

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

Republic of Iraq
Federal Supreme Court
Ref. 180/federal/media/2018



Kurdish text

The Federal Supreme Court (FSC) has been convened on 9/12/2018, headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (Nun. Ghain. Ha.) - his agent the attorney (Ain. Mim. Nun.).

The Defendant: Head 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 claimed that Independent High Electoral Commission issued the seat's distribution regulation for the Parliament No.(12) for 2018 to facilitate the implement of the Parliament's Elections code. The (women's quota calculating) is listed in section three, third step particularly articles (2/Beh/4,5 and 6). Is a violation to the articles (14, 16, 20 and 38/1st) of the constitution and don't achieve the constitution's principles, and violate the Parliament's Elections code No.(45) for 2013. What the commission went to, that make the elector's vote go's to candidate he didn't vote for. His freedom to vote was not respected, and the quota of women should be taken from the lists which received the largest number of seats. The Plaintiff agent claimed, candidate within the Aabron Alliance who won a seat out of fifteen seats for Al-Anbar province, and he obtained the second highest votes. The commission council decision No (19) the exceptional minutes No(25) for 18/5/2018 approved his winning, But the assigned Judges after the manual counting and sorting and the significant error they have committed under their decision No(69) minutes No(41) on 9/8/2018, They decided to distribute the seats and count the women's Quota for Al-Anbar

is our Identity coalition which had six seats. They granted five seats for the men and one seat for the women contrariwise to the constitution and the law, And so on the Plaintiff has lost the seat that he won for the Aabron Alliance (one seat for the men and one seat for the women), He ask the defendant for argument and sentence that the third step (women's Quota calculating) from the seats distributing regulation is unconstitutional. And to equity his client by sentence that he won the parliamentary seat, That Aabron Alliance's seats in Al-Anbar province should be distributed two seats for men, The defendant has been informed with the case petition and its documents ,His answer draft dated on (12/9/2018) mentioned that the appellant object on the way that the commission Calculate the (women's Quota) by the seats distributing regulation No(12) for 2018, That article (12) from the amended parliament elections code No(45) for 2013 stipulate that the women candidate percentage in the list should not be less than (25%), The representation of women in the Council also should not be less than (25%), And when submitting an electoral list the sequence of women should be a woman after each three men, The agent of plaintiff present answering draft for what listed in the defendant agent's draft And discussed the paragraphs that listed in it, He also present an explanatory draft dated on (2/12/2018) which restrict his challenge to unconstitutional the article (4/Beh/2) only and not the entire third step. He cleared that the commission did not committed to apply the articles serially. The Court called upon the two parties the agents of the parties attended. the agent of the plaintiff repeated the case petition and request to judge according to what listed in it; the agent of the defendant repeated what is listed in the answering draft and request to reject the case. the Court decided to end the proceeding and issued the following judgment decision publicly:

THE DECISION:

During scrutiny and deliberation by the FSC, the Court found that the plaintiff (Nun. Ghain. Ha.) challenged with his case petition the step three (women's Quota calculating) from the parliament seats distributing regulation No(12) for 2018, then he restrict his petition to article (4/Beh/2) only and not the entire third step with draft dated on 2/12/2018. The plaintiff had been nominated for elections within (Aabron) Alliance from Al-Anbar province which obtained two seats, The plaintiff has declared as a winner in one of the seats by the commissioners council decision dated on (18/5/2018), But the judges commissioners council has deprived him of this seat after the manual counting and sorting, And gave the seat to one of the women on the basis of women's Quota. The FSC found that the third step of the parliament seats distributing regulation No(12) for 2018 with all its articles including article (4/Beh/2) was

implementing to the constitution article (49/4th) that 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 challenged to unconstitutional the step three and the article (4/Beh/2) of it is out of the question and repelled, Also he ask to grant him the parliament seat he claimed to Deprive him of it. The FSC is not competent for considering the appeal, But rather the plaintiff could challenge the decision of the Independent high electoral commission for the Commissioners Council which decisions subdue to the appeal for the judiciary commission in the Federal cassation court. Therefore the FSC decided to reject the plaintiff case and to burden him 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 9/12/2018.