Republic of Iraq
Federal Supreme Court
Ref.45 /federal/media/2015

Kurdish text

The Federal Supreme Court has been convened on 10/8/2015, 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: (Sin.Heh.Sad)- his agent the barrister (Nun.Mim)

The Defendant: ICR speaker/ being in this capacity- his two legal officials (Sin.Ta.Yeh) and (Heh.Mim.Sin)

The Claim:
The plaintiff's agent claimed that the defendant/ being in this capacity- legislated the law of the federal public budget of Iraq Republic for 2005. because some of the articles of the budget's law violate the provisions of the article (2/1st) from the Constitution, he challenged it for the reasons listed in the case petition. He made clear that the article (2) under the title of (spendings and deficit) in the aforementioned law, the clause (Alif) stipulated ((This deficit requires internal and external borrowing and authorizes the Minister of Finance to continue borrowing to fill the deficit)), As for clause (Beh) of the article, where the borrowing was listed and continue to borrow. borrowing from the non-Islamic internal and external banks subjects to interests and this violates the principles of Islamic sharia which forbids the interest in all Islamic rites, so the legislation of this law violates the provisions of the

Radhaa

Constitution of the Republic of Iraq for 2005 which obliged that no law that contrary to the principles of Islamic sharia shall be legislated. At the end he requested the judgment of the unconstitutionality of the article (2) and the article (18/1st) from the law of the federal public budget for 2015 and to burden the defendant/ being in this capacity- all the expenses and fees of the advocacy. After the case had been registered at the FSC according to the bylaw, the defendant was notified by the case petition so his answer was listed requesting to reject the case for the reasons listed in it. After completing the procedures the day 6/7/2015 was selected as a date for the argument then the plaintiff agent and the two agents of the defendant attended and the argument was started publicly and presently. The plaintiff agent limited his client case by the article (2/2nd) with its clauses (Alif, Beh) and requested to annul the remaining that listed in the case petition. After the court completed its investigation, it decided to understand the end of the argument and the text was recited publicly.

The Decision:

For the claim of the plaintiff and his agent limited the case in the session on 10/8/2015 to the judgment of the unconstitutionality of the article (2/2nd) with its clauses (Alif) (Beh) and his request to annul what remained in the case petition. By returning to the provisions of the article (2/2nd/Alif/Beh) from the law of the federal public budget for the republic of Iraq for the fiscal year 2015, the court found that it allowed to federal minister of finance to continue borrowing for the purpose of paying the predictable deficit in the federal public budget from the International Monetary Fund and The World Bank. This article didn't mention that this shall be with interest as the plaintiff assumed and no judgment can be built on assuming so the plaintiff's case after being limited is lacking for substantiation from the law and the court decided to reject it from this point and to annul the case for what relates to his second request that relates to the unconstitutionality of the article (18) from the aforementioned law based on the request of the plaintiff according to his agent and to burden him all the expenses and fees

of the two agents of the defendant amount of hundred thousand Iraq dinars and the decisions were issued unanimously and understood publicly.