

## **DROP APPEAL AGAINST TEACHER, NEW GOV'T URGED, 18 APR 2013**

Drop appeal against teacher, new gov't urged

Women's Aid Organisation

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For the past year Malaysians have been inundated by caretaker Prime Minister Najib Abdul Razak's declaration of Janji Ditepati (Promises Fulfilled), asserting that the government has fulfilled its promises to the rakyat, warranting BN's re-election in the looming 13th general election.

Meanwhile Pakatan Rakyat has listed many of its own promises, and asserted that if given a chance at the federal level, they will perform better than BN. The overall truth of these assertions is the topic of intense debate. That debate aside, both coalitions should make one more promise before the elections.

In January 2009, Noorfadilla Ahmad Saikin, a mother-of-two, went to a district education office to receive her school placement memo. She had earlier succeeded in an interview with the Education Ministry to work as a temporary teacher (GSTT).

Along with other successful applicants, Noorfadilla received a memo and was placed in a school. Then to her surprise, a government officer proceeded to ask the applicants if anyone was pregnant. Coming forth in front of everyone, Noorfadilla had her memo and job offer retracted.

Noorfadilla took the government to task, suing for discrimination. Remarkably, she won. But the government has sullied this landmark High Court decision by appealing, and we recently learned that the Court of Appeal has set a hearing date.

Pakatan's Selangor government supported Noorfadilla in her case, and so we hope they will continue this positive action by promising to withdraw the appeal should the coalition win the election.

BN should wise up and promise to retract the appeal. Failure to do so would further damage its credibility to fulfil its promises on women's issues. In BN's recently released general elections manifesto, the coalition promises to promote gender equality.

Another promise in the manifesto, providing more day-care centres for working parents, will help. On the other hand, rejecting a woman's job application solely because she is pregnant, and then making an appeal after you lose in court, does not.

This case goes beyond the discrimination of one woman. Appealing the High Court ruling is insisting that it is acceptable to discriminate against a woman on the basis of pregnancy. The government argued in its written submission to the High Court that this was acceptable as a pregnant temporary teacher may be absent due to medical check-ups and during delivery.

High Court Judge Zaleha Yusof, in her grounds of judgment, refuted this argument with a pragmatic point:

“It is very clear that the contract for [a] GSTT is a month to month contract and it can be terminated at any time. Even after one month of working, there is no guarantee that the person will stay even if she is not pregnant.

“As such, I find there is no merit in the argument put forward by the defendants that employing a pregnant woman to fill up the post will defeat the purpose of GSTT to solve the problem of shortage of teachers in Malaysia.

“Even [a] medical check-up for [the] pregnant woman will not disturb the school time as it can be done in the evening or night.”

The government’s actions showed its failure to practice substantive equality, something any government needs to do if serious about promoting gender equality. In order for women to achieve equality with men, biological differences need to be taken into account when making policies.

Correspondingly, corrective measures must be put in place to ensure the realisation of equality. This includes ensuring appropriate employment conditions and hiring criteria are in place to accommodate pregnant women.

The High Court decision is also particularly important because it recognised that the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has the force of law.

The 13th general election is setting up to be the most competitive in our history. If BN and Pakatan are serious about fulfilling their promises on women’s issues, they must promise to withdraw this appeal.

WOMEN’S AID ORGANISATION’s (WAO) mission is to promote and create respect, protection and fulfillment of equal rights for women.