

(Translated from Arabic)  
IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq  
Federal Supreme Court  
Ref. 174/federal/media/2018



Kurdish text

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The Federal Supreme Court (FSC) has been convened on 21.11.2018, headed by the Judge Madhat Al-Mahmood and the membership of Judges Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temmen and Mohammed Rajab Al-Kubaise who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (Alif. Mim. Ha. Beh.). her agent the attorney (Mim. Alif. Ain.).

The Defendant:

1. Head of the Independent High Electoral Commission/being in this post, his agent the legal official (Alif. Ha. Ain.).
2. Head of the High National Commission For Accountability And Justice/being in this post , his agent the legal official (Alif. Alif. Jim.).

**THE CLAIM:**

The agent of the plaintiff claims that on the date 16/8/2018 the Commissioners Council of the Independent High Electoral Commission issued decision no.(Ha/18/1121) on 16/8/2018 to announce the winners results of the ICR Election for year 2018. Among the winners the candidate (Jim. Ha. Mim. Jim.) from Salah Al-Dien Governorate, as he is a member in the (dissolved) Baath Party and wasn't included with article (6/eighth) of the High National Commission For Accountability And Justice law no.(10) for year 2008 according to the cassation decision no.(21/cassation commission/2013) on 25/3/2013 for not enriched him in account of the public found. But that doesn't deny that he is a member in the Baath Party and his participation in the elections violate the constitution that prevent the Baath Party from political pluralism and forbid it returning in any circumstances. The agent of the plaintiff showed that the Commissioners Council decision to announce the winning of the candidate

(Jim. Ha. Mim. Jim.) in the elections, and the decision of the High National Commission For Accountability And Justice to allow the aforementioned candidate to stand for election. And not to include him with the Commission actions, despite his membership in the Baath Party; for the reason that he wasn't enriched in account of the public found, doing that allow him to be in the ICR while he should be dismissed and forbidden from nomination and winning.

The agent of the plaintiff request to cancel the Commissioners Council decision dated 16/8/2018 about the result of the winning of the candidate (Jim. Ha. Mim. Jim.) nominated behalf Al-Watanya Collation list no.(185) for Salah Al-Dien Governorate and to write off his results and cancel the votes he get and to return the right to the plaintiff as she is a second place winner in the same electoral list instead of him.

The defendants were informed with the case petition and its appendixes, the first defendant replied with his draft dated 12/9/2018 that the Independent High Electoral Commission sent all the nominees names of 2018 elections to the Accountability And Justice Commission; among those names the name of the objected against candidate name. the Commission answer was not to include the candidate (Jim. Ha. Mim. Jim.) with the Accountability And Justice Commission Law. And made a challenge in the Commissioners Council decision before the Legal Election Commission; that challenge was rejected, that decision was final and can't be impeached. The agent of the first defendant request to reject the case formally and objectively.

The second defendant replied with his draft dated 12/9/2018 that included that the FSC is not specialized with the object of the case; and request to reject the case for the reason that the litigation isn't directed as the Commission isn't specialized with the ratification of the winners names in the elections, on the objective term the Accountability And Justice Commission included the objected against candidate with accountability and justice procedures and he made a challenge before the cassation commission that excepted the challenge and considered him not included with the procedures of the Accountability And Justice Commission Law. As the Cassation Commission decision is final and decisive so the Commission apply it, therefore the agent of the second defendant request to reject the case.

The Court called the two parties in the day set for proceeding. The agents of the defendants and the agent of the plaintiff attended and started the public in present proceeding. The agent of the plaintiff repeated the case petition and request to judge by it, the agents of the defendants repeated their answering draft and request to reject the case. As the case complete the legal procedures the Court decided to end the proceeding and issued the following judgment decision publicly.

## THE DECISION:

During scrutiny and deliberation by the FSC, the Court found that the plaintiff (Alif. Mim. Ha. Beh.) challenge the Commissioners Council of the Independent High Electoral Commission decision no.(Ha/18/1121) on 16/8/2018 that included the announcement of the winners results of the ICR Election for year 2018. Among the winners the candidate (Jim. Ha. Mim. Jim.) from Salah Al-Dien Governorate, as he is a member in the (dissolved) Baath Party and requesting to write off his result and cancel the votes he gets and consider her the winner in the second place instead of him in the electoral list (Al-Iraqia Collusion) no.(185) Salah Al-Dien serial (14), as the objected against candidate and winner in the elections wasn't included with the provisions of the accountability and justice law as he wasn't enriched in account of the public found despite that he was Baathi. The agent of the first defendant request to reject the case formally and objectively and request to reject the case as the Commission isn't specialized with the ratification of the winners names in the ICR elections. As the FSC ratified on the final result of the ICR elections according to the Court competence stipulated on article (93/seventh) of the constitution; the plaintiff could made a challenge on the membership of the winner candidate (Jim. Ha. Mim. Jim.) before the ICR according to article (52/first) of the Constitution for year 2005 if she want after obtaining the legal reasons for the challenge .

Therefor the plaintiff request shall be rejected and to burden her the expenses and advocacy fees for the agents of the defendants amount of one hundred thousand Iraqi dinars divided between them according to the law. The decision has been issued unanimously on 21.11.2018.