

Republic of Iraq
Federal Supreme Court
Ref. 197 / Federal / 2021



The Federal Supreme Court (F.S.C.) convened on 8.3.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haider Jaber Abed, Haider Ali Noory, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, Diyar Muhammad Ali, and Monther Ebrahim Hussain who are authorized to judge in the name of the people, they made the following decision:

The plaintiff:

Aziza Abdel Aziz Kamel, a candidate in the fourth constituency in Nineveh Governorate, her attorney, Ghassan Nuri Issa.

The defendant:

The Chairman of the Board of Commissioners of the Electoral Commission, in addition to his position, his deputy, Legal Counsel, Ahmed Hassan Abd.

The claim:

The plaintiff claimed through her attorney that the Constitution of the Republic of Iraq affirmed the principle of equality between Iraqis before the law and the principle of equal opportunities among them and their right to participate in public affairs and to enjoy political rights, including the right to vote, elect and be nominated, in Articles (14, 16 and 20) of it, and that she ran in the elections of the Iraqi Council of Representatives for the year 2021 and after the elections, she was surprised by the injustice and prejudice of her

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rights through the defendant's violations and the incorrectness of the results she obtained, as the defendant did not apply the provisions of the election law by announcing the preliminary results of (94%) of the total voters who voted only on 11.10.2021 and withholding the results of nearly (1,200) polling stations, and after conducting the audit, it was found that the number of stations withheld results was (12,228) out of the total number of polling stations amounting to 57,944 stations, in addition to the fact that the announcement of the preliminary results was issued by the defendant in two batches with a difference in the dates, which caused confusion in calculating the legal appeal periods and violating the provisions of the Iraqi Parliament Elections Law No. (9) for the year 2020 and the voting system and procedures for the year 2021, and that the counting and sorting process led to changing the names of five winners from different constituencies, and that the difference between her votes and the votes of the candidate who won the parliamentary seat is 41 votes, and for the reasons mentioned above and the other reasons mentioned in her lawsuit petition, the plaintiff asked the Federal Supreme Court not to ratify the results of the Council of Representatives elections only after this case is resolved, and to obligate the commission to conduct manual counting and sorting of all polling stations in (the fourth district / Nineveh governorate), which closed after six in the evening, as well as stations in which the percentage of invalid papers exceeded 5% and obligating it to correct the electoral participation rate on the basis of those who have the right to vote according to the constitution and not on the basis of who owns a voter card. The case was registered with this court in No. (197/Federal/2021), and the legal fee was paid for it in accordance

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with Article (1/Third) of the Federal Supreme Court's Bylaw No. (1) of 2005. The defendant/in addition to his post was informed of its petition and documents based on the provisions of Article (2/ First) from the aforementioned bylaw, he responded with the answer list dated 12/16/2021, summarizing that the Independent High Electoral Commission Law No. (31) of 2019 has drawn the legal way to appeal against the decisions issued by the Board of Commissioners and that the authority competent to consider objections to those decisions is the judicial body for the elections in accordance with Article (19/Second) of the same law above, it is not permissible to appeal before any other party. Therefore, the Federal Supreme Court is not competent to consider this case, and the plaintiff had previously submitted an appeal against the decisions of the Board of Commissioners related to the preliminary results of the elections, and the decision of the Judicial Commission for Elections was issued No. (629/628/Judicial Authority for Elections/2021) dated 11/16/2021, which includes the ratification of the decision of the Board of Commissioners compliant in it, related to the announcement of the preliminary results of the elections of the Council of Representatives, the appeal was received, and since the decisions of the Judicial Authority for the elections are final based on Article (19/Third) of the Independent High Electoral Commission Law No. 31 of 2019, therefore, a request was made to dismiss the plaintiff's suit and to charge her with the expenses. After completing the required procedures in accordance with the provisions of the aforementioned bylaw, a date was set for the pleading in accordance with the provisions of Article (2/Second) of it, and the two parties were informed of it. On the appointed day, the court was formed, the

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plaintiff's attorney, Ghassan Nuri Issa, attended, and the defendant's attorney, Ahmed Hassan Abd, attended on behalf of the defendant. The pleading was started in the presence and in public, the plaintiff's attorney repeated what was stated in the lawsuit petition and requested the judgment in accordance with what was stated in it. The defendant's attorney responded, requesting that the lawsuit be dismissed on behalf of his client for the reasons mentioned in the answer list dated 16/12/2021. Each party's attorney repeated his previous statements and requests, and where there was nothing to be said, the court decided the conclusion of the pleading and issued the following ruling:

The decision:

Upon examination and deliberation by the Federal Supreme Court, it was found that the plaintiff, Aziza Abdel Aziz Kamel, had filed a lawsuit before this court against the Chairman of the Board of Commissioners at the Independent High Electoral Commission, requesting that the results of the elections of the Council of Representatives be not ratified and that the commission should conduct manual counting and sorting of all polling stations in the fourth district for Nineveh Governorate, which was closed after six o'clock in the evening, as well as stations where the percentage of invalid papers exceeded (5%) and to obligate the Commission to correct the electoral participation rate based on those who have the right to vote in accordance with the constitution and not on the basis of who owns a voter card. This court finds that the plaintiff's request deviates from its jurisdiction specified in Article (93) of the Constitution of the Republic of Iraq for the year 2005 and Article (4)

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of the Federal Supreme Court Law No. (30) for the year 2005 amended by Law No. (25) for the year 2021 and lack of jurisdiction, the Federal Supreme Court decided to rule to dismiss the plaintiff's case, Aziza Abdel Aziz Kamel and to charge her the fees and judicial expenses, amount of one hundred thousand dinars, the attorney's fees for the defendant's attorney, in addition to his post, the legal employee Ahmed Hassan Abd, the decision was issued in agreements final and binding according to the provisions of article (93 and 94) of the constitution of 2005, and articles (4 and 5/Second) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and publicly understood on Sha'ban 4/1443 AH corresponding to 3/8/2022 AD.

Signature of
The president

Jasem Mohammad Abbood

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