

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

Republic of Iraq
Federal Supreme Court
Ref. 208/federal/media/2018



Kurdish text

The Federal Supreme Court (FSC) has been convened on 5.12.2018, 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: (Mim. Feh. Shin.) _ his agent the attorney (Teh. Ha. Mim.).

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 claims that his client nominated himself within the electoral list (172) (The National Public Party) for Elections, after the election results were announced; his client has been declared as a winner in one of the seats, but the Commission Council re-count the votes in a way that consider a violation to the Law and the seats distribution regulation No. (12) For 2018; that was a violation to the Constitution. Therefore, he requested to call upon the defendant and obliging him the seat to his client as he was considered a winner in the Elections. The defendant/being in this capacity has been informed with the case petition, and he replied on by his draft dated on 18/11/2018 which he listed in it that the article (49/4th) of the Constitution stipulate on (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). This is what was stipulated in the article (13/1st) of the Election Code No. (45 for 2013). The third section of the seats distributing regulation No. (12) For 2018 clarified in the third step how the quota woman seats be counted and the seats distributing mechanism. The answering draft mentioned that the plaintiff did not specify the

constitutional article that was violated by the seats distribution regulation. The plaintiff already challenged the Commissioners Council decision No. (69) the regular minutes No.(41) on 9/8/2018 before the commission, this decision is related to final results of election announcement after the process of manual counting and sorting. The challenge had been referred to the judicial Commission which issued its decision to reject the challenge No.(1397/appeal/2018) on 15/8/2018, the commission's decisions are final and can't be challenged. He requested to reject the case. The Court called upon the both parties, the agents of both parties attended. The agent of the plaintiff repeated the case petition and requested to judge according to what listed in it; the agent of the defendant repeated what listed in the answering draft and requested to reject the case. whereas nothing left to be said, the Court decided to make the end of the argument clear and it issued the following decision:

The Decision:

During scrutiny and deliberation by the FSC, the Court found that the plaintiff (mim. feh. shin.) claimed he participated in the elections of 2018 as a member of (the National Public Party) and he has been declared as a winner in one of the seats. After recounting and sorting the votes, the commissioners' council decided to grant the seat to another candidate. Therefore he request to oblige the defendant/being in this capacity to implement what's mentioned in the seats distributing regulation and to grant him the seat as he was already declared as a winner in the elections. The FSC found that the plaintiff had challenged the commissioners' council decision before the Independent High Electoral Commission, and it had been rejected. He also challenged it before Electoral Judicial Commission, aforementioned commission has rejected the challenge as well. As the Judicial Commission decisions are final and can't be challenged in any form according to article (8/7th) of the Independent High Electoral Commission law No. (11) For 2007. Therefore the plaintiff case considered lack it's legal substantiation. The FSC decided to reject the plaintiff's 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, and unanimously on 5/12/2018.