

Republic of Iraq
Federal Supreme Court
Ref. 120 unified with 130
134/ federal /media/ 2014



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 17/2/2015 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 whom are authorized in the name of the people to judge and they made the following decision:

The plaintiffs

1. (zin, ta, alif, dhal) his agent the attorney (mim, ra, feh).
2. (sin, feh, ha, ain) her agent the attorney (waw, mim, alif).
3. (ain, ain, alif, ain) Alhadidi, his agent the attorney (mim, sin, Jim).

The defendant:

the speaker of the parliament/ being in this post – his agents the legal officials (heh. mim. sin.) and (Sin. ta. yeh.).

The third party (for inquiry):

the Independent High Electoral Commission/ being in this post, his agent the legal official (alif, hha, ain).

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The claim :

The plaintiff (zin, ta, alif, dhal) has filed the lawsuit (120/ federal/2014), the plaintiff (sin, feh, ha) filed the lawsuit (130/ federal/2014), the plaintiff (ain, ain, alif, ain) filed the lawsuit (134/ federal/2014), all become unified in the lawsuit (120/federal/2014) because it was presented first, first-plaintiff requested to rule that the membership of the MP (nun, ain) is not authentic, because the plaintiff and the resigned MP (feh, ha, zin,) are belong to the same bloc which is National Movement for Reform and Development for different governorates, but they based their claim to the law No.(6) for 2006 the law of replacing the I.C.R.' members. Nominating the MP (nun. Ain. zin.) cause to deprive the right of Al-hall bloc to nominate one of its members from other governorate. As for the plaintiff (sin. Feh. ha.) she claimed that the resigned MP (feh. ha. Zin) was candidate for the National Movement for Reform and Development (Al-Hall) which is part of Muttahidoon Alliance even it was from other governorate than the governorate of the resigned MP, she claimed that it is more entitled to occupy the vacant parliamentary seat than the replacement MP (nun. Ain. zin.) because according to her claim he belong to different bloc than the resigned MP' bloc, accordingly, she requested to occupy the vacant seat instead of him. The MP (ain.ain.alif.ain.) he claimed that the replacement MP (nun.ain.zin.) participated in the elections for the entity Lel-iraq Mutahidon, while he is member of Alhall bloc from Ninawa governorate the same of the resigned MP, he requested to rule that the membership of the replacement MP is not

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authentic. After presenting, registering the lawsuits and appointing date for argument, the third party was informed, and submitted an explanatory draft No.(164) on 4.2.2015 stating that the plaintiffs (zin.ta.) and (sin.feh.) are from the National Movement for Reform and Development (Al-Hall), first one is candidate from Baghdad governorate, second one is candidate from Salah Aldeen governorate. As for the plaintiff (ain.ain) he is candidate of the National Movement for Reform and Development (Al-Hall) from Ninawa governorate, while the resigned MP (feh.ha.) and the replacement MP (nun.ain.) are members of the entity Lel-iraq Mutahidon both from Ninawa governorate. on the date scheduled for the argument, the court convened. During scrutiny, the court found that the case is complete for reasons of judgment then decided to close the argument and issued the following decision publicly in the session.

The decision:

During scrutiny and deliberation by the F.S.C.in the unifies lawsuits (120, 130, 134/ federal/ 2014), the court found that the plaintiffs are challenging the decision of the I.C.R. of approving the nomination of the MP (nun. Ain.) for being not authentic for the reasons listed in their case petitions, the plaintiff (zin.Ta.alif.dhal.) stated that he and the resigned MP (feh, ha, zin,) are belong to the same bloc which is National Movement for Reform and Development (Al-Hall) and even if he is from different governorate but that doesn't prevents him from occupying the vacant seat instead of the resigned

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MP, because he claim that the law No.(6) for 2006 the law of replacing the I.C.R.' members support his claim, as nominating the MP (nun. Ain. zin.) cause to deprive the right of Al-hall bloc to nominate one of its members from other governorate. The plaintiff (sin. Feh. ha.) she claimed that the resigned MP (feh. ha. Zin) was candidate for the National Movement for Reform and Development (Al-Hall) which is part of Muttahidoon for Reform Alliance, and she is also from that alliance as candidate of Salah Aldin governorate, therefore she claimed to be more entitled to occupy the vacant parliamentary seat instead of the MP (nun.ain.zin.) because he is from different bloc than the resigned MP. The MP (ain.ain.alif.ain.) he claimed that the MP (nun.ain.zin.) whom his membership authenticity is under challenge, participated in the elections for the entity Lel-iraq Mutahidon, while he has participated as member of Alhall bloc from Ninawa governorate by that he is automatically should take the seat of the resigned MP because both are from the same bloc and governorate. From scrutinizing the unified lawsuits and what stated in the explanatory draft No.(164) on 4.2.2015 which was submitted from the third party the Independent High Electoral Commission, as it was submitted under an inquiry of the court in the session dated on 18.12.2014, we found that it stated that the plaintiffs (zin.ta.) and (sin.feh.) are belong to the same political entity which is National Movement for Reform and Development (Al-Hall), first is candidate from Baghdad governorate, the second is candidate from Salah Aldin governorate, while the plaintiff (ain.ain.alif.) is candidate from

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Ninawa governorate and is also member of the political entity (National Movement for Reform and Development (Al-Hall)), we also found from the draft that the resigned MP and the MP that his membership authenticity is being challenged are members of the political bloc (Lel-iraq Mutahidon) and both are from Ninawa governorate, whereas the law of replacing the I.C.R. members No.(6) for 2006, article (2/2) of it stipulates that ((if the vacant seat is within the governorate' seats allocated by the electoral law, it shall be replaced from the bloc of the replaced member within the governorate' list, in case of depleting the candidates in a governorate, the concerned entity shall present the name of other candidate but to be part of the entity' candidates within the electoral list in other governorate, from the candidate that the Commission has already approved their nomination)). The court found that the resigned MP (feh.ha.zin.) and the replacement MP (nun.ain.zin.) fulfil the conditions of the mentioned legal article, because both are from the same political bloc and the same governorate, the conditions mentioned in the article text above doesn't apply on the plaintiffs, therefore their lawsuits are binding to be rejected. Accordingly the court decided to reject the plaintiffs' lawsuits and to burden them the expenses and the advocacy fees for the defendant' agents amount of (one hundred thousand) IQ.D. This decision has been issued unanimously and final according to the provision of article (94) of the constitution and issued publicly on 17/2/2015.