

In the name of god most gracious most merciful

Republic of Iraq
Federal supreme court
Ref. 117/federal/media /2015



Kurdish text

The Federal Supreme Court (F S C) has been convened on 9.8.2016 headed by Judge Madhat Al-Mahmood and membership of Judges Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges, Hussein Abbas Abu AL-Temman and Suleiman Abd-Allah Abd-Alsamad who authorized in the name of the people to judge and they made the following decision:

The Plaintiff : (sad. dhal. ha.) his agent (shin. mim. kha.)

The Defendant: Minister of Higher Education/ being in this capacity his Jurists (alif. jim. shin.) and (ra. kha. dhal.)

The Claim :

The plaintiff claimed that he had a master's degree from Germany and that he had been appointed as first secretary at the Consulate General in Sydney and, after starting the job, ministerial order No. (3/personal/14/4188) on 7/5/2015 was issued, which included his removal from the post and obliging all salaries and allowances he received. The plaintiff considers that this decision was wrong because of the decision or the order based on the decision of the Ministry of Higher Education No. (19861) on 31/7/2012 which ensured that the laws, instructions and decisions issued from the Kurdistan Region Government beyond the borders of the territory that violates article (117/1st) of the Constitution, which provides for the establishment of the Kurdistan Region and its

existing powers as a federal territory and article (141), which provides for the continuation of the laws that have been legislated in the Kurdistan region in the light of the above, the plaintiff is requesting to judgment by repeal of instructions and legislation issued by the defendant's department not to recognize the equivalent certificates recognized by the Ministry of Higher Education in the Kurdistan region for violating the Constitution. After the completion of the proceedings, a date was set for the case and the defendant/ being in this capacity was informed of the petition, and he replied with a draft dated 17/12/2015 requesting that the case be rejected because of the FSC's lack of jurisdiction in its formal and objective consideration, and both parties repeated their requests for statements and where nothing was left to be said the end of argument has been made clearly.

The Decision :

After scrutiny and deliberation by the FSC found that the plaintiff challenge unconstitutional the instructions and legislation issued by the defendant's department Minister of Higher Education/ being in this capacity and one of them is a decision No. (19861) on 31/7/2012 supported by its letter No. (6683) on 7/11/2011 containing the non-extension of laws and instructions and decisions issued by the Kurdistan regional government beyond the territory's borders, for violating articles (117/1st & 141) of the Constitution, in which he was removed from the post of First Secretary of the Consulate General in Sydney. The FSC found that there are instructions No. (5) instructions that have been drawn on the basis of the equivalent to certificates and Arab and foreign degrees issued in 1976. These instructions have drawn up a specific way of recognizing of certificates, by existence of specialized committees for the equation, in addition to specifying a path to challenge the decision of the tie with a minister or who authorizes him within three months of the date of its issuance, it is not permissible to object after this period unless the objector presents new evidence or official commitments that have not been submitted before, and the last decision may not be challenged again,

whatever the reasons Since the instructions have drawn a way to challenge the non- equation of the testimony against him, the FSC is not competent to hear this case. The case is ruled by rejection from the jurisdiction, the FSC decided to reject the case of the plaintiff (sad. dhal. ha.) for lack of jurisdiction and to charge the agent of the defendant/ being in this capacity the jurist (ra. kha.) a sum of 100,000 dinars and the judgment was issued in immanence and unanimously decisively based on article (94) of the Constitution of the Republic of Iraq for 2005 and its made clear publicly on 9/8/2016.