

Republic of Iraq  
Federal Supreme Court  
Ref. 137/ federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 21/8/2023 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul Rahman Suleiman, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Ahmed Raheem Abtan - Deputy Director of Saria Iraq Public Transport Company Limited Liability/ being in this capacity.

The Defendants: 1- The Prime Minister / being in this capacity – his agent, the legal counselor Hayder Ali Jaber.

2- The Minister of Construction, Housing, and Public Municipalities/ being in this capacity.

3- The President of the National Commission of Investment/ being in this capacity.

### **The Claim**

The plaintiff claimed that the Prime Minister issued Resolution No. (302 of 2019) amending fines for excess loads from (5000 ID/kg) to (500 ID/kg), as well as reducing weight wages from (20,000 ID/kg) to (5000 ID/kg) contained in Article (10/Beh) of the First Amendment Law to the Public Roads Law No. (5) of 2013, based on a proposal from the Minister of Construction, Housing and Municipalities according to his letter No. (Mim. Kha/1667 on 26/8/2019) document. Resolution of the dissolved Revolutionary Command Council No. 82 of 1996, which gave the authority to the Ministry of Finance, after coordination with the

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concerned ministry or a body not associated with a ministry, to propose to the Economic Affairs Committee the amendment of the legally prescribed fees, and the decision of the Economic Affairs Committee shall be amended to the provisions of legislation relating to fees and from the date of its publication in the Official Gazette, whereas the decision of the dissolved Revolutionary Command Council referred to the above-mentioned reference to fees, while the decision of the Council of Ministers amended wages, and that fees are one thing and wages are another, and therefore this decision is contrary to the first amendment to the Public Roads Law No. (5) of 2013, which is a constitutional violation, and since the third defendant advertised an investment opportunity to operate weighing stations accordingly and because the company managed by the plaintiff is specialized in this field, it was harmed by this procedure, so the plaintiff requested from this court ruled to cancel the Council of Ministers Resolution No. (302 of 2019) and the subsequent procedures and to charge the defendants expenses and fees. The lawsuit was registered with this court, and the legal fee was collected, and the defendants were informed of its petition and documents based on Article (21/1<sup>st</sup> and 2<sup>nd</sup>) of the internal regulations of the Federal Supreme Court No. (1) of 2022, and the third defendant's agent replied with the reply regulation dated 10/8/2023 Summary: The court has no jurisdiction to consider it, so he requested the dismissal of the lawsuit, and because the period stipulated in Article (21/3<sup>rd</sup>) of the Court's Rules of Procedure passed without receiving the answers of the first and second defendants, he set a date for considering the lawsuit without pleading, in which it was formed, and the court examined the plaintiff's requests and grounds and the defenses of the third defendant, it noted that on 21/8/2023, the first defendant's agent submitted an answering draft and requesting the dismissal of the lawsuit for the

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reasons stated therein, and where the court completed its audits, the end of the minutes has been made clear and the court issued the following decision:

**The decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the lawsuit of the plaintiff (Ahmed Rahim Abtan), the managing director of the Iraq Saria Public Transport Company Ltd. / in addition to his job, is focused on demanding a judgment to cancel the Council of Ministers Resolution No. (302) of 2019 and the subsequent procedures, and the contested decision stipulated that ((The Council of Ministers decided in its thirty-third regular session held on 27/8/2019 to approve the following: 1. Reducing the amount of fines from an amount of (5000) dinars only five thousand dinars to an amount of (500) dinars only five hundred dinars per kg. 2. Reducing the amount of weight prices from an amount of (20,000) dinars only, twenty thousand dinars, to an amount of (5000) dinars, only five thousand dinars, for each time. 3- Authorizing the Ministry of Construction, Housing, Municipalities and Public Works to amend the contracts signed with lessors and investors for weighing stations in accordance with the amendment mentioned in paragraphs (1 and 2) mentioned above)) and through careful consideration by the court about the petition of the lawsuit and the plaintiff's requests and the grounds on which he relied, the court finds that the plaintiff's company is a private public transport company and is not competent to rent or exploit weighing stations, and on the other hand, the plaintiff did not show proof of his contract with the competent authorities until his interests and the interests of his company are harmed by assuming the validity of what he claims, and thus the interest condition is absent from the plaintiff/ being in this capacity, this

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condition is one of the requirements for filing a lawsuit based on paragraphs (1<sup>st</sup>) and (2<sup>nd</sup>) of Article (20) of the Rules of Procedure of the Federal Supreme Court, which stipulates ((First: that the plaintiff in the subject matter of the lawsuit has a direct and influential interest in his legal, financial or social status, provided that it is available from the filing of the lawsuit until the issuance of the judgment thereon. Second: The impugned text has already been applied to the plaintiff)) The court finds that this is not available in the case of the plaintiff in this lawsuit. Accordingly, due to the lack of interest condition, the court decided to dismiss the lawsuit of the plaintiff (Ahmed Rahim Abtan), the managing director of the Iraq Saria Public Transport Company Ltd. / being in this capacity and to burden him with fees, expenses and advocacy fees to the first defendant's agent an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously according to the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited in the session dated 4/Sufur/1445 Hijri coinciding with 21/August/2023 AD.

**Judge**

**Jassim Mohammed Abbood**

**President of the Federal Supreme Court**

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