

**MEDIA STATEMENT  
5 JULY 2013**

**COURT OF APPEAL No. 97 of 2012  
VELLAMA d/o MARIE MUTHU v AG [2013] SGCA 39**

1. In its judgment dated 5 July 2013, the Court of Appeal dismissed the appeal brought by Mdm Vellama d/o Marie Muthu (“**the Appellant**”) against the High Court’s decision to dismiss her application for declarations concerning the Prime Minister’s discretion under Article 49 of the Constitution of Singapore (“**Art 49**”).

**The application was premature**

2. The Court of Appeal agreed with AGC that the institution of the judicial review application by the Appellant barely two weeks after the seat of Hougang Single Member Constituency (SMC) had become vacant was clearly premature. At the time, the Prime Minister had yet to make his stand on the matter. There was no factual basis for the Appellant to bring her application. This was in fact AGC’s position at the outset of the proceedings.

**Leave to proceed with the application should not have been given**

3. The Court of Appeal also pointed out that leave (i.e. permission) to proceed with her judicial review application should not have been granted to the Appellant by the High Court Judge on 3 April 2012 as the Prime Minister had already declared that a by-election would be held to fill the vacancy in Hougang SMC on 9 March 2012.

**The Appellant did not have the standing to pursue the application**

4. Another issue on which the Court of Appeal agreed with AGC on was that the Appellant did not have standing to proceed with her substantive application for declaratory relief as the by-election in Hougang SMC was held on 26 May 2012. The Court of Appeal therefore dismissed the appeal on the ground that the Appellant lacked standing in pursuing the matter.

**Though the Prime Minister is required to call a by-election within a reasonable time, his discretion would only be disturbed in exceptional cases. In making his decision, the Prime Minister is entitled to take into account all relevant circumstances.**

5. While the Court of Appeal's decision that the Appellant lacked standing should suffice to dispose of the Appellant's appeal, the Court of Appeal made the following observations on Art 49, obiter :

(a) Under the Constitution the Prime Minister has to call a by-election to fill casual vacancies of elected MPs (in Single Member Constituencies) which may arise from time to time, within a reasonable time;

(b) The Prime Minister is entitled to take into account all relevant circumstances in deciding what is a reasonable time within which to call a by election;

(c) The timing for the calling of a by-election can involve considerations that go well beyond mere practicability. It is impossible to lay down the specific consideration or factors which would have a bearing on the question whether the Prime Minister has acted reasonably in the exercise of his discretion under Art 49; and

(d) The Prime Minister's exercise of discretion as to the timing of a by-election can only be challenged in exceptional cases .

6. The Court of Appeal held that each party is to bear his or own costs for the appeal.

7. AGC is studying the judgment carefully and will advise the Prime Minister, in due course, on the judgment.

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