

In the name of God most Gracious most Merciful

Republic of Iraq  
Federal Supreme Court  
Ref. 177/federal/2021



Kurdish text

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The Federal Supreme Court (F.S.C.) has been convened on 6. 12 .2021 headed by Judge Jasem Mohammad Abod and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali who are authorized to judge in the name of the people, they made the following decision:

The Presenter of the Appellant: Duha Reda Hashem Al-Qusayr - her attorney, Al-Safi Abdel Reda Kamer.

The Appealed Decision: The final results of the Iraqi Council of Representations elections for the year 2021, the fifth session, in the governor of Al-Qadisiyah / the third electoral district.

The Request:

The petitioner challenged, through her representative, the final results of the Iraqi Parliament elections for the year 2021, the fifth session in the governorate of Al-Qadisiyah, the third electoral district, where it was stated in its list that it had previously participated in the elections of the fifth session in the governorate (Al-Qadisiyah) district (3) and after the statement of the final results of the elections From the Independent High Electoral Commission, it was found that it did not obtain a seat in the aforementioned constituency, and since the scope in force in this session is to distribute the governorate into districts, and the district in which it was

nominated, its share of seats according to the law is four seats according to the quota system for women's representation contained in Article (16) of the Iraqi Council of Representations Elections Law No. (9) for the year 2020, and the distribution of the four seats in her constituency is as follows: Three seats for the highest votes without mentioning the gender, a man or a woman, and one seat for a woman according to the quota system, and the fact that there is a woman who won her valid votes in the constituency cannot be calculated as a quota according to the table and a copy of it is attached. Accordingly, the fourth seat in Constituency No. (3) (Al-Qadisiyah) governorate is from the woman's share, and since the candidate (Abeer Ahmed Abdel-Sada) obtained the highest votes in the constituency and obtained the third seat among the first three seats allocated to the highest number of votes for him, the fourth seat in the constituency From her share (Al-Ta'na) as she holds the highest number of votes for the woman in the constituency, and the first in the reserve. The candidate (Haider Ali Sheikhan), who rose fourth according to the table, cannot be considered among the three highest votes in the constituency, and this violates Paragraph (3) of Article (16) of the law.

#### The Decision:

After scrutiny and deliberation by the FSC, it was found that the petitioner, Duha Reda Hashem al-Qusayr, was challenging the final results of the 2021 Iraqi Council of Representations elections (the fifth session) in the Qadisiyah Governorate, the third electoral district because she did not obtain a seat in that constituency. The FSC finds that this appeal is outside the jurisdiction of this court, whose jurisdiction is defined under Article (93/7<sup>th</sup>) of the Constitution of the Republic of Iraq for the year 2005 and Article (4/7<sup>th</sup>) of the FSC Law No. (30) of 2005 amended by Law No. (25) for the year 2021 in this regard and falls within the jurisdiction of the competent judicial authority to hear the appeals formed under Article (19/first) of the Independent High Electoral Commission Law No. (31) for

the year 2019, of which paragraph (2<sup>nd</sup>) stipulates the following: ((It is not permissible to appeal the decisions of the Board of Commissioners except before the judicial authority for elections in matters related to the electoral process exclusively)). The jurisdiction of this court is to ratify the final results of the general elections for the membership of the House of Representatives in accordance with Paragraph (7<sup>th</sup>) of Article (93) of the Constitution of the Republic of Iraq for the year 2005, and the court is not competent to consider this appeal. Therefore, the FSC decided to reject the appeal submitted by the appellant, Duha Reda Hashem, due to lack of jurisdiction. The decision was issued by agreement, conclusive and binding on all authorities, based on the provisions of Articles (93/7<sup>th</sup> and 94) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4/7<sup>th</sup> and 5/2<sup>nd</sup>) of the FSC Law No. (30) of 2005 as amended by Law No. (25) of 2021 On 1/Jumada al-Ula/1443 coinciding with 6/December/2021.