

Republic of Iraq
Federal Supreme Court
Ref. 156 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 15/8/2023 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, Ayooob 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: Ghalib Mohammed Ali – his barrister Karwan Shihab Ahmed.

The Defendant: Minister of Oil/ being in this capacity.

The Claim

The plaintiff claimed through his agent that the defendant, the Minister of Oil in the Federal Government, in addition to his job, decided to equip the governorates of the Kurdistan Region of Iraq according to the two letters of the Petroleum Products Distribution Company of the Ministry of Oil (8915 on 28/8/2021 and 11707 on 4/11/2021) with a quantity less than the population percentage of these governorates, and less than the quantities sent to other governorates in Iraq and at a price more expensive than the price prescribed in them as well, and that the defendant must carry out his responsibility towards the citizens of the region fairly, including the distribution of oil products fairly, and because the plaintiff is a resident of Sulaymaniyah province within the Kurdistan region, he was affected by this procedure, so he took the initiative to file this lawsuit based on Article (93/3rd) of the Constitution, requesting a ruling on the invalidity of the decisions and procedures of the Ministry of Oil under the two letters above in distinguishing between the citizens of the region and other governorates in Iraq with regard to the processing of petroleum products and their prices, the lawsuit was registered with this court No. (156/Federal/2023) and the legal

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fee was collected and the defendant was informed of its petition and documents based on the provisions of Article (21/1st and 2nd) of the Rules of Procedure of the Federal Supreme Court No. (1) for the year 2022, for the lapse of the period stipulated in item (3rd) of the preceding article, a date was set for the consideration of the case without pleading, and on the specified day, the court was formed and checked the plaintiff's requests and supports, and after completing its scrutinies, 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 and what was stated in the plaintiff's lawsuit mediated by his agent, he found that he claims in the lawsuit petition that the defendant, the Minister of Oil/ being in this capacity, decided to supply the governorates of the Kurdistan region with oil derivatives in a quantity less than the population percentage of these governorates and less than the quantities that are sent to other governorates in Iraq and at a price more expensive than the price prescribed in them as well, which represents discrimination between citizens at the level of the Federal State of Iraq, and for violating the constitution, which stipulates in Articles (14, 16 and 112 / 1st) thereof that the distribution of oil, gas and all petroleum products shall be fair, and in line with the population distribution at the state level, and in accordance with the principles of equality and equal opportunities among Iraqis, and where it was agreed between the Kurdistan Regional Government of Iraq and the federal government to export the region's oil through the Sumo Oil Marketing Company of the Federal Ministry of Oil, which is stipulated in Article (12 /2nd/Alif) of Law No. (13) of the 2023 Budget Federal General of the Republic of Iraq for the fiscal years (2023 – 2024 – 2025) and request a ruling on the invalidity of the decisions and procedures of the Ministry of Oil, and the invalidity of the two letters numbered (8915 on 28/8/2021 and 11707 on 4/11/2021), and this court finds that the request of the plaintiff's agent focuses on ruling the

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invalidity of the two letters issued by the Ministry of Oil, and since the competences, functions and powers of this court are contained in Articles (52/2nd and 93) of the Constitution of the Republic of Iraq for the year 2005 as well as in Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, and it does not have the competencies of the requests contained in a petition of the lawsuit, because the plaintiff filed his lawsuit on the basis of Article (93/3rd) of the Constitution to adjudicate cases arising from the application of federal laws referred to by the plaintiff in his petition and request their application, and the judgment of this court has settled in many decisions that the jurisdiction of the court under paragraph (third) Article (93) of the Constitution is limited to what is issued exclusively by federal authorities and independent bodies, this does not extend to ministries or others, and because the plaintiff's lawsuit lacks its legal basis and must be dismissed for lack of jurisdiction, the court decided to dismiss the plaintiff's lawsuit Ghalib Muhammad Ali and charge him the judicial expenses. The decision has been issued unanimously, final, and binding for all authorities 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 on the session dated 27/Muharram Al-Haram/1445 Hijri coinciding 15/August/2023 AD.

Judge

Jassim Mohammed Abbood
President of the Federal Supreme Court

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