

MALAYSIA

IN THE HIGH COURT IN SABAH AND SARAWAK

3
AT KOTA KINABALU

JUDICIAL REVIEW NO. BKI-13NCvC-10/10-2016

6
BETWEEN

JOE VINCENT SINGGOH ... APPLICANT

9
AND

12 **COMMERCIAL VEHICLES LICENSING ... RESPONDENTS**
BOARD SABAH & 1 OTHER

15
RULING

I uphold the preliminary objection of the Respondents in that the Applicant do not have the necessary standing in this Judicial Review application.

Applicant are merely persons who are registered with Uber Technologies Inc. as a driver and had sought several orders amongst which an order of prohibition against the 1st and 2nd Respondents from relying on the provisions of Section 33 of the Commercial Licensing Vehicles Act 1987

to prosecute or prohibit the Applicant from using the services of Uber Technologies Inc.

3 A mandatory injunction was also sought to restrain the prosecution, prohibition of the Applicant to drive or make drives for Uber and 2 declarations related to the above.

6 I agree with the learned SFC, that the aggrieved person in this case are not the applicant. The proper person is Uber Technologies Inc.

But Uber Technologies Inc. has not made any application to the relevant
9 authorities in Sabah for the relevant permits or licences. And in so far as Section 33 is concerned, Uber Technologies Inc. is the 'person' responsible to obtain such approvals and not the Applicant. It is not
12 explained or disclosed why this is so.

It is common knowledge that Uber has not done so unlike say in Kuala Lumpur. One can easily see the signage for Uber at the KLIA or KLIA2.
15 Why is it not so in Sabah? Uber Technologies can easily apply for one here in Sabah.

The Applicants may be adversely affected should the relevant authorities
18 take action against them. But at this stage Uber Technologies Inc. have

yet to apply for an approval. At the moment whatever Uber is promoting is unlawful and illegal. Whether the Government will grant Uber Technologies Inc. the necessary approval or not is a matter for the former to decide as a matter of policy and the Applicants are not entitled to come to court to seek a prohibitive order to pre-empt any legal action that may be taken by the Police of JPJ to enforce the law.

Whether or not the Authorities are going to take action against the Applicants are highly speculative. The event has not happened to the Applicant. This court does not deal in speculation.

In the circumstances on these points alone, I uphold the preliminary objection and dismiss the application for Judicial Review with costs of RM2,000.00.

Dated this 30th day of March 2017

- SIGNED -
(DATUK DOUGLAS CRISTO PRIMUS SIKAYUN)
High Court Judge
High Court at Kota Kinabalu

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