

(Translated From Arabic)

In The Name Of God The Most Gracious, Most Merciful

Republic Of Iraq

Federal Supreme Court (Emblem)

(Kurdish Text)

Ref: 25/Federal/Media/2017

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The Federal Supreme Court has convened in 8.5.2017, headed by the Judge Medhat Al-Mahomood and the membership of the Justices Jaefar Naser Hussain , Akram Taha Mohamed , Akram Ahmed Baban , Mohamed Saeb Al-Naqshabnde , Mikaeel Shamshon Qas Qourqis , Hussain Abbass Abo Al-timen and Mohamed Rajeb Al-kobaese who are authorized to judge in the name of the people. And it issued the follow decision:

The Plaintiff: The General Director Of Communications And Media Commotion/ being in this post, his agent the legal official (Meem. Ra' E.).

The Defendant: The ICR Speaker/being in this post, his agent's the legal official (Seen. Ta'. Ya'.) and (Ha'. Meem. Seen.).

#### THE CLAIM:

The agent of the plaintiff claims in case no.(25/federal/2017) that the ICR Presidency issued it decision to call his client (the plaintiff) for inquiring; followed by appointing a date for a second inquiry then a third one. Although the plaintiff illness the ICR in it session dated 11.3.2017 started the inquiring with his absent, knowing that the authenticated medical reports was send to the ICR.

The calls and the inquiring directed his client are null and void for the following rezones :

1. The plaintiff is the General Director Of Communications And Media Commotion, and he was assigned by the Prime Minister by the presidency office decree (28/Seen. In 11.10.2011) .
2. Order (65 year 2004) insured that the plaintiff is the General Director Of Communications And Media Commotion, the aforementioned order as same as the valid laws that applies exclusively on the activity of the Communications And

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Media Commotion which is a privet law restrict the general law.

3. Inquiring the General Directors is out of ICR powers and authorities, the inquiry can be done by the specialized party that assigned him, inquiring the plaintiff in absent in ICR session is a violation to the law as he was forbidden from his basic defending rights stipulated in the Constitution therefore the absent inquiry happened on 11.3.2017 consider void.

The agent of the plaintiff request to judge in :

1. Canceling the inquiry call decision followed by appointing a date for a second inquiry then a third one then delaying the inquiry to day 11.3.2017, because it is unconstitutional as the ICR do not have the authority upon him according to Order (65 year 2004).
2. Canceling the absent inquiry that was done to his client on 11.3.2017 because it is unconstitutional as the call for inquiry is void. So, what followed a void consider void.
3. Issuing a state order to stop all the inquiry procedures until a decision about the constitutionality or the unconstitutionality of the inquiry is issued.

The agent of the plaintiff request to burden the defendant all the expenses of the case and the fees.

The defendant/being in this post answered on the case petition in his agents draft dated 11.4.2017 requesting to reject the case for the rezones mentioned in it, the sum of it is that the plaintiff illness claim contradict with his presence to the ICR session no.(8) on 16.2.2017 to answer the ICR question as he is the General Director of the Commotion; he never shown any objection on all the questioning stages, also the state order no.(27/Seen./Meem./Ra'/Noon./Dal. 2 Seen./11/1102) on 9.10.2010 includes assigning the plaintiff as Chief in proxy Of Trustees Board Of The Media Commotion as well as the membership of the Trustees Board.

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They also shown that the plaintiff was informed to attend to the inquiry on 23.2.2017 but he did not attend so the inquiry delayed to 9.3.2017 but he also did not attend, so the plaintiff inquiry happened on the appointed date. Therefore the hearing in the request to void the ICR decision don't have the objective base and the case no longer needed.

On the appointing date for proceeding after informing the defendant in the case petition according to clause (first) of article (2) of the FSC Bylaw, the agent of the plaintiff and the agent of the defendant attended and started the public in present proceeding, the agent of the plaintiff repeated what is listed in the case petition and requested to judge according to it, the agent of the defendant repeated what is listed in the answering draft requested to reject the case. The agent of the plaintiff declared that his client was steeped down from his position as The General Director Of Communications And Media Commotion in ICR decision no 38 on 11 April 2017. The two parties repeated their saying; the Court ended the proceeding and the follow decision made clear on 8.5.2017.

### THE DECISION:

In the deliberation and discussion the FSC found that the agent of the plaintiff impeaching the ICR decision to call his client (the plaintiff) for inquiring and proceeding the inquiry with his absent on 11.3.2017 as he was forbidden from his simplest rights in time that he was on ill leave. And request to judge to void the inquiry call decision and canceling the absent inquiry and issuing a state order to stop all the inquiry procedures until a decision about the constitutionality or the unconstitutionality of the inquiry is issued.

The FSC finds that it is permissibility to do the inquiry according to the Constitution and the ICR Bylaw incase the interrogated did not attended to the inquiry ICR session after he was informed, and he did not present any legal excuse to convince the ICR; this will consider an avowal by him on what attributed to him in the inquiry question and consider a

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concession of the answering right as the FSC declared that on its decision no.(37/federal/2017) on 18.4.2017, as the plaintiff did not attend the inquiry session without having a legal excuse that prevent him from attending to the inquiry beside that many session dated to his present so he may answer; therefore he is considered avowal on what attributed to him, from other side the absent inquiry happened on the dated day so the request to cancel the inquiry call decision and issuing a state order on that subject has no objective.

For the aforementioned the plaintiff claim lost its Constitution and legal base therefore it will be rejected for the rezones abovementioned.

Therefore the FSC decided to reject the plaintiff case and burden him the expenses of the case and the fees of the agents of the defended amount of (100000) one hundred thousand Iraqi dinar to be divided between them in half. The decision was made unanimous and made clear on 8.5.2017.