

Republic of Iraq
Federal Supreme Court
Ref. 129 / Federal / 2022



The Federal Supreme Court (F.S.C.) convened on 20.6.2022 headed by Judge Jasem Mohammad Abboud and the membership of the judges Sameer Abbas Mohammed, Galib Ammer Shnen, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The plaintiff:

Ammar Jabr Khalil - his attorneys are Hassan Aziz Ali, Saif Maher Ibrahim, and Muhammad Hassan Halil.

The defendants:

1. The Speaker of the Council of Representatives / in addition to his position - his agents are the Director-General of the Legal Department Sabah Jumaa Al-Bawi, the Legal Counsel Haitham Majed Salem and the human rights employee Saman Mohsen Ibrahim.
2. The Prime Minister / In addition to his position - his deputy, Legal Counsel Haider Ali Jaber.

The claim:

The plaintiff claimed, through his attorneys, that the first defendant issued a decision including his dismissal from his position (Governor of Salah al-Din Governorate) in the session numbered (8) dated 05/19/2022 and based on a letter issued by the second defendant numbered (3002/2292262) on 4/26 / 2022 (containing the

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minutes of an audit committee and the approval of the Prime Minister to dismiss the Governor of Salah al-Din Ammar Jabr Khalil al-Jubouri in accordance with the provisions of Article (7/8th/2) of the Law of Governorates Not Organized in a Region No. (21) of 2008, as amended and signed by the Director of the Office of the President of the Council Ministers) and accordingly, the Speaker of the Council of Representatives (the first defendant) decided to present the request of the (second defendant) to vote on impeachment by the members of the Council of Representatives to obtain an absolute majority and announce the dismissal, and upon receipt of knowledge of that decision to his client through satellite channels and the media and after referring To the agenda of the session No. (8) Thursday 19/May/2022 the issue of dismissal was not included in its work and since the second defendant's book and the first defendant's decision were based on the law of governorates not organized in a region No. (21) for the amended year 2008, it is clear that the constitutional and legal violations committed by the first and second defendants for dismissal were wrong, as the dismissal decision is unconstitutional and illegal, and in its formal and substantive aspects, it violated the provisions of Article (7/Eighth) of the mentioned provincial law and Article (52/second) of The constitution, where the two mentioned articles stipulated the interrogation procedures before the dismissal decision, and specified the reasons for it exclusively as stated in the law, and to prove that judicially or legally. The Council of Ministers to vote or interrogate his client or request these procedures from the first defendant by deviating from the provisions of the articles contained in this provincial law for dismissal on the one hand, on the other hand, the second defendant has exceeded his powers to conduct

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business with the daily affairs contained in Article (64/Second) of the Constitution determined by the Federal Supreme Court by its decision No. (121/ Federal/2022) dated 5/5/2022, including (appointment and exemption), and that his powers are limited to taking decisions and procedures that would continue the functioning of public utilities, and that this violation was committed by the first defendant in violation of the constitutional provisions in Articles (61 and 64/second) thereof, in addition to the fact that the second defendant has combined two characteristics, which are the accusation of his client and his sentencing without following the legal methods prescribed for those procedures, including directing questions, interrogation, conviction or not, and specifying an ad hoc session or including it on the agenda of the Council of Representatives in accordance with the rules of procedure, with its provisions contained in Chapter Ten, Articles (50 and 67) thereof, As the constitution indicated in Article (19/ First, Second, Third, Fourth, Sixth) which stipulates (Everyone has the right to be treated fairly in judicial and administrative procedures) and this was not achieved when his client was dismissed, so he appeals before this court for not applying Federal laws from the first and second defendants, and the failure to apply the law correctly to all its articles contained therein, as well as the provisions of the law The Constitution and the non-compliance with the Federal Supreme Court Decision No. (121 / Federal / 2022) dated 15/5/2022, which is a duty to be followed, since the decisions of the court are final decisions and one of its powers is to decide on cases that arise from the application of laws, decisions, regulations, instructions, and procedures issued by the authorities Federal, based on the provisions of Article (4/Third) of the Federal Supreme Court

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Law No. (30) of 2005, For all of the foregoing reasons, the plaintiff requested the Federal Supreme Court to rule the unconstitutionality of the procedures issued by the first and second defendants in addition to their jobs based on the violation of the application of Law No. 21 of 2008 as amended, and the implementation of Federal Supreme Court Decision No. (121 /Federal /2022) dated 15/5/2022 and nullifying all its consequences, including the decision to dismiss his client from his post, the governor of Salah al-Din, dated 5/19/2022, and notifying them of the application of the law correctly and in accordance with the constitution and not to exceed the constitutional powers stipulated in the aforementioned Federal Supreme Court decision. He also requested the issuance of a state order to suspend the decision of the first defendant - in addition to his position, dated 5/19/2022 to dismiss his client until the outcome of the lawsuit, while charging the first and second defendants with fees, judicial expenses and attorney fees. The case was registered with this court in No. (129/Federal/2022), and the legal fee was collected for it in accordance with the provisions of Article (1/Third) of the Federal Supreme Court's internal system No. (1) of 2005, and it informs the defendants of its petition and documents in accordance with the provisions of Article (2/First). From the same bylaw mentioned above, the attorney for the first defendant replied in the regulation dated 5/26/2022, in summary, that the appeal against the decision to dismiss the Governor of Salah al-Din is outside the jurisdiction of the Federal Supreme Court because there is another appeal reference to consider the legality of the decision represented by the Administrative Court based on the provisions of Article (7/8th/4) of the Law of Governorates Not Organized in a Region No. (21) for the

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year 2008, as amended. Subsequent governors had previously appealed to the Federal Supreme Court, and the court issued its decisions dismissing those appeals for the reasons mentioned above, including the two decisions numbered (69/federal/ Media / 2015) and (70 / Federal / Media / 2015) dated 7/13/2015 and its Resolution No. (103/ Federal / Media/2017) on 11/14/2017. And that the vote was carried out based on a request submitted to the Presidency of the Council of Representatives signed by (184) deputies by adding the voting paragraph on the dismissal of the Governor of Salah al-Din Ammar Jabr Khalil al-Jubouri from his position on the agenda of the session, in accordance with the provisions of Article (37/Second) of the bylaws of the Council of Representatives. Representatives, and that the Council of Representatives has exercised its jurisdiction stipulated in Article (7/Eighth/2) of the Law of Governorates Not Organized in a Region No. (21) of 2008, which states that (the Council of Representatives may dismiss the governor by an absolute majority based on the proposal of the Prime Minister for the same reasons mentioned above), where the Prime Minister's Office sent an official request to approve the dismissal of the Governor of Salah al-Din under his book No. (3002/2292262) dated 04/26/2022 attached to it is the minutes of an audit committee formed by Diwani Order No. (2292223) dated 04/24/2022, nor The litigation is directed to his client regarding the incompatibility of the second defendant's procedures with the law and court decisions, so he requested that the case be dismissed and that the plaintiff be charged with all judicial expenses. As for the second defendant, his response to the lawsuit petition was not received, and after completing the procedures in accordance with the provisions of the aforementioned rules of

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procedure, a date was set for the pleading, and the parties were informed of it, according to the provisions of Article (2/Second) of the aforementioned rules of procedure, and on the appointed day the court has formed The attorneys for the plaintiff, lawyers Hassan Aziz Ali, Saif Maher Ibrahim and Muhammad Hassan Halil, attended on behalf of the first defendant (the Speaker of Parliament / in addition to his job) and his representative, the legal advisor Haitham Majed Salem, and attended on behalf of the second defendant (the Prime Minister / in addition to his position) his representative, the legal advisor. Haider Ali Jaber, and the public pleading were conducted. The plaintiff's attorneys repeated what was stated in the lawsuit petition and requested the ruling according to what was stated in it. The first defendant's attorney responded in addition to his job and requested that the case be dismissed for the reasons mentioned in the regulation dated 5/26/2022 and added that the appeal is a dismissal decision The governor issued by the Council of Representatives shall be before the Administrative Judiciary Court based on Article (7/Eighth/4) of the Law of Governorates Not Organized in a Region AD No. (21) for the year 2008, according to the amendment that occurred to the said law, which is the first amendment No. (15) for the year 2010, so the request was rejected because of the lack of jurisdiction of this court. In order to resolve the issue, the court decided to reject the request of the second defendant's attorney in addition to his job. The court also noted that with regard to the plaintiff's request to issue a wedge order for the purpose of stopping the first defendant's decision dated 5/19/2022, this court had previously rejected under its decision No. (129/Federal/Order). My loyalty/2022 on 1/6/2022 the issuance of the guardianship order (for

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the order requester Ammar Jabr Khalil) and the parties' attorneys repeated their previous statements and requests, and where there was nothing left to be said, the court decided the conclusion of the pleading and issued the following ruling:

The decision:

Upon examination and deliberation by the Federal Supreme Court of what was stated in the plaintiff's lawsuit and the mutual regulations between the two parties and what was stated by their agents in the pleading session, it was found that the plaintiff's representative requests a ruling that the procedures issued by the defendants are unconstitutional, each of the Speaker of the Council of Representatives in addition to his job and the Prime Minister in addition to his job, which It led to the vote to dismiss his client, the plaintiff, the Governor of Salah al-Din (Ammar Jabr Khalil), from his position by the Council of Representatives in the eighth session held on 5/19/2022 based on the letter issued by the Prime Minister's Office in the number (3002/2292262) On 04/26/2022, the Court finds that its jurisdiction in constitutional oversight extends to the laws and regulations in force only, without other legislation, decisions or procedures based on the provisions of Clause (First) of Article (93) of the Constitution of the Republic of Iraq for the year 2005 Also, the jurisdiction of the Federal Supreme Court specified in Articles (52 and 93) of the Constitution and some other special laws It has emptied its competence to consider the decisions issued to dismiss the governor, and since Law No. (15) of 2010 (the First Amendment Law of the Law of Governorates Not Organized in a Region No. (21) of 2008 as amended) specified the body to appeal against the

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decisions issued to dismiss governors from their positions, as Article (2) of the aforementioned amendment law stipulates that “Paragraphs (4 and 5 of Clause 8th of Article 7) of the law shall be repealed and replaced by the following: 4. The governor may appeal the dismissal decision to the Administrative Court within (15) fifteen days. From the date of his being notified of it, and the court decides on the appeal within a period of (30) thirty days from the date of receiving the appeal, and he must conduct the work of the governorate during it)). For all of the above, the Federal Supreme Court decided to dismiss the claim of the plaintiff, Ammar Jabr Khalil, and to charge him the fees, expenses, and attorney fees for the attorney of the first defendant, the Speaker of the Council of Representatives, in addition to his job, the legal advisor Haitham Majed Salem and the attorney of the second defendant, the Prime Minister, in addition to his job, the legal advisor Haider Ali Jaber, an amount of one hundred One thousand dinars distributed among them in accordance with the law. The decision was issued by agreement, conclusive and binding on all authorities based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and Article (4) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and publicly understood in 20/ Dhul-Qa'dah / 1443 AH corresponding to 20/6/2022 AD.

Signature of
The president

Jasem Mohammad Abboud

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