

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 105/federal/2019



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 18.11.2019 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The plaintiff: head of Babel governorate council/ being in this post -his agent the juristic Dhiaa Hasan Abood.

The defendant: The speaker of the Iraqi council of representatives (I.C.R.)/ being in this post- his agents the legal officials the director Salim Taha Yasein and the legal advisor Haytham Majid Salim.

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The claim:

The agent of the plaintiff claimed in the case petition that the defendant/ being in his post has issued first amendment law of the governorates councils election law No.(12) for 2018, article (13/3rd) of it stipulated the completion of the councils' work of the governorates that are not incorporated in a region, districts and sub-districts on (1/3/2020), as the mentioned article text affected the constitutional rights of his client therefore he initiated a challenge against it for violating the provision of the third amendment law to the governorates that are not incorporated in a region law No.(10) for 2018, as it didn't included a text that specify a date for the election of the governorates councils, and also didn't stipulate the elections of the district councils while the amended governorates law No.(21) for 2018 has stipulated the continuity of the current governorates and district councils in it work until issuing the results of the new councils. For the mentioned reasons the agent of the plaintiff requested the F.S.C. to judge the reversal the text of article (13/3rd) of the first amendment law of the governorates councils elections law No.(12) for 2018. The agents of the defendant respond to the case petition with the answering draft dated on 25/9/2019 stating that the jurisdiction of the F.S.C. is to consider the constitutionality of the laws according to article (93/1st) of the constitution and not the contradicting with other laws, and requested

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to reject the case from the point of jurisdiction. After completing the required procedures according to the F.S.C. Bylaw the date 18/11/2019 was scheduled for the argument, the court convened and the agent of the plaintiff and the agent of the defendant the legal advisor Haytham Majid Salim has attended and continue with the argument in present and public, the agent of the plaintiff repeated the case petition and requested to judge according to it, the agent of the defendant repeated the answering draft and commented that the law was issued by the I.C.R. and become in force from the date of it issuance. The court found that the case is completed for reasons of judgment, the argument is closed and the decision is issued publicly.

The decision:

During scrutiny and deliberation by the F.S.C. the court found that the plaintiff being in his post challenged article (13/3rd) of the law No.(14) for 2019 the first amendment law to the law of election the councils of governorates that are not incorporated in a region and it associated districts No.(12) for 2018 which included the completion of the mentioned councils' work on 1/3/2020, and they are objecting on the date of completion the work for the claim that it contradict with the text of the amended law No.(10) for 2018 (the law of governorates that are not incorporated in a region No.(21) for 2008) the text of article (14/1st) of it has stipulated the continuity of the

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current governorates and district councils in it work until issuing the results of the new councils. The F.S.C. found that considering this lawsuit is out of it jurisdictions that are stipulated in article (93) of the constitution and article (4) of it law No.(30) for 2005 because it related to the contradiction of legal text with other legal text and not with the constitution. Accordingly the court decided to reject the case, and to burden the plaintiff the expenses and the advocacy fees for the agents of the defendant amount of (one hundred thousand Iraqi dinars). The decision has been issued unanimously and final according to article (94) of the constitution and article (5) of the F.S.C. law, and issued publicly on 18/11/2019.

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