

In the name of God most Gracious most Merciful

Republic of Iraq  
Federal Supreme Court  
Ref. 179/federal/2021



Kurdish text

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The Federal Supreme Court (F.S.C.) has been convened on 14. 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 for the Custodian Order issuing: Attorney Ali Jatheer Kazem.

The Requested for the Custodian Order to issuing (agents him):

Dawood Idan Dawood.

First - Summary of the request:

Lawyer Ali Jatheer Kazem requested, with his draft submitted to the FSC and registered with it in the number (179/federal/2021) dated 12/12/2021, for which the legal fee was collected on the same date, to issue a custodian order that includes the non-ratification of the name of the candidate (Dawood Idan Dawood) on the extension movement in the city of Nasiriyah, winner in the second district, for failure to take the necessary measures against him by the Independent High Electoral Commission, despite the existence of an investigative case against him in which the complaint was raised by the Public Prosecution for his attack on the Iraqi

judiciary, and on the basis of that, he asked the FSC to approach the Karkh First Investigation Court to find out the complaint procedures. The investigation, providing this court with a copy of the investigative papers, and suspending the approval procedures for his name.

### Second - The Decision:

After scrutiny and deliberation by the FSC, it was found that lawyer Ali Jatheer Kazem requested, in his aforementioned list, to issue a custodian order that includes not ratifying the name of the candidate (Dawood Idan Dawood) for the extension movement in the city of Nasiriyah, the winner in the second constituency, for not taking the necessary measures against him by the Independent Elections Commission, despite the existence of an investigative case against him in which the complaint was moved by the Public Prosecution for his attack on the Iraqi judiciary, and on the basis of that, he asked the FSC to approach the Karkh First Investigation Court to find out the procedures of the investigative complaint, provide this court with a copy of the investigative papers and stop the approval procedures for his name. The FSC finds that its competence and power to issue state orders based on requests submitted to it or cases brought before it, has not been addressed and has not been addressed in the FSC Law No. (30) of 2005 amended by Law No. (25) of 2021 nor the system Bylaw for workflow in the FSC No. (1) of 2005, Thus, the authority of the FSC to issue state orders is subject to the provisions referred to in Articles (151 and 152) of the amended Civil Procedures Law No. (83) of 1969, and to the extent commensurate with the nature and privacy of the constitutional case, based on the provisions of Article (19) of the system. The procedure for the conduct of work in the FSC referred to above, which stipulated that (the provisions of the Civil Procedures Law No. (83) of 1969 and Evidence Law No. 107 of 1979 shall be applied in what is not specifically stipulated in the FSC Law and this system) and in the meaning of Article (17) From it, which

stipulated (the judgments and decisions issued by the court are final and no way of appeal is accepted...), on the basis of the foregoing, the issuance of a custodian order by the FSC is governed only by the terms and conditions that must be met for its issuance referred to in the Civil Procedures Law, because the decisions issued by this court are final and not subject to the methods of appeal, which lies in submitting an application in two copies including facts, evidence and documents, and the availability of The character of urgency, and not entering into the origin of the right and deciding on it, and since the audit of the request by this court has proven the absence of the urgency that must be available to issue the state order, especially that the election results sent by the Independent High Electoral Commission to the FSC for the purpose of approval will be The subject of its audits, based on the jurisdiction of this court in ratification, stipulated in 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) of 2021, which stipulate that the FSC is competent with the following: (ratifying the final results of the general elections for the membership of the Council of Representatives), and issuing a loyalty order in response to the request means entering into the origin of the right and deciding on it, and it is tantamount to giving an opinion prematurely in ratifying or not ratifying the results of the elections for the Iraqi Council of Representatives, and that this contradicts the established judicial norms in the constitutional districts of Arab and foreign countries and with what the Iraqi judiciary has settled on, both constitutional and ordinary, and what is included in the well-established judicial applications in this field based on the provisions of the constitution and the laws in force, based on the realization of truth and the achievement of justice and equity far from inclinations, whims, abuse and flattery, there is no blame for the blameworthy for what was actually issued by saying or doing, and thus, deciding on the request is obligatory to respond for two reasons, the first is the absence of the character of urgency in it, and the second lies that deciding on it means entering into

the origin of the right and giving a prior opinion in ratifying or not ratifying the results of the elections of the Council of Representatives, according to for the details referred to above, and when the FCS decided to reject the requests of the applicant for the issuance of the custodian order, the decision was issued by agreement and is final and binding on all authorities based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5) of the FSC Law No. (30) for the year 2005 amended by Law No. (25) for the year 2021 on 9/Jumada al-Ula/1443 coinciding with 14/December/2021.