

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

Republic of Iraq
Federal Supreme Court
Ref. 176/federal/media/2018



Kurdish text

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: (Sin. Mim. Ain. Ha. Ain.), his agent the attorney (Ain. Ha. Nun.).

The Defendant: Head of the Commissioners Council in the Independent High Electoral Commission/being in this post, his agent the legal official (Alif. Ha. Ain.) .

THE CLAIM:

The agent of the plaintiff claims that the Commissioners Council on 9/8/2018 issued the decision no.(69) to ratify the wining of the parliamentary election candidates for year 2018. Among those winners the candidate (yeh. Ghain. Ain.) from Al-Iraqia Collation electoral list (182) serial (30). As there is a criminal proceedings against him with number of accusers which were investigated by before the Court specialized with the integrity cases in Al-Resafa no.(1010/Qaf.1/2017); which he was released on a bail and referred to the Criminal Court specialized with integrity cases in Al-Resafa to be judged according to article (340) Penalties of making an intentional harm to the public funds and the loss of the State funds in the amount of Ten Billion Iraqi Dinar, and for the challenge made by accusers the case referred to the Federal Cassation Court and registered in no.(7276/Penalty Commotion/2018) and it is under the cassation scrutinizes till now. The plaintiff request to delay the final ratifying of the wining of the mentioned candidate until the penalty case is settled, as his client considered the first reserve candidate; he request to count

him as a winner in the parliamentary seat instead of the mentioned candidate as he is from the same Elections list that the plaintiff affiliate to.

The defendant/being in this post was informed by the case petition; that he replied on by his draft dated 12/9/2018 that included the following , the plaintiff challenge in the membership of the winner candidate (yeh. Ghain. Ain.) from Al-Iraqia Collation electoral list (182) serial (30) as there is a criminal proceedings against him, and this case hasn't reached its final decision and the article (8) of the ICR Elections Code no.(45) for year 2013 stipulate on (cannot be convicted with a dishonorable misdemeanor or crime to be locked down in prison) and the Commissions sent the candidates' names to the directory of the Criminal Registration for investigate whether the candidate is convicted with a dishonorable crime; his name wasn't mentioned in the names who have criminal records, and the decision of the Commissioners Council are challengeable before the Elections Legal Commotion, therefore he request to reject the case.

The Court called the two parties in the day set for proceeding.

The agent of the defendant attended, the agent of the plaintiff didn't attend and sent a request to postpone the proceeding. 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 (Sin. Mim. Ain. Ha. Ain.) impeach the wining of the candidate (yeh. Ghain. Ain.) behalf Al-Iraqia Collation, and claims that a penalty case about integrity raised against him according to article (340) Penalties of making intentional harm to the State funds and it is under the cassation scrutinizes before the Federal Cassation Court requesting not to ratify his wining as he considered the first reserve candidate; he request to count him as a winner in the parliamentary seat instead of the mentioned candidate as he is from the same Elections list that the plaintiff affiliate to. As the FSC ratify on the final results of the ICR Elections according to its competence stipulated in article (93/seventh) of the constitution, therefore trying his request become unproductive, and the plaintiff can challenge in the membership of the winner candidate (yeh. Ghain. Ain.) according to the method shown in article (52/first) of the Iraqi Constitution for year 2005 if he wants after having the legal reasons.

Therefore the plaintiff case will be rejected.

Therefore the FSC decided to reject the plaintiff request and to burden him the expenses and advocacy fees for the agent of the defendant amount of one hundred thousand Iraqi dinars according to the law. The decision has been issued decisively, unanimously and in presents on 21.11.2018.