

Republic of Iraq
Federal Supreme Court
Ref. 330 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 24/1/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Nahro Mahmood Qadir/ his agent the barrister Ahmed Majid Ahmed.

The Defendant: Minister of Oil/ being in this capacity.

The Claim

The plaintiff claimed through his agent that the Iraqi Ministry of Oil, in exercising what was assigned to it in the Law Organizing the Ministry of Oil No. (101) of 1976, of the competencies of managing petroleum products in distribution and marketing, violated the Constitution in Article (66) thereof, which stipulates that (the federal executive authority consists of the President of the Republic and the Council of Ministers, exercising its powers in accordance with the Constitution and the law), which requires that the exercise of the federal ministries of their work is consistent with the provisions of the Constitution and the laws in force, as what is allocated by (the Ministry of Oil) Federal) of the quantities of oil products for the governorates of the Kurdistan Region is low compared to the rest of the governorates of Iraq that are not organized in the region, and this is shown by what was stated in the letter of the Petroleum Products Distribution Company entitled to the

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Ministry of Natural Resources in the region No. (101/3219) on 18/11/2023, which includes that the quantity allocated to the governorates of the region is (50,000) cubic meters, equivalent to five million liters, which has not been processed so far, while the Petroleum Products Distribution Company / Karbala branch announced the supply of citizens with more than five million liters this year until mid-November, and that the quantities allocated to the Kurdistan Region are not commensurate with what its citizens consume, as filling the need is through government stations that sell at official prices, which are higher than the official prices in other governorates compared to private stations that sell these products at prices that burden the majority. The majority are citizens of the territory. Also, the products marketed by the Ministry of Oil to the governorates of the Kurdistan Region are higher than the prices at which the same products are marketed to other governorates and an amount of (500) dinars per liter, since the price of one liter of white oil is (150) dinars for all Iraqis except citizens of the governorates of the Kurdistan Region, which is currently sold to them for an amount of (500 dinars), so the procedures of the Federal Ministry of Oil related to the processing and pricing of oil derivatives to the Kurdistan Region intersect with the Constitution in Articles (14, 111 and 112) thereof, which guaranteed the right to equality between Iraqis and joint ownership of oil and gas and emphasized the principle of fair and equitable distribution in proportion to the population distribution throughout Iraq. These procedures are with the decision of the Federal Supreme Court No. (59/Federal/2012 and its Unified 110/Federal/2019), which came in application of the aforementioned constitutional principles, therefore, the plaintiff requested from this court to rule on the unconstitutionality of the procedures of the Iraqi Ministry of Oil regarding the determination of the quantities of oil derivatives and their

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prices sold to the Kurdistan Region and obliging it to abide by the principle of equality in the provision of services that it is specialized in providing among citizens in all governorates of Iraq, in a way that contributes to securing a decent life and providing petroleum products in the governorates of the Kurdistan Region, similar to other governorates of Iraq. After registering the case with this court No. (330/Federal/2023) and collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1st and 2nd) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, and for the expiry of the period necessary for the answer, the court set a date for considering the case without pleading in accordance with Article (21/3rd) of the Court's Rules of Procedure, in which the court was formed, the case was considered, the plaintiff's requests and grounds were checked, and after completing the scutinies, the end of the minutes has been made clear and the court issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff Nehru Mahmoud Qadir filed a lawsuit before this court requesting a ruling on the unconstitutionality of the procedures of the Iraqi Ministry of Oil regarding the determination of the quantities of oil derivatives and their prices sold to the Kurdistan Region and obliging it to abide by the principle of equality in the provision of services that it specializes in providing among citizens in all governorates of Iraq, in a way that contributes to securing the basic ingredients for living a decent life as required by the constitution, and providing oil products in the governorates of the Kurdistan Region, similar to the governorates of Iraq at the same prices at which these products are sold to other

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governorates, and the defendant is charged / being in this capacity with all judicial expenses. This court finds that its jurisdiction is limited under Articles (52 and 93) of the Constitution of the Republic of Iraq for the year 2005, as well as in Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, and among those competencies are not the requests received by the plaintiff in the petition, so this lawsuit is outside the jurisdiction of this court specified under the Constitution and the law, so the Federal Supreme Court decided to dismiss the plaintiff's lawsuit Nehru Mahmoud Qadir, due to lack of jurisdiction and to burden him with the fees and expenses. The decision has been issued unanimously according to the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and Articles (4 and 5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited on the session dated 12/Rajab/1445 Hijri coinciding 24/January/2023 AD.

Judge

Jassim Mohammed Abbood
President of the Federal Supreme Court

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