

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 13/federal/media/2015



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 4/5/2015 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 Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: the Governor of Al-Muthanna/ being in this post, his agent the attorney (ain. ain. dal.).

The Defendant: the Minister of Health/ being in this post, his agent (teh. Mim. Ain.).

The Claim:

The plaintiff being in this post claimed that the defendant the Minister of Health/ being in this post has issued the ministerial order No.(4444) on 17/12/2014, which included the removal the acting Director General of Al-Muthanna health department and to assign Dr.(Ra.Kaf.Shin.) as acting Director General of health department, as the mentioned order violated the law and include exceeding to the plaintiff authorities that are listed in the law of

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governorates unassociated into a reign No.(21) for 2008, which consider the Governor (as the supreme executive president in the governorate) and that authorize him to make legal procedures about the employees of the state and the workers in the governorate according to the related law of them, the council of Al-Muthanna governorate decided to not implement the challenged ministerial order according to the jurisdictions stipulated for the council under the law of the governorates unassociated into a reign No.(21) for 2008, in light of what that the plaintiff requested to repeal the decision No.(4444) on 17/12/2014, and to make the decision of the Governor No.(129) on 27/1/2015 valid. After registering the case and scheduling a date for the argument, the F.S.C. has listened to the statements of the plaintiff' agent, and the statements of the defendant' agent who requested to reject the case for the reasons listed in his draft dated on 17/3/2015, each of them repeated his statements and requests, as the F.S.C. has completed its investigations the argument is closed and issued the following decision.

The Decision

During scrutiny and deliberation by the F.S.C., the court found that the plaintiff/ being in this post has challenged the decision of the defendant/ being in this post No.(4444) on 17/12/2014 which included the assignment of Dr.(Ra.Kaf.Shin.) as acting Director General of health department, the plaintiff consider the challenged decision exceeding to his authorities and the authorities of the Al-Muthanna governorate council that are stipulated in the amended law of governorates unassociated into a reign No.(21) for 2008,

according to that he requested to repeal the mentioned decision and to make his decision No.(129) on 27/1/2015 valid. During scrutiny and deliberation by the F.S.C., the court found that the challenged decision that issued by the defendant/ being in this post the assignment of acting Director General of Al-Muthanna health department is an executive decision that the consideration of its authenticity is out of the F.S.C. jurisdictions, on the other hand, the law of governorates unassociated into a reign No.(21) for 2008 has stated the jurisdictions of the F.S.C. to consider what related to the implementation of the law in two fields as listed in article (20/3rd/2) of the mentioned law, that authorized the dissolved local council to challenge the dissolving decision before the F.S.C., and also what stated in article (31/11th/3) of the law that authorized the Governor to refer the decision of the governorate council by insisting on his decision or amend it without removing the violation indicated by the governor to the F.S.C. to decide in this matter, as what listed above was mentioned exclusively in the law of governorates unassociated into a reign No.(21) for 2008, by that considering the plaintiff/ being in this post request is out of the F.S.C. jurisdictions. Therefore the plaintiff/ being in this post case has lost its legal substantiation, accordingly the court decided to reject the case of the plaintiff the Governor of Al-Muthanna/ being in this post from the point of jurisdictions, and to burden him the expenses and advocacy fees for the agent of the defendant the jurist (teh.mim.ain.) amount of one hundred thousand Iraqi dinars. The decision has been issued decisively according to article (94) of the constitution, and unanimously on 4/5/2015.