

In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq
Federal Supreme Court
Ref.121 /federal/media/2015



Kurdish text

The Federal Supreme Court has been convened on 3/1/2016, headed by the judge Madhat Al-Mahmood and membership of judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Abood Salih AL-Tememi, Hussein Abbas Abu Al-Temman, Aad Hatif Jabbar, Mohammed Rijab AL-Kubaisi, and Sulaiman Abd-Allah AL-Samad, who authorized in the name of the people to judge and they made the following decision :

The Request:

IHEC requested from FSC according to its letter No.(Kha/51/988) dated on 9/12/2015, to outweigh the trying in the ICR elections candidate (Ain.Za.Ha) which listed the following:

Referring to your letter No.(36/Ta.Qaf/2015) dated 11/8/2015, we want to inform you about the taken procedures by the commission:

First: convening a commission in the commissioners' council in order to study the recitals of the subject which explained according to its recommendation:

Alif: on 1/4/2014 the commissioners' council ratified on the candidates' list of ICR elections and according to its decision No.(14) for the regular report (41) one of them is the candidate (Ain.Za.Ha) for Diyala governorate.

Beh: on 18/5/2014 the commissioners' council ratified on the results of the ICR elections for 2014, according to its decision No.(70) for the regular report (81), one of them the candidate (Ain.Za.Ha).

Jim: on 16/6/2014 the FSC ratified and according to its decision No.(31/Ta.Qaf/2014) on the results of ICR elections for 2014, and putted-off the deciding of ratification on the candidate (Ain.Za.Ha) for Diyala governorate because of there are penal cases against him at the investigation courts.

Dal: on 19/1/2015 FSC decided according to its decision No.(3/federal/2015) based on the request of ICR/ office of the speaker according to their letter No.(Mim.Ra/87) on 13/1/2015 which stipulated (for the importance of completing the number of ICR members according to the Constitution and law, we hope to explain the final position of the court for the ratification on the membership of (Ain.Za.Ha).

Based on that the FSC issued a decision which stipulated (no ratification on the results of ICR elections for 2014, for the candidate (Ain.Za.Ha) for the list Diyala Haweyatina).

Heh: on 28/1/2015 FSC issued its decision No.(5/federal/2015) included the ratification of the candidate (Ghain.Sin.Ain) for the membership of ICR instead of (Ain.Za.Ha), as well as the commission, approached the following bodies:

1. Commission of integrity/ office of investigations- according to its letter No. (Kha/15/717) on 23/8/2015, and we received the answer according to their letter No.(Teh4/1205) on 3/1/2015 that there are two penal cases under investigation against (Ain.Za.Ha).

2.higher council of judiciary/ presidency of the federal court of Diyala- according to our letter No.(Kha/15/716) on 23/8/2015, we received their answer according to their letter No.(2628) on 28/10/2015, that there are (26) cases against (Ain.Za.Ha), (21) cases had been transferred to Baghdad courts and there are (5) cases still under investigation.

3.the higher council of judiciary/ presidency of Baghdad court of appeal/ Federal AL-Risafah- according to our letter No.(Kha/15/715) dated on 23/8/2015, we received their answer according to their letter No.(4649) on 15/9/2015 by deciding (21) penal cases ratified in the appeal against (Ain.Za.Ha) from the cases listed in the clause (2).

4.as we received the letter of the integrity commission/ investigations office No. (Teh/4/14327) on 8/11/2015 listed to the commission on 10/11/2015 including (there are many penal cases against the charged (Ain.Za.Ha) (5) according to the articles 231, 341, 145, 210 and 137 from Iraqi law of penal

and the law 16. All the above cases were issued against the charged and have an order of arresting and summon.

Based on this and for the above, the commission doesn't have the authority to outweigh between the candidates and the matter is left to your respected court. The request has been put under scrutiny and deliberation from the FSC in its session that convened on 3/1/2016 and reached the following decision:

The Decision:

During the scrutiny and deliberation by the FSC, the court found that it ratified on the results of ICR elections for 2014 and delay the deciding of the ratification of the candidate (Ain.Za.Ha) for Diyala governorate because there are penal cases against him at courts of investigation. On (19/12/2015) in the case No.(3/federal/2015) based on ICR request/ speaker office- letter no.(Mim.Ra87) on 13/1/2015), the FSC decided to not ratify the results of ICR elections for 2014 for the candidate (Ain.Za.Ha) from Diyala Haweyatina list for the reasons that listed in it and on 28/1/2015, the FSC decided and in the case No.(5/federal/2015) to ratify on the candidate (Ghain.Sin.Ain) for ICR membership instead of (Ain.Za.Ha) No.(46/federal/2015), and on 6/7/2015 the FSC decided to reject the case of the plaintiff (Ain.Za.a) No.(46/federal/2015) where he requested from the court to annul the membership of the representative (Ghain.Sin) in ICR and to replace her by him because the mentioned chair actually belongs to him, the case had been rejected because the membership request in ICR shall be linked with the ratification of IHEC After completing the legal conditions for the winner again, the plaintiff didn't follow the requested legal method in this case when he initiated the case, your letter No.(Kha/15/659) on 6/8/2015 didn't include that (ratification of the elections' results again for him) confirmed to you from the letters listed to you from the integrity commission/ office of investigation- No.(teh4/1205) on 3/1/2015 that there are two penal cases under investigation against (Ain.Za.Ha), and from the letter listed to you from the presidency of federal court of Diyala No.(2628) on 18/10/2015 that there are 5 cases against him from total of (26) penal cases as the integrity commission confirmed to you/ office of investigation- bu its letter

No.(Teh2/14327) on 8/11/2015 that there are five penal cases against him according to the articles 231, 341, 145, 137 from the law of penals and orders of arresting and summon had been issued against him, so the reasons that led the FSc to not ratify on the final results of the elections for the candidate (Ain.Za.Ha) according to the FSC decision No.(31/The.Qaf/2014) on 16/6/2014 still on and the cases that he charged is not decided yet. clarified from the above that there are no winner candidates before IHEC to outweigh one of them as listed in your above letter, there is one winner candidate (Ain.Za.Ha) and the final results of elections for his winning of ICR membership is not ratified yet for the reasons listed above, (Ghain.Sin) became a representative in ICR and she is not a candidate at this time and in case of deciding all the cases that he charged, the Commission shall make opinion about taking the legal procedures for him as any winner candidate in the election. The decision was issued unanimously on 3/1/2016.