in round one of the battle to make public the Auditor-General's report, which caused the 15% water rate increase. However, the leave granted to the Malaysian Trades Union Congress (MTUC) and 13 members of the public by the High Court on Thursday only enables them to apply to quash the government's decision. Justice Wan Afrah Ibrahim said the 14 applicants had established a prima facie case to show that the decision by Energy, Water and Communications Minister Datuk Seri Dr Lim Keng Yaik not to make the report public was reviewable.

"Having heard the submissions by both parties, I am satisfied that the application was not frivolous and vexatious. It is an arguable case and the question of locus standi can be revisited at the hearing of the application proper," he said. The Coalition Against Water Privatisation coordinator Charles Santiago, who is one of the 13 other applicants, hailed the court's decision as a "victory" for civil society. He, together with MTUC and the 12 others which included two children, had filed their application for leave on Jan 15, claiming that they had locus standi to go to court to get the minister's decision reversed.

The group wants the declaration because the report was the basis for the 15% water rate increase announced by the Government on Oct 14 last year. They were represented by counsel Malik Imtiaz Sarwar, Matthew Thomas Philip, R. Sharmila and Amelly Kok. They have named the Energy, Water and Communications Ministry, Selangor Government and the Federal Government as respondents in the judicial review proceedings. They claimed that as consumers of water in Selangor, Putrajaya and here, they had the right to access the audit report and the concessionaire agreement between Syarikat Bekalan Air Selangor (Syabas) and the federal and state governments.

The agreement allows Syabas to raise the tariff by 15% if it manages to reduce non-revenue water by 5%. Non-revenue water is the difference between water produced and water lost due to leakage, faulty meters and theft. Dr Lim had said that water tariffs would go up by 15% for Klang Valley consumers who use more than 35 cubic metres per month and 6% for those who use between 20 and 35 cubic metres a month. The applicants claimed that the minister's decision to deny the public access to the documents was unreasonable and did not take into consideration the right of the public to a reasonable standard of living. They said they had the legitimate expectation for the minister to act transparently and responsibly. The respondents, represented by senior federal counsel Azizah Nawawi, had objected to the application on the grounds that the applicants had no standing to bring the action.