

Republic of Iraq
Federal Supreme Court
Ref. 212 unified with 218
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The Federal Supreme Court (F.S.C.) was convened on 27.7.2021 headed by Judge Jasem Mohammad Abbood 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 plaintiff in the original lawsuit and its unified:

Sabah Abdul-Rasoul Abdul-Ridha - her agent the lawyers Amir Karim Al-Daami, Muhammad Ali Muhammad and Diaa Muhammad Alwan.

The defendants:

1. The Speaker of the Iraqi Council of Representatives (I.C.R.)/ in addition to his post – his agents the legal advisor Haithem Majid Salim and the legal official Saman Muhsen Ebraheem.
2. Chairman of the Board of Commissioners of the Independent High Electoral Commission / in addition to his position his attorneys are the official lawyers, Ahmed Hassan Abd and Saad Naji Alwan.

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The claim:

The plaintiff claimed, through her attorneys, in the case numbered (212/Federal/2018) that on 6/11/2018 in the tenth session of the Iraqi Council of Representatives it issued decisions and recommendations number (154) on 7/11/2018, in the third paragraph of which the text was stated (no approval is obtained after voting on the invalidity of the membership of Representative (Zaytoun Hussein Murad), and the aggrieved appellant, Mrs. (Sabah Abdul Rasoul Abdul Redha) may resort to the Federal Supreme Court to appeal the decision of the Council of Representatives based on the provisions of Article (52/Second) of the Iraqi constitution in force). The plaintiff explained in her lawsuit that she would like to point out to the esteemed court some facts and arguments as follows:

1. Numerous electoral violations took place inside the polling stations (Al-Nohodh School 212302), (Al-Seif Al-Arabi Intermediate School 212301), (Al-Tafari School 212304), (Abi Dalaf School 112510) and (Al-Rawabi School 112301), the Mahmudiya and Doura Security Directorates of the Baghdad Security Directorate have information and reports on the occurrence of cases of fraud, manipulation, influence on voters and the purchase of votes recorded in the Doura Security Directorate letter addressed to the Baghdad Security Directorate in No. (840) on 10/6/2018, which means official evidence of the occurrence of such violations, which make the entire electoral mechanism suspicious.
2. The same electoral violations were repeated in the polling stations in (Al-Taqla School for Girls 202111) and (Al-Ma'inah High School for Boys 202110) in the area of Hor Rajab, where

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the so-called Hala Sahi Mahal (The daughter of the candidate Zaitoun) entered the above-mentioned polling stations after impersonating a member of civil society organizations and then distributing money and propaganda cards and influencing the will of the voters, which led to a verbal altercation between her and the rest of the candidates, not to mention the use of cards for voters who did not exist to cast their votes by other people, which prompted the security forces to arrest the above-mentioned, which is proven in the accident record belonging to the Intelligence Directorate of Brigade (23) and Division (17), which is additional evidence that the electoral process did not proceed under legal conditions, which makes the results of it not credible.

In Case No. (212/Federal/2018), the plaintiff requested an appeal against the aforementioned Council of Representative's decision and a ruling invalidating the membership of Representative (Zaitoun Hussain Murad) due to the serious legal and electoral violations involved in her election process. And in the case numbered (218 / federal / 2018) unified with this case, the plaintiff repeated the same allegations and merits of the case numbered (212 / federal / 2018) and added to it that the daughter of the candidate (Zaytoun Hussein Murad) entered the polling stations and performed the aforementioned actions is an official evidence proves the cases of fraud, manipulation, disrespect for the will of the Iraqi voter, and influencing the elections in an undemocratic manner, which represents violation for all the legal texts enacted by the Iraqi legislator, also these acts of the candidate's daughter violates the provisions of articles (24, 25, 27, 28) and article (30/first) of the Iraqi

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Parliament Elections Law, the plaintiff requested to record the statements of the security officials in the district of responsibility as witnesses to the incident that occurred on the day of polling and what are its circumstances, and to bring the accident record of the second regiment / Brigade 23 / Division 17 and to clarify whether these incidents are recorded or not ,the plaintiff enclosed a copy of tapes proving the validity of her claim, that the device at the center (Al Seif Al Arabi Intermediate School) center number (212301) did not register normally and did not read some of the electoral papers, and the number of the votes of the representative above in that school was about (300) votes. The appeal regarding the invalidity of the membership of Representative (Zaytoun Hussein Murad) and the validity of her membership, instead of her, in the Iraqi Council of Representatives. The agents of the first defendant, the Speaker of the Iraqi Council of Representatives, in addition to his position in case No. 212/Federal/2018 responded by the draft dated 12/16/2018, stating that the plaintiff submitted an appeal against the validity of the membership of Representative (Zaytoun Hussein Murad) and the Council of Representatives decided in its session dated 11/6 2018 rejecting the appeal and that the plaintiff's agent refers to his client's eligibility for membership in the Council of Representatives based on violations of the conditions of elections and polling inside the electoral centers and since this matter is governed by the Independent Electoral Commission Law and it has the right to submit the appeal to the judicial authority in the Federal Court of Cassation to consider the violations it claims. And the membership of Representative (Zaytoun Hussein Murad) is correct with the approval of the Independent High Electoral Commission on the counting and sorting

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procedures and the approval of the Federal Supreme Court on the final election results. Therefore, the decision of the Council of Representatives (the subject of the appeal) is in accordance with the law and the constitution, especially since the plaintiff's claim is outside the jurisdiction of the Federal Supreme Court according to the provisions of Article (93/First) of the Constitution. the attorney for the first defendant, in addition to his position, repeated the same answer and defenses in the unified lawsuit. No. 218/Federal/2018. As for the second defendant, the Chairman of the Board of Commissioners of the Independent High Electoral Commission/in addition to his position, he responded to the lawsuit petition with his answer draft dated 11/12/2018, in which he clarified that:

1. Based on the decision of the Federal Supreme Court No. (99-104-106/2018) on 06/21/2018 and the decision of the Board of Commissioners No. (1) of the Ordinary Minutes (37) of 24/6/2018. Accordingly, the Board of Commissioners of the delegated judges recounted and sorted in all stations and centers in which complaints or official reports were submitted and in all governorates, including Baghdad and the elections abroad. The Board of Commissioners also took into account the sorting and counting process with all guarantees that guarantee the electoral process.
2. After reviewing and checking the petition, we found that the plaintiff had previously submitted this petition with all its contents and defenses to the Commission, where it was referred to the Judicial Commission for Elections by the Commission's letter No. (Kha/18/985/2889) on 14/8/2018 and after studying this petition the Judicial Committee and its investigation

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decided to reject the appeal in their letter No. (1250 / Appeal / 2018) on 15/8/2018. The second defendant / in addition to his post requested, in particular the dismissal of the plaintiff's lawsuit. Based on what was mentioned above.

after completing the procedures and formalities stipulated in Articles (1-2) of the Federal Supreme Court's bylaw No. (1) of 2005, including the completion of the informing procedures, the pleading procedures were initiated. In the 28/1/2019 session, this court decided to unify the lawsuit numbered (218/Federal/2018) with the lawsuit numbered (212/Federal/2018) based on Paragraph (2) of Article (76) of the Civil Procedures Law No. (83) of 1969 amended for the unity of the subject matter of the two lawsuits and considering the lawsuit No. 212/Federal /2018 is the original because it was previously held with this court. In the same session, this court made it clear that the incident under appeal, if proven, constitutes a crime that applies the provisions of Article (286) of the Penal Code No. (111) of 1969, as amended, which requires investigation by the competent investigative authorities, so it decided to notify the plaintiff's attorney of this and reviewing those parties to prove the facts and providing the court with what these parties find, because what is presented before the court does not indicate that things are taking place in accordance with the law, and that the claim to the contrary must be proven by official written evidence based on Article (22) of the Evidence Law No. 107 of 1979, as amended, and the court decided, in the same session, to include Representative (Zaytoun Hussein Murad) as a third person in the case based on the provisions of Article (69/4) of the Civil Procedures Law No. (83) of 1969, and in the pleading session dated 27/2/2019, the court decided

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to consider the case delayed until the investigation case is resolved, based on Paragraph (1) of Article (83) of the aforementioned Civil Procedures Law. On 6/6/2021, this court decided to continue with the proceeding in the case for the demise of the reason for delays on the issuance of the decision of the Karkh Criminal Court / the First Commission in its discriminatory capacity, No. (1999/T/2019) on 17/10/2019, which includes the ratification of the decision of the judge of the Karkh Investigation Court, which specializes in integrity issues, dated 16/9/2019, which includes the rejection of the complaint and the closure of the investigation Definitively against the complained of (the third person from whom clarification was taken, Zaitoon Hussein Murad). After pleading again in the case and listening to the statements, pleas, and requests of the parties, as well as reviewing the minutes, letters, and official correspondences attached to the case file and submitted by its parties, the case was placed under scrutiny and deliberation, and the court issued its following decision in public:

The decision:

Upon examination and deliberation by this court, it was found that on 11/19/2018, the plaintiff (Sabah Abdul Rasoul Abdul Redha) filed the case numbered (212/Federal/2018), requesting to invite the two defendants to the Speaker of the Iraqi Council of Representatives/in addition to his position and the Chairman of the Board of Commissioners/in addition to his position to plead and rule void the membership of Representative (Zaytoun Hussein Murad), where the Council of Representatives issued on 6/11/2018 in the

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tenth session decisions and recommendations No. (154) on 7/11/2018 which stated in the third paragraph of it ((The approval was not obtained after voting for the validity of the membership of the representative (Zaytoon Hussein Murad) and the aggrieved appellant, Mrs. (Sabah Abdul Rasoul Abdul Redha) may resort to the Federal Supreme Court to appeal the decision of the Council of Representatives based on the provisions of Article 52/Second of the Constitution of the Republic of Iraq for the year 2005 in force)) and the plaintiff relied on that for the aforementioned reasons in her lawsuit petition, on 3/12/2018, the same plaintiff submitted to this court an appeal registered in the number (218/Federal/2018) and unified with this case, requesting an appeal to Parliament's decision No. (154) on 7/11/2018 for the reasons mentioned in the aforementioned appeal draft, as the tide in her lawsuit and in her appeal, she relied on the occurrence of cases of fraud, manipulation, influence on voters and the buying of votes carried out by (Hala Sahi Mahal), the daughter of Representative (Zaytoon Hussein Murad), and that this court decided on 28/1/2019 to notify the plaintiff's representative that what was stated in the petition and appeal if proven, it constitutes a crime and the provisions of Article (286) of the amended Penal Code No. (111) of 1969, which requires a review by the investigative authorities to establish the facts and provide the court with the findings of those authorities. The investigation was before the Mahmudiya Investigation Court, and accordingly, the case

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was delayed until the investigation case was resolved, and then this court decided on 6/6/2021, the appeal of the case was resumed due to the demise of the reason for which the case was suspended, and it was informed of the decision issued by the Karkh Criminal Court / the first commission in the number (1999/T/2019) on October 17, 2019 which includes (what was stated by the representative requesting the discriminatory intervention, the complainant (Sabah Abdul-Rasoul Abdul-Ridha) does not compromise the integrity of the investigative judge's decision dated 9/16/2019, which includes the final closure of the investigation against the complainant including (Zayton Hussein Murad) and the Chairman of the Board of Commissioners / in addition to his position in accordance with the provisions of Article (130/a) of the Code of Criminal Procedure No. (23) For the amended 1971 year, so he decided to reject the discriminatory regulation and ratify the discriminatory decision), and to inform it of the decision issued by the same court in the number (2000/T/2019) on October 17, 2019 containing (reversing the referral decision and releasing the accused (Hala Sahi Mahal) and canceling the bail deed taken from them in the investigation role). This court finds that what the plaintiff relied on her lawsuit did not prove his defenses before the Mahmudiya Investigation Court, which took over the investigation with the representative (Zaytoun Hussein Murad) and her daughter (Hala Sahi Mahal), so her claim has lost its legal support towards the first defendant / in addition to his post. On the

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other hand, her opponent to the second defendant / in addition to his position is incorrect because he was not a party to the decision issued by the Council of Representatives in the number (154) on 7/11/2018 contained in paragraph (3) of it (the approval was not obtained after the vote on the invalidity of the membership of the representative (Zaytoun Hussein Murad) and the aggrieved appellant, Mrs. (Sabah Abdul-Rasoul Abdul-Ridha) has the right to resort to the Federal Supreme Court to challenge the decision of the Council of Representatives) against him and for all of the above, the court decided to reject the plaintiff's lawsuit (Sabah Abdul-Rasoul Abdul-Ridha) with regard to the first defendant, the Speaker of the Iraqi Council of Representatives/ in addition to his post because her claim was not substantiated by the legal evidence and her claim was received for the second defendant, the Chairman of the Board of Commissioners / in addition to his post for not directing the litigation and charging it with fees, expenses and attorney fees for the defendants' attorneys / in addition to their post an amount of (100,000) One hundred thousand dinars shall be distributed among them in accordance with the law, as a final and binding ruling for all authorities. It was issued in agreement based on the provisions of Articles (52/Second) and (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) for the year 2021

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and publicly understood on 16 / Dhu al-Hijjah / 1442 AH
corresponding to 7/27/2021 AD.

Signature of
The president

**Jasem Mohammad
Abbood**

Signature of
The member

**Sameer Abbas
Mohammed**

Signature of
The member

**Ghaleb Amer
Shnain**

Signature of
The member

Haidar Jaber Abed

Signature of
The member

Haider Ali Noory

Signature of
The member

Khalaf Ahmad Rajab

Signature of
The member

Ayoub Abbas Salih

Signature of
The member

**Abdul Rahman
Suleiman Ali**

Signature of
The member

**Diyar Muhammad
Ali**

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