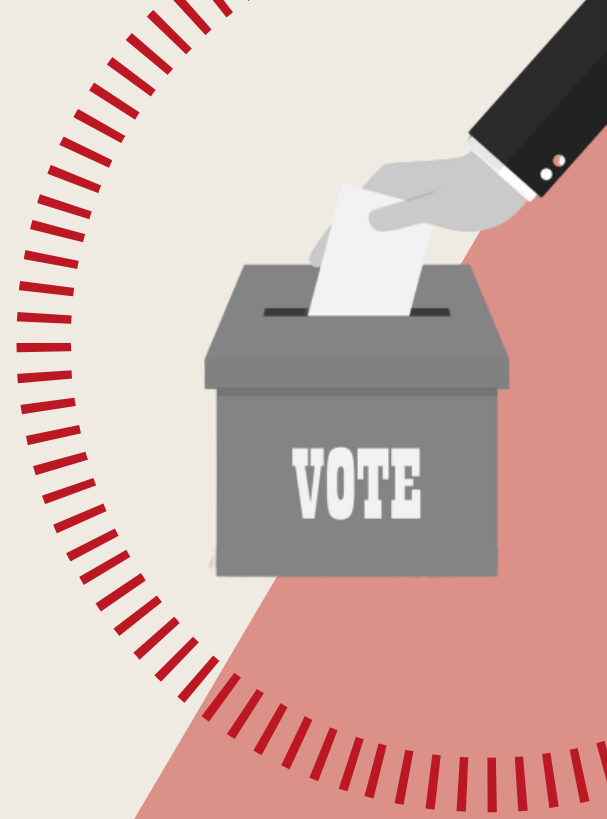


08

ELECTION-RELATED CASES EVERY SINGAPOREAN SHOULD KNOW

(part 1)



this infographic is part of CAPE's
GE Voter Education Series

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1

Fraud & Mismanagement of Party Funds

In the 1980s, Workers' Party chairman Wong Hong Toy and secretary-general JB Jeyaretnam were charged for fraud and making false statements about party funds (*Wong Hong Toy & Jeyeratnam JB v PP* [1986] SLR 469).

After the case was appealed and reheard in 1985 and 1986, it eventually reached the Privy Council in 1988 where the judges *“recorded their deep disquiet that a grievous injustice had been suffered by [the two] as a result of a series of misjudgments which had resulted in them being fined, imprisoned and publicly disgraced for offences of which they were not guilty.”* (*Jeyeratnam JB v Law Society of Singapore* [1988] SLR 1).

However, the Privy Council had no power to overturn their criminal convictions. Jeyaretnam tried to appeal to the then-President Wee Kim Wee for the convictions to be removed, who refused to do so on the advice of the Cabinet. As a result, Jeyeratnam remained disqualified from running for elections for 5 years until the 1992 Marine Parade GRC by-election.

Are the
current WP
leaders facing
similar risks?



In 2019, the High Court found 3 Workers' Party MPs guilty for breach of their fiduciary duties as town councillors of Aljunied-Hougang Town Council. The case is pending appeal.

2 Defamation Suits

1997 General Elections

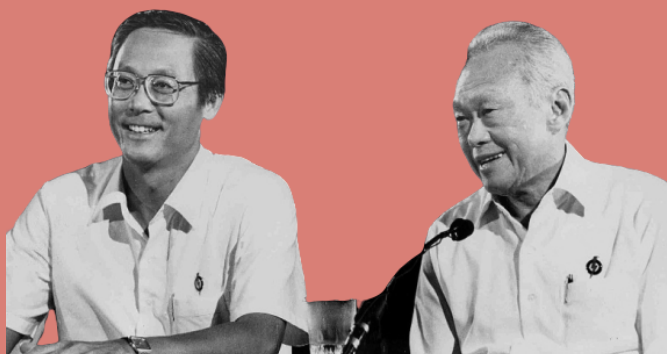
On the eve of Polling Day during the 1997 General Elections, Tang Liang Hong, a Workers' Party (WP) candidate, made 2 police reports against a number of PAP leaders.

On the same day, whilst at a WP rally, JB Jeyaretnam said:



“Mr Tang Liang Hong has just placed before me two reports he has made to the police against, you know, Mr Goh Chok Tong and his people.”

The individuals that the pair referred to which included PAP candidates Lee Kuan Yew, Lee Hsien Loong, Tony Tan and Goh Chok Tong, brought a total of **11 lawsuits** against Jeyaretnam for making that “defamatory” comment. A separate **13 other lawsuits** were made against Tang for both the contents of the police report and his previous defamatory statements. (*Goh Chok Tong v Jeyaretnam Joshua Benjamin* [1998] 2 SLR(R) 971; *Tang Liang Hong v Lee Kuan Yew and others* [1997] 3 SLR(R) 576).



After appeals were made on both sides, Tang was ordered to pay \$5.7 million and Jeyaretnam was ordered to pay \$100,000 in damages.

2 Defamation Suits

2001 General Elections

In the run-up to the 2001 elections, the Singapore Democratic Party's Chee Soon Juan publicly challenged Prime Minister Goh Chok Tong and Lee Kuan Yew to **"tell us about this \$17 billion you loaned to Suharto"**.

Goh and Lee demanded a formal apology and sued Chee for his attack on their **"character, competence and integrity"** (Goh Chok Tong v Chee Soon Juan [2005] 1 SLR(R) 573; Lee Kuan Yew v Chee Soon Juan [2005] 1 SLR(R) 552). Subsequently, Chee was ordered to pay damages which forced him to declare bankruptcy in 2006, preventing him from running in the next General Election.

Under Article 45 of the Constitution, a candidate may be disqualified from membership of parliament if she is an undischarged bankrupt; declared of unsound mind; or convicted of an offence by a court of law in Singapore or Malaysia and sentenced to imprisonment for a term of not less than one year or a fine of not less than \$2,000 without a free pardon.



"You get a
defamation suit,
you get a
defamation suit,
everyone gets a
defamation suit!"

"Sue until your
pants drop!"

- Low Thia Khiang

3 Polling Station Controversy

On Polling Day during the 1997 General Election, several PAP Ministers were found inside a polling station at Cheng San GRC. The GRC was contested by the Workers' Party, who complained to the police that this violated the Parliamentary Elections Act ("PEA").

After the Public Prosecutor advised the police that the PAP leaders did not break the law, the issue was raised in Parliament. The then Law Minister S Jayakumar distributed the Public Prosecutor's written opinion which stated that the PEA only makes it an offence to **wait or loiter outside** the polling station. Since the PAP leaders were **inside the polling station**, they did not break the law.

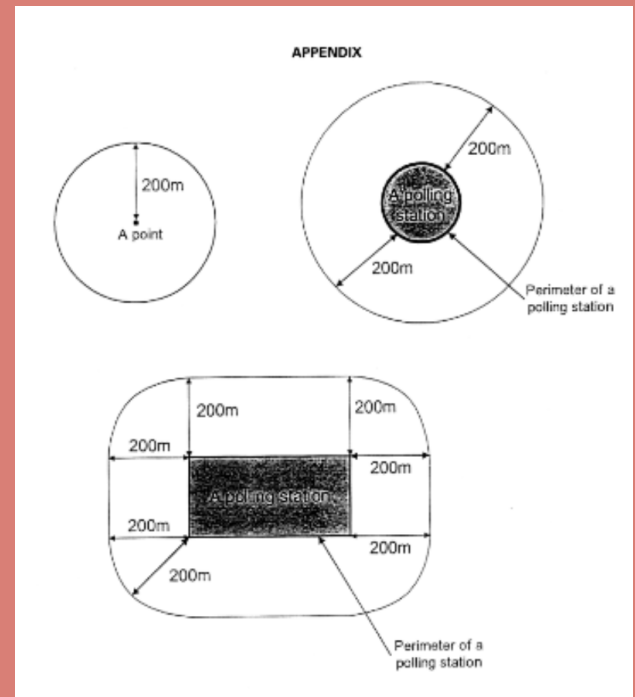


Diagram appended in the Public Prosecutor's written opinion, showing that it is not illegal to be inside the polling stations

In response, JB Jeyaretnam said, "If the law is that people who are not voting cannot wait outside the station, or loiter within 200m, but can flock inside and wait, then **the law would appear to be an ASS.**"

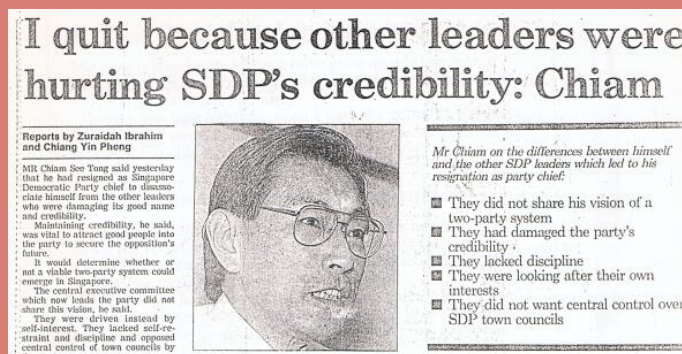


④ Party In-Fighting

In 1992, a few months after Chee Soon Juan joined the Singapore Democratic Party (SDP), he was dismissed from NUS by Department Head, S. Vasoo, who was also a PAP MP at that time, for allegedly misusing research funds. In protest, Chee went on a hunger strike and claimed that he was a victim of a political vendetta.

Concerned that Chee's actions would damage the party's reputation, Chiam See Tong, SDP's then-Secretary General sought to censure Chee at the Central Executive Committee's (CEC) meeting. This motion went unsupported by the CEC. Subsequently, Chiam resigned from his position as Secretary-General and took to the press to air his frustrations.

This caused the CEC to convene a disciplinary hearing which resulted in Chiam's expulsion from the party. Chiam sued the party for wrongful dismissal and won on procedural grounds (*Chiam See Tong v SDP* [1993] 3 SLR(R) 774).



Eventually, Chiam left the party to join the Singapore People's Party, a breakaway from SDP, and became its leader.

08

ELECTION-RELATED CASES EVERY SINGAPOREAN SHOULD KNOW

(part 2)



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5

PM's "full discretion" to call by-election in an SMC?

On 14 February 2012, Yaw Shin Leong, MP for Hougang SMC, was expelled from the Workers' Party for marital infidelity and lost his parliamentary seat.

Earlier in 2008, PM Lee Hsien Loong had said that he retained "**full discretion as to when and whether to call a by-election as the vacancy does not affect the mandate of the government**".

This led Vellama d/o Marie Muthu, a resident of Hougang SMC, to apply for the court to compel PM Lee to call for a by-election.



A week after she filed the application, PM Lee announced that he intended to call a by-election which was eventually held on 26 May 2012.

Nevertheless, the courts proceeded to hear the application and held that the Prime Minister does not have an unfettered discretion whether to call a by-election and must do so within a reasonable time (*Attorney-General v Vellama d/o Marie Muthu* [2013] 1 SLR 439).

6 What Happens When the Minority MP in a GRC Resigns?

On 7 August 2017, Halimah Yacob resigned her seat as an MP for Marsiling-Yew Tee GRC to stand for the 2017 presidential election.

Responding to a parliamentary question as to **whether a by-election would be called to fill her vacant seat** given that she was the minority MP in the GRC, then Minister in the Prime Minister's Office Chan Chun Sing said that there was **no need to do so**.



This led Wong Souk Yee, a resident of the GRC, to apply to court to compel the remaining MPs of the GRC to vacate their seats and for a by-election to be held.

Both the High Court and Court of Appeal dismissed her application, and held that **the Singapore Constitution does not require a by-election to be called** to fill a vacancy left specifically by a minority MP in a GRC (*Wong Souk Yee v Attorney-General* [2019] 1 SLR 1223).

7

Disqualifications from Running for Office

Jolovan Wham and John Tan v Attorney-General

On 27 April 2018, activist Jolovan Wham made a Facebook post stating that Singapore's courts were not as independent as Malaysia's on cases with political implications. Subsequently, the Attorney-General's Chambers (AGC) initiated a contempt of court action against him.



Singapore Democratic Party's John Tan Liang Joo then made a Facebook post stating that AGC's actions only confirmed Wham's comment, and was similarly charged.



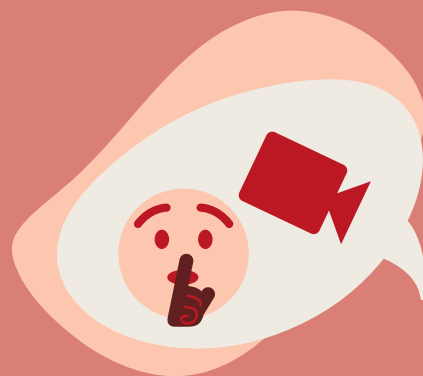
Tan offered to remove his Facebook post and sought 7 days in jail in lieu of a fine. This is because under the law, a fine of \$2,000 or more would disqualify him from standing in the next election.

However, Tan's request was dismissed by the Court of Appeal and both were ordered to pay a fine of \$5,000 each (*Wham Kwok Han Jolovan v Attorney-General and other appeals* [2020] 1 SLR 804). Tan is therefore disqualified from running in GE 2020.

8

Attempts to Discredit the Election Department

On 24 April 2006, James Gomez, a Workers' Party (WP) candidate, went to the Elections Department (ELD) to apply for a minority-race candidate certificate. In front of the media, he showed himself filling up the form but later slipped the form in his bag.



On the eve of Nomination Day, Gomez went to collect his certificate, claiming that he had submitted the form. The ELD officers stated that they had not received his application. Following two days of dispute, the ELD produced CCTV footage showing Gomez slipping the form in his bag. A day later, Gomez apologised to the ELD saying that he had been distracted by his busy schedule.

This led to Gomez's credibility being questioned by many, including Lee Kuan Yew who called Gomez a "liar" for attempting to discredit the ELD.



During that election, WP lost Aljunied GRC, in which Gomez was contesting, to the PAP. Two day later, Gomez was questioned by the police for criminal intimidation in his dealings with the ELD but was eventually let off with a stern warning.

