



The Federal Supreme Court (F.S.C.) convened on 19.10.2021 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:

Eman Abdel Wahab Mahmoud Mansour - her attorney, Dr. Iskandar Naji Hamid Al-Masoudi

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- Iqbal Adnan Hassan Rabie / Member of Parliament for Diyala Governorate, Her attorney, Khadija Khadabakhsh Assad.

The claim:

The plaintiff claimed, through her agent, that she was a candidate for the Council of Representatives elections that took place in 2018 for the current session within the Iraqi coalition list for Diyala Governorate, and she obtained the second sequence of women

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candidates within this list after the sequence of the winning candidate (Ghaida Saeed Abdul Majeed Kambash), who died due to the Corona pandemic. (This is stated in accordance with the arrangement of the names of the candidates within the list in accordance with section three/ step two / 1- of the Council of Representatives seat distribution system No. (12) of 2018 issued by the Independent High Electoral Commission, where the details of the seats (and the quota system for women) in each governorate were specified as a constituency, since his client had obtained the highest votes in the women's quota, after the deceased female MP, from the same list and for the same governorate (Diyala), which made her eligible to occupy the vacant seat, however, the Council of Representatives summoned the second defendant (Iqbal Adnan), who obtained (342 votes) to fill the vacancy in the seat of the deceased MP (Ghaida Saeed), although she has less votes than the plaintiff (Iman Abdel Wahab), who got (1588 votes), since the second defendant took the legal oath before the Council of Representatives and was considered a representative and a member of the Iraqi Council of Representatives, despite her lack of entitlement and in contrary of the law of replacing the members and other applicable laws, it also contradicts the legal preceding of the F.S.C. despite the fact that its decisions are final and binding on all authorities and can not be violated. Despite the objection (the grievance) submitted by the plaintiff before the Council of Representatives on 19.9.2020, which was not answered despite the passage of the legal period. For the foregoing reasons, the plaintiff

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requested the Federal Supreme Court to rule obligating the first defendant (the Speaker of Parliament / in addition to his post) to cancel his decision to replace the second defendant candidate in place of the deceased former MP (Ghaida Saeed Abdul Majeed), may God have mercy on her, and to consider her the one who is entitled to this replacement, and to obligate the first defendant (the Speaker of the Council of Representatives / in addition to his post) to officially call upon her to fill the aforementioned vacancy, to take the legal oath and to consider her as a representative and a member of the Council of Representatives after taking the legal oath, and to charge the defendants with expenses, legal and attorney fees. The case was registered before this court in No. (43/Federal /2020) and the legal fee was collected for it, based on the provisions of Article (1/Third) of the Federal Supreme Court's bylaw No. (1) of 2005, and to inform the defendants of its petition and documents in accordance with what was stated in Article (2/first) of the same bylaw, the attorney for the first defendant, the Speaker of the Council of Representatives / in addition to his post, responded with the answering draft dated on 5.12.2020, which included that the challenge to the validity of the membership of a member of the Council of Representatives requires the appeal initially before the Council of Representatives, then the person with interest can appeal later before the Federal Supreme Court against the decision of the Council, in accordance with Article (52) of the Constitution, and since the plaintiff has submitted her claim without fulfilling the formality stipulated in the mentioned

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article, this requires rejecting her claim, as the Court has previously issued many decisions in this regard, so the agents of the second defendant requested to dismiss the plaintiff's suit and charged her all expenses and attorney's fees. As for the second defendant, the representative Iqbal Adnan Rabei, she did not respond despite being notified in accordance with the law and according to the provisions of Article (2/Second) of the aforementioned bylaw. a date was set for the pleading and the parties were informed of it. The Court was formed, the plaintiff herself attended with her agent Dr.Iskandar Naji Hamid Al-Masoudi also attended on behalf of the first defendant his attorneys, legal counsel Haitham Majed Salem and legal employee Saman Mohsen Ibrahim. The second defendant, Representative Iqbal Adnan Hassan Rabie, did not attend, despite being informed of the date of the pleading in accordance with the rules. She did not send a legitimate excuse or her legal representative, the public pleading was initiated, the plaintiff and her attorney repeated what was stated in the lawsuit petition and requested a ruling according to what was stated in it. The attorneys of the first defendant replied that they requested to dismiss the lawsuit for the reasons stated in the answer list dated 5.12.2020. The plaintiff and her attorney added that she had previously objected before the Council of Representatives on 19.9.2020, and after the Speaker of the Council of Representatives indicated the phrase (what is the entity and the political coalition of the applicant) and after being approached by the Independent High Electoral Commission, it replied in the letter (A/D/3/1628) on

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6.10.2020 that the plaintiff is one of the candidates of (The National Coalition/T 12/ Diyala Governorate), the defendant's attorney replied that the constitution required that the decision on the validity of membership be made by a two-thirds majority of the members of the Council of Representatives, and since it was not achieved therefore her request was not presented in accordance with article (52) of the Constitution, the challenge before the Court should be focused on the decision of the Council of Representatives regarding deciding the validity of membership or not. The court noted the receipt of the letter of the Independent High Electoral Commission in the number (12585) on 14.7.2021, which included that the number of votes of the plaintiff is (1587) and that she belongs to (the civil grouping for reform/work) and that the deceased female MP (Ghaida) got (4883) votes and belongs to the (Iraqi Front for National Dialogue) and that the second defendant (Iqbal) got (343) votes and belongs to the Iraqi Front for National Dialogue. The plaintiff and her attorney replied regarding this letter that it lacks accuracy, as the deceased MP (Ghida) was on the same list to which the plaintiff (Iman) belonged, as well as the defendant (Iqbal). Adding that the plaintiff belongs to the entity of the civil grouping for reform, but the deceased female MP (Ghaida) and Representative Iqbal, both belong to an entity (the Iraqi Front for National Dialogue). The attorneys of the first defendant replied that the plaintiff and her agent made it clear that the plaintiff, during her nomination, belonged to an entity, and the deceased deputy and the defendant, Representative Iqbal, belonged to

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another entity, and this was adopted by the Council of Representatives when replacing the deceased deputy, Ghaida with Iqbal. each party repeated its previous statements and requests, and since the court completed the audit of the case and all its documents, and where there was nothing left to be said, it understand the conclusion of the pleading and set 19.10.2021 as the date for the issuance of the decision, in which the court was formed and issued the decision of the following ruling in public.

The decision:

Upon examination and deliberation from the Federal Supreme Court, it was found that the plaintiff is appealing the decision of the Council of Representatives and the unconstitutionality of the measures taken by the first defendant (the Speaker of the Council of Representatives / in addition to his post) by call upon the second defendant, taking the legal oath and assigning her the duties of the parliamentary seat for Diyala Governorate, which belongs to the Iraqi List, instead of The former deputy, Ghaida Saeed Abdul Majeed, in contravention of the law to replace members of the Council of Representatives, because the plaintiff had obtained a number of votes more than the number of electoral votes obtained by the second defendant, and the plaintiff ranked second in the women's quota for the Iraqi List in Diyala province after the previous deputy, and she requested a ruling to oblige the first defendant, in addition to his post, to cancel his decision assigning the second defendant to the duties of

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the parliamentary seat designated for the women's quota for Diyala Governorate within the Iraqi List, and obligating him to summon the plaintiff and assign her the tasks of the aforementioned parliamentary seat. This court finds that the letter numbered (A/13/2585) dated 14.7.2021 issued by the Independent High Electoral Commission included that the plaintiff (Iman Abdel Wahab Mahmoud) is part of the (Civil Gathering Entity for Reform / Labor) of the National Coalition and that the reserve candidate for the women's quota within the political coalition to which the deceased MP (Ghida Saeed Abdul Majeed) belongs is Mrs. (Iqbal Adnan Hassan Rabie), and since Paragraph (2) of Article (2) of the Law on Replacing Parliament Members No. (6) of 2006 stipulates that (if the vacant seat within the governorate seats determined by the electoral law shall be compensated from the bloc to which the member included in the replacement within the governorate list,...), and since the mentioned article does not allow the plaintiff to be replaced as she is from a different entity from the entity of the deceased female representative, then the measures taken by the Council The deputies are correct and in conformity with the aforementioned article, and for the reasons mentioned, the plaintiff's lawsuit is obligatory to be dismissed. The Federal Supreme Court decided to dismiss the plaintiff's lawsuit and charge her the costs of the lawsuit and attorney's fees for the attorney of the first defendant, legal advisor Haitham Majed Salem and the legal employee Saman Mohsen Ibrahim and the representative of the second defendant, Lawyer

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Khadija Khadabakhsh, an amount of one hundred thousand dinars, distributed among them in accordance with the law, as final and binding ruling for all authorities, based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5/2nd) of the Federal Supreme Court Law No. (30) for the year 2005 as amended by Law No. (25) for the year 2021 and publicly understood on (12/Rabi' al-Awwal/ 1443 AH) corresponding to 19.102021 AD.

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Signature of
The president

**Jasem Mohammad
Abbood**

Signature of
The member

Haidar Jaber Abed

Signature of
The member

Ayoub Abbas Salih

Signature of
The member

**Sameer Abbas
Mohammed**

Signature of
The member

Haider Ali Noory

Signature of
The member

**Abdul Rahman
Suleiman Ali**

Signature of
The member

**Ghaleb Amer
Shnain**

Signature of
The member

Khalaf Ahmad Rajab

Signature of
The member

**Diyar Muhammad
Ali**

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