



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 : (Zin,Ain,Sad) – her agent the barrister (Ain,Ha,Nun).

The Defendant : Head of the higher independent commission for elections / being in this capacity his legal official (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 claimed that his client who are candidate within the AL-Anbar Our Identity coalition, it was the first in respect of winning the parliament seats in AL-Anbar governorate because he got six seats out of fifteen, the plaintiff got the second higher votes between the candidates (women) and the decision of the commissioners council No.(19) for the extraordinary report No.(25) on 18.5.2018 which issued from the commissioners council has approved his client win and the distribution seats was to be (four seats for men and two seats for women) . after the assigned masters judges for the council started and proceeding of the manually counting and sorting and remove (11000) vote from the aforementioned coalition, it remained six seats for coalition but the

mentioned judges made a big mistake according to its decision No.(69) for the report (41) on 9.8.2018 at seats distribution and calculating the women quota they give (five seats for men and one seat for women). This distribution violated the law and violated the voter will which caused that the plaintiff lost her seat that she won it. He requested to call upon the defendant for the argument and the decision of the third step unconstitutionality (calculation of women quota) from the ICR seats distribution system No.(12) for 2018. He requested the decision of the plaintiff winning of the parliament seat which mean the calculation of women quota for AL-Anbar Our Identity coalition is to be (four seats for men and two seats for women). The defendants/ being in this capacity has been notified by the case petition and its documents so he answered it by his draft dated on 12.9.2018. which listed in it about the plaintiff challenge (Zin,Ain,Sad) the candidate within AL-Anbar Our Identity that the article (12) from the amendment ICR elections law No.(45) for 2013 stipulated number of the candidate women shouldn't be less than (25%) in the list and the women representation in the council shouldn't be less than (25%) . it requires when the list is presented the gradation of women should be considered as one women for after three men. It requires according to the third section/ the third step the clause (2/Alif) from the ICR seats distribution system to allocate a seat from the seats which the list got for a women after every three winners irrespective to the winners from men. In case of not achieving the women percentage the following steps in the third section the third step the clause (Beh/3) from the system is being followed by specializing a seat for women after every two winners from men. He clarified that the FSC approved on the results for elections of 2018. On 19.8.2018 and he requested to reject the plaintiff case because counting the special seats for women quota in AL-Anbar Governorate listed according to the law. The Plaintiff agent presented an answering draft on the draft which the Defendant agent presented, it included answers on what listed in it and discussed it and he clarified that his client challenges the clauses (4/Beh/2) from the third step (calculation of women quota) from the ICR seats distribution system No.(12) for 2018 by its unconstitutionality and not the whole step, the commission didn't commit by applying the clauses sequentially. Also the Plaintiff agent presented a illustrative draft on 2.12.2018 determined in it his challenge by the clause (4/Beh/2) that listed in the third step (calculation of women quota) which only mentioned. The court called upon both parties so the plaintiff and defendants agents presented and the public present argument has been started. The plaintiff agent repeated the case petition and requested the decision according to it. The Defendants agent repeated his sayings. The court made the argument end and it issued the following decision publicly.

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The Decision :

during scrutiny and deliberation from the FSC it found that the Plaintiff (Zin,Ain,Sad) has been challenged in her case petition the unconstitutional of the third step (calculation of women quota) from ICR seats distribution system No.(12) for 2018 then she determined her case in a draft dated on 2.12.2018 by the clause (4/Beh/2) from the third step and not whole of it 2018 by the clause (4/Beh/2) from the third step and not whole of it. The Plaintiff has been candidates for the election with (AL-Anbar Our Identity Coalition) which got six seats, the commissioners council announced in his decision which dated on 18.5.2018 the winning of the plaintiff by one of the six seats after giving four seats for men and two seats for women. But the judges from the commissioners council prohibited the plaintiff from her seats according to its decision which dated on 9.8.2018 and given it for men so their seats became five and one for women. The FSC found the third step from ICR seats distribution system in all its clauses included the clause (4/Beh/2) came as applying for the article text (49/4th) from the constitution which stipulated (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 challenging the clause (4/Beh/2) from the third step by its unconstitutionality is not listed and rejected. Also the Plaintiff request to give her the parliament seat which she claimed that she is prohibited isn't the competence of the FSC she could challenge the commissioners council decision in the higher independent commission for elections before the commissioners council, its decision didn't subdue for appealing before the judicial commission in the federal cassation court. Based on that the court decided to reject the case and to burden her the expenses and fees of the advocacy for the Defendant agent amount of thousand hundred dinar. The decision issued decisively, unanimously on 9.12.2018