

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 24/federal/media/2015



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 4/5/2015 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 Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Chairman of the Integrity Commission/ being in this post, his agent the jurist (ha.ain.ain.).

The Defendant: Minister of Justice/ being in this post - his agent the jurist (kha.alif.mim.).

The Claim:

The agent of the plaintiff/ being in this post claimed that the Ministry of Water Resources has been inquired the State Consultative Council by its letters No.(5716) on 2/7/2012 and (20612) on 3/9/2012 requesting to issue an opinion about the law that is binding to be implement upon the employee who committed one of the crimes under the definition of (a corruption case), if it is the amended State Employees Discipline law No.(14) for 1991, to dismiss the convict for the duration of his time in prison, or the

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Integrity Commission law No.(30) for 2011 article (29) of it that maintain the validity of part (6) of the order No.(55) for 2004 which mentioned that who committed those crimes shall lose his eligibility (dismissal) and not to contract with him on goods and services for the government. The State Consultative Council has issued its decision No.(109/2013) on 17/11/2013 which included that the provisions of the State Employees Discipline law shall apply to the employee in the inquired case, the plaintiff consider the mentioned decision is illegitimate throw its misinterpretation from the objective and formal points were the State Consultative Council don't have the right to interpret the laws, and requested to rule by repealing the challenged decision for its illegitimate. After the case was registered and scheduling a date for the argument, the F.S.C. listened to the statements of the two parties were each of them repeated their statements and requests, the agent of the plaintiff/ being in this post requested to reject the case for the reasons listed in his draft. As the F.S.C. has completed its investigations the argument is closed and issued the following decision.

The Decision

During scrutiny and deliberation by the F.S.C., the court found that the plaintiff' agent requested to judge that the decision of the state consultative council No.(109/2013) on 17/11/2013 is illegitimate, which include that the provisions of the amended State Employees Discipline law No.(14) for 1991 shall apply to the employee the who committed one of the crimes under the definition of (a corruption case), the plaintiff/ being in this post consider this interpretation wrong were the State Consultative Council don't have the

jurisdictions and power to interpret the laws as much as he have the jurisdiction to submit explaining and not interpretation. The F.S.C. found that its jurisdictions are stipulated in article (93) of the Iraqi republic constitution for 2005, and it doesn't include to decide the illegitimacy of the decisions issued by the State Consultative Council, accordingly the consider in this request is out of the F.S.C. jurisdictions, therefore the court decided to reject the case of the plaintiff the Chairman of the Integrity Commission/ being in this post from the point of jurisdiction, and to burden him the expenses and advocacy fees for the agent of the defendant the Minister of Justice/ being in this post the director of internal claims department (kha.alif.mim.) amount of one hundred thousand Iraqi dinars. The decision has been issued decisively according to article (94) of the constitution and unanimously on 4/5/2015.