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ELECTION 2007 | The battle which could bring back Stormont

Local & National

Hain challenges judge's ruling on Victims' appointment

Friday, March 02, 2007

By Chris Thornton

Peter Hain has launched an appeal against the High Court ruling that he broke the law when appointing the Victims' Commissioner.

Government lawyers filed papers in the court yesterday to challenge Lord Justice Girvan's judgment, which found that Mr Hain had put Bertha McDougall into the post as a sop to the DUP.

His ruling also sparked a separate - and ongoing - review for the Attorney General into whether Mr Hain and senior civil servants tried to cover up the reasons for the appointment.

Mr Hain is challenging the ruling on 19 separate points.

The case began after Mr Hain appointed Mrs McDougall, the widow of an RUC officer, as Interim Victims Commissioner in December 2005. When DUP sources claimed the appointment as a political victory, the appointment was challenged by another widow, Brenda Downes. Mrs Downes' husband Sean was killed by a plastic bullet fired by police.

The High Court found that Mrs McDougall was the only person interviewed about the post and that the DUP was the only political party consulted.

The judge ruled that Mr Hain breached the law, his Ministerial Code and the accepted norms for public appointments for "an improper purpose", namely a confidence building measure for the DUP.

He also accused the NIO of providing "partial, misleading and incorrect information" about the appointment.






And he found that Mr Hain, as the respondent in the case, "failed in his duty of candour to the court" because of that misleading information.

The judge called for an inquiry into the way the case was handled by the NIO, but when the Government resisted he directly referred the matter to the Attorney General, Lord Goldsmith, saying there was apparent evidence of an attempt to pervert the course of justice.

The Attorney General appointed Peter Scott QC, a London barrister, to review the NIO's handling.

The case concluded in January when Lord Justice Girvan declared the appointment illegal. However, he allowed Mrs McDougall to publish her final report.

The case could open in the Court of Appeal in a matter of weeks, but Mrs Downes will have to replace her lead counsel. Seamus Treacy, the barrister who won the case for her, has been appointed to the High Court.

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