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In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq
Federal Supreme Court
Ref. 179/federal/media/2018



Kurdish text

The Federal Supreme Court has been convened on 9.12.2018 headed by the judge Madhat Al-Mahmood and membership of judges Farouk Mohammed Al-Sami , Jaafar Nasir Hussein , Akram Taha Mohammed ,Akram Ahmed Baban, Mohammed Saib Al-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temman, who authorized in the name of the people to judge and they made the following decision :

The Plaintiff : (Sin,Jim,Ain) – his agent the Barrister (Ain,Mim,Nun).

The Defendant : Head of the higher independent commission for the elections / being in this capacity – his Barrister (Alif,Ha,Ain).

The Claim :

The Plaintiff agent claimed that the higher independent commission for the elections issued a distribution system for ICR seats No.(12) for 2018 for facilitating the applying of ICR elections law, it has been listed in the third section , third step (calculation of women quota) especially the clauses (2/beh/4,5,6). It violated the articles (14,16,20,38/1st) from the constitution and doesn't achieve the principle that the constitution dedicated, it violated the ICR elections law No.(45) for 2013. What the commission did is making the electors votes goes to another elect which he wasn't elected by the elector and it didn't respect his freedom to elect who he elected. The woman quota should be taken from the lists that got the biggest number of seats. The plaintiff agent that his client is a candidate within the national wisdom political movements which got two seats , his client was the second because he got the highest votes and the commissioners council decided in the decision No.(19) for the extraordinary record No.(25) on 18.5.2018 and it approve on his client win because the deputized masters judges for the commission council and after the manual counting and sorting they made big mistake by its decision No.(69) for the record No.(41) on 9.8.2018 . they distributed the seats unlike the previous distribution so his client the plaintiff lost the seat which he won it , where it became one seat for men and one seat for women. He requested to call upon

Federal Supreme Court - Iraq - Baghdad

radhaa

Tel – 009647706770419

E-mail: federalcourt_iraq@yahoo.com

Po.box55566

the Defendants to the argument and the decision of the unconstitutionality of the third step (calculation the women quota) from the seats distribution system No.(12) for 2018 , and the decision that his client wining of the parliament seat, the wisdom political movements should have two seats for men. The defendants has been notified by the case petition and its documents , he answered it by a draft dated on 12.9.2018 which listed in it that the Plaintiff objects the commission method for counting (women quota)and he claims that he have the right to win in the elections of 2018, because the article (12) from the amendment ICR elections law No.(45) for 2013 stipulated that number of women who are electors shouldn't be less than (25%) and the percentage of women representing in the council should not be less than (25%), gradation of women should be considered as one women for after three men and in case the women percentage is not achieved from the meant list, the following steps is being followed in the third section. The two seats has been recalled from the appellant (Sin,Jim,Ain) and given to the elect (Alif,Kaf,Sin) from the same list instead of counting two seats for women from sayirun list and he requested to reject the case and the plaintiff agent presented an answering draft on the draft which the agent of the defendants presented included answering on the clauses that listed in the answering draft and discuss it , he clarified that his client challenges the unconstitutional of the clauses (4/Beh/2) from the third step (calculation women quota) from the seats distribution system of the ICR No.(12) for 2018 and not the whole step. The commission didn't committee in applying the clauses in a sequential . the plaintiff agent presented a illustrative draft on 2.12.2018 to determine his challenge in the clause (4/Beh/2) which listed in the third step (calculation women quota) which mentioned .the court called upon the two parties so the plaintiff agent and the defendants agent presented. The plaintiff agent repeat the case petition and request the decision and the defendants agent repeat his saying and the argument is ended and the court issued the following decision publicly.

The Decision :

During scrutiny and deliberation the FSC found that the plaintiff (Sin,Jim,Ain) challenged in his case petition by the unconstitutional of the third step (calculation women quota) from ICR seats distribution system No.(12) for 2018 then determined his case by his draft which dated on 2.12.2018 by the clauses (4/beh/2) from the third step and not the whole third step, the plaintiff was elected for the elections with the national wisdom political movement for AL-Nassiriyah governorate , the national wisdom political movements got two seats and the wining of the plaintiff by one seat has been announced according to the decision of the commissioners council which dated on 18.52018 but the

judges of the commissioners council prohibited him this eat after hand counting and sorting , and given it to one of the women according to women quota. The FSC find that the third step from the ICR seats distribution system No.(12) for 2018 in all its clauses included the clause (4/Beh/2) came as applying for the text of article (49/4th) from the constitution which stipulate (The elections law shall aim to achieve a percentage of representation for women of not less than one-quarter of the members of the Council of Representatives.) and the challenge of the unconstitutional of the third step and the clause (4/Beh/2) of it, is not listed and rejected. Also he request to give him the parliament seat which He claims to be deprived of it. The FSC isn't competence in hearing the challenge but he can challenge the decision of the higher independent commission council for the elections before the commissioners council and its decision subdues for appealing before the judicial commission in the Federal Cassation Court . based on that the court decided to reject the plaintiff case and to burden him the expenses and fees of advocacy of the defendants agent amount of thousand hundred Iraqi dinar . the decision has been issued decisively, unanimously on 9.12.2018