

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

Republic of Iraq  
Federal Supreme Court  
Ref. 178/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: (Kha. Kha. Alif. Ain), her agent the attorney (Mim. Ghain. Ain.).

The Defendant: Head of the Council of 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 after completing the electronic screening and counting for the candidates for the election of the ICR for year 2018, the plaintiff gets (621) vote from Salah Al-Dien Governorate behalf the Iraqi Decision Coalition 168, the candidate (Shin. Sin. Mim.) also gets (621) vote ; as a result of the lot; the wining of the plaintiff was announced and gets (4) votes from the manual screening and counting and had a total of (625) vote, while the candidate (Shin. Sin. Mim.) still have only (621) vote. While the manual screening and counting process the plaintiff request to open three boxes as she think that she had fifty; almost sixty vote in these boxes but the Complaining Manager (Alif. Ha. Ain.) insured her that she is the winner and there is no need for opening these boxes.

The Commissioners Council issued a letter on 16/8/2018 no. Ha/18/1121 to this Court to delete the plaintiff name and the candidate (Shin. Sin. Mim.) took her place, she went to the Commission Council; a copy of the Judicial Commission decision dated 15/8/2018 which states on recounting the votes in some Voting

Centers for the candidate (Shin. Sin. Mim.); her votes have been increased without identifying the votes number.

The plaintiff wasn't informed by these changes, she also shown that there are another five Centers in Karkuk for the displacement from Salah Al-Dien weren't opened yet. For the Commission Code stipulate on publishing the Commission Council decision in three daily journals for three days; which it didn't. after scrutiny the plaintiff request to recount the boxes and to invalid the candidates (Shin. Sin. Mim.) nomination and declare the wining of the plaintiff (Kha. Kha. Alif. Ain).

The defendant/being in this post informed with the case petition and its documents which he answered by his draft dated 13/9/2018; which mentioned that after the election result announcement both of the candidates [(Shin. Sin. Mim.) and (Kha. Kha. Alif. Ain)] get (621) vote a lot was made between the two candidates and the candidate (Kha. Kha. Alif.) won, and as a result for the challenge made by the candidate (Shin. Sin. Mim.) to the Judicial Commission for Elections , which the Commission decided in it decision no. (1484/Appeal/2018 on 15/8/2018 to recount the votes that weren't counted, and consider her winner in the elections and this Court ratified the elections results on 19/8/2018. So he request to reject the case.

The Court called the two parties in the day set for proceeding. The agent of the parties attended and started the presents proceeding. The agent of the plaintiff repeated the case petition, the agent of the defendant repeated the answering draft and his request to reject the case. The Court ended the proceeding and issued the following judgment decision publicly.

### THE DECISION:

During scrutiny and deliberation by the FSC, the Court found that the plaintiff impeach the wining of the candidate (Shin. Sin. Mim.) behalf the Iraqi Decision Coalition 168 in Salah Al-Dien Governorate. The Independent High Electoral Commission shone that the objected against candidate made the challenge before the Judicial Commission for Elections which issued decision no. (1484/Appeal/ 2018 on 15/8/2018, she considered a winner in the elections after counting the votes that weren't counted for her.

The FSC finds that the plaintiff request from the FSC to recounting the boxes and to null the wining of the candidate (Shin. Sin. Mim.) are out of the Court competence. As the FSC ratified the results of the General Elections of the ICR according to it competence mentioned in article (93/seventh) of the constitution; the plaintiff can impeach the membership of the winner candidate (Shin. Sin.

Mim.) according to the set method in article (53/first) of the constitution if she want to after collecting the reasons for the challenge according to the Law. Therefore the FSC decided to reject the plaintiff request and to burden the plaintiff 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 on 21.11.2018.