



The Federal Supreme Court has been convened on 11/3/2019 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: Al-Muthanna governorate/being in this capacity-his agent the barrister (Ha.Kaf.Mim.Sin).

The Defendant: the minister of interior/ being in this capacity- his agent the official brigader (Kaf.Ta.Nn).

The Claim :

The plaintiff agent claimed that AL-Muthanna governorate council has issued a law of motorcycles selling and organization No.(3) for 2017 which organized motorcycle driving which wasn't registered in the traffic directorate because of the owners of the motorcycles don't have officials license and because of the abundance of an accident that occurred by them and their noncompliance by the driving regulation and for security matters that required to register these motorcycles. The law of motorcycles selling and organization No.(3) for 2017 had been sent from the governorate council to AL-Muthanna governorate/office of the governor by their letter No.(2/14/2396) dated on 24/7/2017 also a letter had been sent to the governorate council included the endorsement of his client office to what listed in the aforementioned law, for implementation of this law, it required an amending of some mentioned clauses because it conflicts with the federals law, a letter had been sent to the police office of AL-Muthanna

governorate and o the traffic directorate of AL-Muthanna and the national security directorate in AL-Muthanna and the office of the inspector general of the interior ministry of AL-Muthanna and the employers affairs section in the public and local administration and the secretary of supreme commission of security which included to proceed the required about what listed in thaw a of motorcycles selling and organization, the traffic directorate of AL-Muthanna governorate has objected in the letter No.(Qaf/7/9819) on (4/11/2017) which associated with the letter of the ministry of interior for police affairs/traffic directorate/legal affairs section that there is no legal substantiation for applying the governorate law No.(3) for 2017, the plaintiff/being in this capacity claimed that what came in the aforementioned letter of the traffic directotare of AL-Muthanna governorate conflicts with the provision of law of governorates not oginazied in province No.(21) for 2008, whereas the governorate council is the legislative power and overseeing in the governorate and has the right to issue the local legislation which give the council the ability to manage the governorate affairs according to the principle of decentralization of administration in way that doesn't conflict with the Constitution and the federal laws which listed within the exclusively competences of the federal powers, there is no contrary for the aforementioned law which orginaize and interior matter which enter within the competences of the governorate council to limit the traffic violations and the homicides, he requested in the end to call upon the defendant/ being in this capacity to the argument and oblige him to (applying the law of motorcycles selling and organization No(3) for 2017) in the border of AL-Muthanna governorate and to burden the defendant the expenses and fees of the advocacy. After registering the case at this court according to the clause (3rd) of the article (1) of the FSC bylaw, an answering draft listed on 18/2/2019 requesting to reject the case for the reasons listed in it and after the required procedures had been completed according to provision of the clause (2nd) of the article (2) of the same regulation, the day 11/3/2019 appointed as the date for the argument to hear the case and the court had been convened so the agents of both parties attended and the argument had been started publicly and presently,

the plaintiff agent repeated what listed in the case petition and requested the decision according to it and the defendant agent repeated what listed in the answering draft and requested to reject the case, whereas the case completed the reasons of the deciding the end of the argument had been decided and the decision had been understood publicly on the session.

The Decision :

During the scrutiny and deliberation by the FSC, the court found the plaintiff/being in this capacity requested in the case petition No.(234/federal/2018) ((the decision to oblige the defendant/being in this capacity to apply the law of motorcycles selling and organization No.(3) for 2017) in the border of AL-Muthanna governorate)) the legislated by of AL-Muthanna governorate council because he is the legislative power and overseeing in the governorate and has the right to issue the local legislation which give the council the ability to manage the governorate affairs according to the principle of decentralization of administration in way that doesn't conflict with the Constitution and the federal laws which listed within the exclusively competences of the federal powers, after the defendant refused to apply it in this issued formula. The FSC found that its competences determined in the article (4) of its law No.(30) for 2005 and the article (93) of Iraq republic Constitution for 2005, and there is not between them what the plaintiff requested to oblige the defendant being in this capacity to apply the provisions of the law (the subject of the case) which required to reject the case for incompetent point. Based on this the court decided to reject the case of the plaintiff/being in this capacity for incompetent point and to burden him the expenses and fees of the advocacy of the defendant agent/being in this capacity amount of hundred thousand Iraqi dinars. The decision issued decisively, unanimously according to the article (94) of the Constitution and had been understood publicly on 11/3/2019.