

In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq
Federal Supreme Court
Ref.10/federal/media/2016



Kurdish text

The Federal Supreme Court has been convened on 7/8/2016, headed by the judge Madhat Al-Mahmood and membership of judges Jaafar Nasir Hussein , Akram Taha Mohammed ,Akram Ahmed Baban, Mohammed Saib Al-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temman, and Mohammed Rijab AL-Kubaisi, who authorized in the name of the people to judge and they made the following decision :

The Plaintiff: head of Iraqis journalists union/being in this capacity- his two agents the barristers (Nun.Ha) and (Jim.Waw).

The Defendant: ICR speaker/ being in this capacity- his two agents the legal officials (Sin.Ta) and (Heh.Mim).

The Claim:

The two agents of the plaintiff claimed before the FSC that the ICR issued the law of the federal public budget of the Republic of Iraq for the fiscal year 2016, and it annulled (the grant of the journalists union) from the allocations' table which attached to the aforementioned law. While the allocations' table which attached to the aforementioned draft law had been decided by the cabinet in its decision No.(386) for 2015, in its exceptional session which was convened on 18/10/2015, it included in the chapter (11th/ culture, youths, clubs and unions) the next clause (9- Iraqis journalists union shall be granted (6400000000) six billion and four hundred million. Also, the mentioned table had been redacted by the Finance Committee in its final formula, Where it included in the chapter (11th- culture, youths, clubs, and

unions) the next clauses (Iraqis journalists union shall be granted (6323200000) six billion and three hundred and twenty millions and two hundred thousand dinars) the aforementioned grant had been voted by the council members. Then because of a number of representatives presented a request to annul it, it had been voted on it later without the approval of the competent finance committee. Whereas it minimizes the mentioned grant and depriving the union of this care, it is violating the principle of justice and contrary to the Constitution for it contrary to the provisions of the article (35, 47 and 80/4th). it leads to depriving the martyrs family and the injured journalists of their finance rights which were decided in the article (11) from the law of the journalists' rights for 2011. Also, it leads to freezing the membership of Iraq in international and Arabic organizations. Also, the amount of the mentioned grant leads to suspend the clause (3) from the article (30) from the law of the journalists union No.(178) for 1969 (amended), the laws of the public budget didn't ---- from the mentioned grant for decades. For all mentioned above of reasons, he requested from the FSC to annul the article (51) from the law of the public budget and to work by what included in the finance allocations table which was attached in the draft law of the federal public budget for 2016, that was decided by the cabinet on 1/1/2016. The two agents of the defendant the ICR speaker/ being in this capacity- presented the draft that dated on 15/3/2016, its brief is the request of the plaintiff violates the provisions of the Constitution and the law, whereas the draft law of the public budget and the attached tables represent a proposal and it has no value unless ICR legislate the law. ICR acts according to its Constitutional authorities and competences at the discussion of the proposed allocations by the government to decide it, remove it or decrease it according to the article (61/2nd) from the Constitution. As well as the plaintiff request from the court to decided the work by the attached table with the draft law of the budget which had not been decided in ICR has no substantiation because it is out of FSC competence, and the court has already decided that ICR has the right to remove texts that are included in the draft law of the budget, whereas that is within the authorities that were stipulated in the article (60/1st) from the Constitution according to its decision No.(25) for 2012. Also, the request of the plaintiff to valid what the cabinet

proposed of allocations and amounts that it is non-binding and to void what is enacted by the ICR of obliged texts, it has no substantiation text or evidence. Relying on the text of the article (30/3) from the law of the journalist association No.(178) for 1969 (amended) which stipulated that the annual grant for the association from the ministry of finance as a source of its financing sources is unproductive reliance. The court is competent in what contradicts with the Constitution of the Republic of Iraq, not in the disputing between the laws. In closing, they request to reject the plaintiff case formally and contently and to burden him all the expenses. On 28/3/2016, the plaintiff agent, the barrister(Jim.Waw) presented his explanatory and answering draft on the draft of the two agents o the defendant/ being in this capacity- its brief that the cabinet decided the spending table that was attached to the draft law of the federal budget for 2016 according to finance abilities that are provided to the public treasury of the state, and the finance committee of the ICR studied the project and discussed it and proposed some amendments, it recommended to list the project within the ICR agenda to vote on it because the legal period of second reading accomplishing has been expired. The text of the article (62) from the Constitution and the article (130) from the bylaw of the cabinet. Any suggestion to amend the appropriations (appropriations is the financial allocation for the spendings) which produce from the discussions it requests to stand on the opinion of the cabinet in addition to what mentioned of reasons and the other reasons that were listed in the mentioned explanatory draft, the plaintiff agent repeated his request for annulling the article (51) from the law of the federal public budget for the fiscal year 2016, because of unconstitutionality and to make his client department able to pay their commitment that was decided by the law of the journalist, not to rectify its operational spending and to burden the defendant all the expenses and fees of the advocacy. On the appointed day for the argument the court had been convened on 31/7/2016 so the plaintiff/being in this capacity- agent attended, mister (Ji. Waw). Also, the two agents of the defendant/ being in this capacity- attended the legal officials (Sin. Ta) and (Heh.Mim). the argument had been started publicly and presently. The plaintiff agent repeated the case petition and requested according to it. The two agents of the defendant answered that they repeat-

ed what was listed in their answering draft and requested to reject the case. Both parties repeated their sayings. whereas nothing left to say, the end of the argument had been understood and the decision was understood publicly.

The Decision:

During the scrutiny and deliberation from the FSC, the court found that the agents of the plaintiff/ being in this capacity- challenges before the FSC the article (51) from the law of the federal public budget of the Republic of Iraq for the fiscal year 2016 by its unconstitutionality because of its violation for the principle of justice, and it has a clear contradiction to the Constitution because it contrary to the article (47) from the Constitution which stipulated that the legislative, executive, and judicial powers, and they shall exercise their competencies and tasks on the basis of the principle of separation of powers. So they requested from the FSC to decide the unconstitutionality of the article (51) from the law of the federal public budget No.(1) for 2016 and to annul it and to act as what the finance allocations table included which was attached to the draft law of the federal public budget for 2016 which the cabinet decided, and starting from 1/1/2016. The case related to amounts of martyrs families from the journalists and the paying of the national subscriptions. It is not an operational allocation. The plaintiff agent requested to mention that in its decision, whereas it had been cleared for the court from the studying of the case No.(24/federal) that the FSC was decided in this article in the case no.(24federal/2016) according to its decision that was issued on (7/8/2016) whereas it decided that the article (51) from the law of the federal public budget No.91) for 2016 doesn't contrary to the provisions of the Constitution. When the ICR it enacted the mentioned law, it added that article to the draft law. This is within its Constitutional authority that was stipulated in the article (62/2nd) from the Constitution, so deciding in this article and trying the claim of the agents of the plaintiff, in this case, become unproductive. If there is a mistake in its enactment, the object shall be presented to the ICR for the transaction voting, so and for the above reasons the court decided to reject the case of the plaintiff/ being in this capacity- and to burden him the case expenses and fees of the advo-

cacy of the two agents of the defendant the legal officials (Sin. Ta) and (Hh. Mim) amount of hundred thousand Iraqi dinars divided between them. The decisions were issued presently and decisive and had been understood publicly on 7/8/2016.