

In the name of God most Gracious most Merciful

Republic of Iraq  
Federal Supreme Court  
Ref. 182/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 Requester for the non-ratification of the election results / Abdul Sattar Majid Qader - his attorney, Zana Saeed Khader.

The Request Summary:

Through the audit, it became clear that the applicant, Abdul Sattar Majid Qadir, requested through his attorney, Zana Saeed Khader, his attorney, according to his regulations dated 5/12/2021, for which the legal fee was collected on the same date and recorded in the number (182/federal/2021), not to ratify the results of the elections in Erbil Governorate (the fourth constituency), to be excluded from winning in it despite obtaining the highest votes in the aforementioned constituency and to be replaced by the candidate (Nahla Qader Muhammad Haris) because of the women's quota system, and he requested to oblige the commission to correct the error in this regard and the presence of legal violations that lie Its summary is as follows: (1. It was proven that (2,347) voters in Erbil governorate had identical fingerprints out of (3781) cases of identical fingerprints in all of

Iraq, which is equivalent to (70%) compared to all governorates of Iraq, according to the regular report No. (41) signed on 20 10/2021 (attached to the request) and most of it was within the fourth district. 2. The commission's failure to respond to the request submitted to it by the region's authority for the Independent High Electoral Commission by the authorized political entity to which the applicant belongs on 19/10/2021 related to the matching of fingerprints in the third and fourth constituencies, attached to the request. 3. The Commission dealt selectively with the appeals submitted to it, as it took measures in favor of some candidates and neglected some of them, although the subject of the appeal and the evidence were the same, but in different departments within the governorate of Erbil as well as the governorate of Nineveh. 4. Not taking any action by the commission and not responding to the appeal submitted by the authorized political entity to which the appellant belongs about the delay in closing the polling stations beyond the deadline set by the commission, amounting to (27) electoral stations, submitted on 19/10/2021, appeal number (6/ 2021), but the Commission did not deal with the appeal submitted by the appellant and did not respond to it, whether by rejection or acceptance. 5. The Commission's failure to take any action regarding the appeal submitted by the challenger on 19/10/2021, which includes the appeal not to close the ballot boxes in (46) electoral stations on the time specified for them by the Commission. There is an error in calculating the women's quota in Erbil governorate departments, other than Article (16) of the Independent High Electoral Commission Law No. 31 of 2019, with its paragraphs (1<sup>st</sup> - 2<sup>nd</sup> - 4<sup>th</sup>), the percentage in Erbil governorate is (4) out of (15) seats distributed over four districts, but the results announced by the Commission resulted in the victory of five female candidates, three of whom were female candidates with their electoral eligibility and two of the female candidates without the electoral eligibility, according to the women's quota from the first and fourth districts, and therefore it is not fair to exclude him), and based on that, he requested not to ratify the election results in Erbil Governorate

(the fourth constituency), to exclude him from winning and replace him with the candidate (Nahla Qader Muhammad Haris) because of the women's quota system, and he also requested to oblige the commission to correct the error in this regard.

### The Decision:

After scrutiny and deliberation by the FSC, it became clear that the applicant, Abdul-Sattar Majeed Qadir, requested not to ratify the election results in Erbil Governorate (the fourth constituency), because he was excluded from winning it despite having obtained the highest votes in it, and he was replaced by the candidate (Nahla Qadir Muhammad). guard) due to the women's quota system, and he also requested that the commission be obligated to correct the error that occurred in this regard, due to the presence of legal violations. The FSC finds that among its tasks and competencies under the provisions of Article (93/7<sup>th</sup>) of the Constitution of the Republic of Iraq for the year 2005 (ratifying the final results of the general elections for membership of the Council of Representatives), and confirming that jurisdiction under Article (4/7<sup>th</sup>) of the FSC Law No. (30) for the year 2005 as amended by law (25) of 2021, and that the court's exercise of its role in approving the final results of the elections is after sending those results from the Independent High Electoral Commission to this court after resolving complaints and appeals submitted in their regard by the Board of Commissioners and the judicial body competent to consider appeals, and since the decisions issued by the Board of Commissioners in the High Commission The independent elections may not be challenged except before the judicial authority for elections, especially in matters related to the electoral process exclusively, based on the provisions of Article (19/2<sup>nd</sup>) of the Independent High Electoral Commission Law No. (31) of 2019 published in the Iraqi Gazette No. (4569) on 30 /12/2019, and that the decisions issued by the Judicial Commission for Elections are final based on the provisions of Paragraph (3<sup>rd</sup>) of the aforementioned article, and since the quota

calculation for women, according to electoral districts, is carried out by the Independent High Electoral Commission, and that 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. What the request contained of defenses and irregularities on the imposition of their existence shall have the jurisdiction to decide on them held by the Board of Commissioners, especially his exclusion from winning in the fourth constituency despite obtaining the highest votes in the aforementioned constituency and his replacement with the candidate (Nahla Qader Muhammad Haris) because of the women's quota system. The decision issued by the Board of Commissioners is subject to appeal before the Judicial Commission for Elections and not before this court. As well as it is for the request compel the Commission to correct a winning error regarding replaced and the application of the quota system of women, especially the terms of reference of this Court defined under Article (52 and 93) of the Constitution and Article 4 of the law of the FSC No. (30) of 2005 as amended by Law No. (25) for the year 2021 and other laws, and lack of jurisdiction, so decided the FSC of the Constitution of the Republic of Iraq to return the order form and the decision was made in agreement final and binding on all authorities, based on the provisions of articles (52, 93 /7<sup>th</sup> and 94) in 2005 and articles (4 /7<sup>th</sup> and 5 /2) of the FSC Law No. (30) of 2005 as amended by Law No. (25) of 2021 in 1/Jumada al-Awwal/1443 coinciding with 6/December/2021.