

In the name of God most Gracious most Merciful

Republic of Iraq  
Federal Supreme Court  
Ref. 178/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 Appellant: Noura Hekmat Abdel Aziz - her attorney, Al-Safi Abdel Reda Kamer.

The Appealed: The final results of the Iraqi Council of Representatives elections (2021) the fifth session in the Baghdad governorate, the fourteenth electoral district.

1- Summary of the Appeal:

The appellant, Noura Hikmat Abdul Aziz, requested the FSC, through her attorney, Al-Safi Abdul-Ridha Kamer, to challenge the final results of the Iraqi Parliament elections (2021), the fifth session in Baghdad governorate, the fourteenth electoral district, for not obtaining a seat in that district according to its list dated 12/22021 for which the legal fee was collected on the same date and registered No. (178/federal/2021), its conclusion is as follows (that the scope in force in this session is the distribution of the governorate into districts, and that the district in which it was nominated, its share of seats according to the law is five seats

according to the system of women's representation for the quota contained in Article (16) of the Council of Representatives Elections Law No. (9) of 2020 , and the distribution of the five seats in her constituency is as follows: four 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. Since there is a woman who won her valid votes in the constituency, a quota cannot be calculated according to the table and a copy of it is attached. Therefore, the fifth seat In constituency No. (14) the governorate of (Baghdad) is from the women's quota, and since the candidate (Wahda al-Jumaili) who obtained the highest votes in the constituency and holds the first seat out of the first four seats allocated to men on it, the fifth seat in the constituency from her quota as she holds the second The highest votes for the woman in the constituency, since the highest votes do not come out of one constituency, the quota is also calculated at the constituency level according to the amended law, and accordingly, its constituency has five seats and one woman at a rate equal to 20%, which is in violation of Article (49) of the Constitution, which stipulated that the representation of women should not be less than 25 %, accordingly, the fifth seat is the share of women in this constituency, and the candidate (Abdul Karim Abtan), who climbed fifth according to the table, cannot be considered among the four highest votes in the constituency, and this is in violation of Paragraph (3) of Article (16) of the aforementioned law).

### The Decision:

After scrutiny and deliberation by the FSC it was found that the presenter of the appeal, Noura Hikmat Abdul Aziz, is appealing before this court the final results of the Iraqi Parliament elections (2021), the fifth session in the Baghdad governorate, the fourteenth electoral district, for not obtaining a seat in that constituency based on the reasons included in the appeal list, and the FSC finds One of the functions and competencies of this court under the provisions of Article (93/7<sup>th</sup>) of the Constitution of the Republic of Iraq for the year 2005 (ratification of the final results of

the general elections for membership of the Council of Representatives), and this competence is supported by Article (4/7<sup>th</sup>) of the FSC Law No. (30) ) for the year 2005 as amended by Law (25) for the year 2021, as the decisions issued by the Board of Commissioners of the Independent High Electoral Commission may not be challenged except before the Judicial Commission for Elections, especially in matters related to the electoral process exclusively, based on the provisions of Article (19/2<sup>nd</sup>) of the Law of the Independent High Electoral Commission No. (31) of 2019 published In the Iraqi Gazette, issue (4569) on December 30, 2019, and since the quota for women, according to electoral districts, is calculated by the Independent High Electoral Commission, and the decision issued by the Board of Commissioners is subject to appeal before the Judicial Commission for Elections, and on the basis of the foregoing, the plaintiff's appeal By the decision of the Board of Commissioners regarding its non-occurrence in Baghdad Governorate (the fourteenth electoral district), a seat in violation of the (women's quota) system must take place before the judicial body for elections and not before this court, especially since its jurisdiction is specified under Articles (52 and 93) of the Constitution and Article (4) of the FSC Law No. (30) of 2005 as amended by law No. (25) for the year 2021 and other laws, and lack of jurisdiction, so the FSC decided to reject the appeal and the decision was issued in agreement, conclusive and binding on all authorities based on the provisions of Articles (52 and 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>) From the FSC Law No. (30) for the year 2005 amended by Law No. (25) of 2021 on 1/Jumada Al-Awwal/1443 coinciding with 6/December/2021.