



The Federal Supreme Court (F.S.C.) has been convened on 28.8.2013 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 Abbas Abu Al-Temmen whom are authorized to judge in the name of the people, they made the following decision:

The Plaintiff:

(mim. Ra. Dha. alif.) / his agent the attorney (shin. sin. Feh.).

The Defendants:

1. The president of the Supreme Judicial Council/ in addition to his post / his agent the manager of the legal department (feh. shin. lam.).
2. The President of the Independent High Electoral Commission (I.H.E.C.)/ in addition to his post.

The claim:

The agent of the plaintiff claimed that the I.H.E.C. approved the participation of the plaintiff (mim. Ra. Dha. Alif.) as president of his entity (Equity Bloc) by the number (455), but it decided later to cancel its approval on his participation under the decision of the committee board no. (shin. mim. /

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regular 23) on 3.3.2013 under the claim of receiving letter from the criminal registration department no. (5181) on 28.2.2013 attached to it his criminal dossier which indicates an in absence judgment against him of prison for (15) years according to article (1/4) for the claim of supporting armed groups. The plaintiff challenged the committee decision before the judicial committee in the federal cassation court that the law authorizes to consider the elections lawsuits, confirming his challenge with a letter issued from the criminal registration department after the letter appointed by the committee, its no.(6946) on 25.3.2013 notifying the committee that there was no judgment issued against the plaintiff under article (4/1) terrorism from the special court of the terrorism lawsuits according to what indicated in his criminal dossier in the computer. The judicial committee in the Federal Cassation Court inquired from the Criminal Registration Department for the contradiction between its two letters (5181) on 28.2.2013 and (6946) on 25.3.2013, the mentioned department responded by its letter no.(8743) on 9.4.2013 that there is no contradiction, and that it received letter from the National Security Council/ National Security Chancellery no.(261) on 13.3.2013, notified to it from police affairs agency under no.(4853) on 20.3.2013 stating that there was no judgment issued against the plaintiff (mim. Ra. Dha. Alif.) from the competent court of terrorism cases, but the judicial committee of the elections cases in the federal cassation

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court explained the letter of the criminal registration department in contrary to its text, so it would be (confirming of the exciting of judicial judgment), but he stated that there is no judicial judgment was issued, and it decided to approve the decision of the commissioners board of eliminating the plaintiff from nominating for elections by it decision no. (19/appeal/2013) on 10.4.2013 which affected the rights of the plaintiff and the candidates in his entity in clear violation to the provision of article (19/6th/20) of the Constitution, accordingly, the Independent High Electoral Committee and the competent judicial committee of the elections cases in the federal cassation court has based on the claimed in absence judgment, which then was proven to be non-existent by the facts and the letters of the related offices, each of them ignored the attached formal letters from official bodies including the letter of Internal Ministry-police affairs agency no.(4853) on 20.3.2013, and the directorate of criminal registration letter no.(8743) on 9.4.2013, and also its letter no.(9332) on 16.4.2013, and the letter issued by the Central Investigation Court no. (6452) on 16.4.2013 which confirm releasing the plaintiff in the lawsuit he accused in according to article (4/1) terrorism, and canceling the arresting order issued against him, in addition that the central investigation court has innocent the plaintiff from all directed charges, and confirmed that he is no longer required in another lawsuit under the two judgments attached to the court letter

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no.(6382) on 15.4.2013, in addition that the Internal Ministry notified the I.H.E.C. by its letter no.(10020) that no criminal judgment was issued against the plaintiff from the competent court of terrorist cases and no criminal judgment registered against him, however, the Commission relied on excluding the plaintiff on what was stated in his career paper and on what was stated in the letter (8458) on 30.5.2011, although a letter was issued after that no. (4853) on 30.3.2013 canceling the aforementioned letter and confirming that no criminal judgment was issued against the plaintiff. However, the Commission and the Council said that their decisions are irreversible. in addition to the aforementioned, the National Security Council chancellor removed the plaintiff's name from the wanted lists of the Iraqi government, for his positions in support of the political process by the decision (399) on 27.3.2013 and the decision no. (5/4/261) on 13.3.2013, despite all the foregoing, the Judicial Committee of the Federal Court of Cassation insisted on depriving the plaintiff from participating in the elections and did not treat him fairly according to what was decided in the article (19/6) of the constitution that gives everyone the right to be treated fairly in judicial and administrative procedures, and it did not consider all the presented documents, and insisted that the decisions it issued are (final absolutely not subject to review in any way), and the appeal requests have been rejected formally. It also stated in its decision (31/appeal /2013) on

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17.4.2013 and (33/ appeal/2013) on 30.4.2013 that the judiciary and the elections commission have overturned the principle of the law and the constitution, which stipulates that the accused is innocent until proven. The plaintiff requested the F.S.C. to consider the letter that arrived to the committee from the criminal registration department no. (11056) on 12.5.2013 which confirm that it hasn't indicated any criminal judgment has been issued at the present time against the plaintiff, whose right to nominate has been unequivocally proven, knowing that the plaintiff and his political entity obtained twenty-seven thousand six hundred and forty votes, including three candidates for his previously excluded political entity from the membership of the Governorate Council of Salah al-Din under the pretext that the decisions of the judiciary committee regarding the elections are final, and this contradicts the spirit of the constitution, which stipulated that the will of the voter not to be absent, for all the aforementioned, in the case petition the rule to repeal and revoke the decisions (19/ appeal/2013 on 10.4.2013) and (31/ appeal/2013 on 17.4.2013) and (33/appeal/ 2013 on 30.4.2013) issued by first defendant and the abolition of all the consequences of that, and the focus on excluding the plaintiff and his political entity, the Equity Front, whose participation in the elections had already been approved by the High Elections Commission, and the entity was registered by the number (455) and to charge the defendants with expenses

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and fees. After registering the lawsuit before the F.S.C. and paying its fees, the defendants was informed with the case petition, the agent of first defendant responded under article (2/1st) of the F.S.C. bylaw with the draft dated on 26.5.2013 which included that the court is not competent to consider the lawsuit as it is not within its jurisdictions listed in article (93) of the Constitution and article (4) of the F.S.C. bylaw no.(30) of 2005 consider the request to cancel the judicial decisions issued by the Federal Court of Cassation, and the President of the Supreme Judicial Council does not lend itself to a litigating case because the Judicial Authority for Elections formed in the Federal Court of Cassation was formed in accordance with the provisions of the Article (8/3rd) of the Independent Electoral Commission Law no.(11) of 2007 he requested to reject the case. The second defendant, the head of the Independent High Electoral Commission, responded with the dated draft 2.6.2013 includes that the plaintiff challenged the decision before the Judicial Authority for Elections and issued its numbered decision (19/ Judicial Authority for Elections /2013) dated on 10.4.2013 containing the rejection of the appeal and ratification of the Board of Commissioners' s decision based on the clause (7th) of the article (8) amended, Independent High Electoral Commission's law. The judicial court decision is final and not subject to appeal, he requested to dismiss the lawsuit. According to the provision of article (2/2nd) a date appointed for

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argument, on it, the agents of plaintiff and defendants attended, the plaintiff agent repeated the case petition and requested to rule according to it adding, the defendant' agent repeated the answering draft requesting to dismiss the case. whereas nothing left to be said, the argument is closed, the decision issued publicly.

The decision:

During scrutiny and deliberation by the F.S.C., it found that the plaintiff in his capacity as the head of the (Equity Front entity), applied to participate in the provincial council elections for 2013 and that the Independent High Electoral Commission approved the participation in the elections and granted the plaintiff's entity the hierarchy (455), then the Commission received a letter from the Criminal Registration Directorate no. (5181) dated on 28.2.2013 attached with the criminal record of the plaintiff, which indicates the issuance of a judgment in absentia against the plaintiff serving a fifteen-year prison term in accordance with the provisions of Article (4th/1) of the Anti-Terrorism Law no.(13) of 2005, and based on that the Commission issued its decision no.(1) in the regular minute (23) on 23.2.2013 which includes excluding the plaintiff from running in the elections because he has lost one of the nomination conditions stipulated in the law of the Independent High Electoral Commission, where he has registered a criminal

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record against him according to what is stated in the letter of the Ministry of Interior for Police Affairs no.(8458) on 3.5.2011 Directorate of Criminal Registration, the plaintiff appealed the aforementioned decision to the Judicial Authority for Elections in the Federal Court of Cassation formed in accordance with the provisions of the article (8/3rd) of the aforementioned law, so the Judicial Commission for Elections issued its numbered decision (19/appeal/2013) on 10.4.2013, which decided to ratify the appealed decision issued by the Council and to reject the appeal submitted. the plaintiff filed another appeal that was referred to the Commission on 15.4.2014 requesting an appeal to the decision of the Board of Commissioners to exclude him from nomination, the judicial body of the Court of Cassation issued the numbered decision (31/appeal/2013) on 17.4.2013, which dismissed the request in form, based on the fact that decisions issued by the judicial body do not submit to appeal in any way in accordance with the provisions of Article (8/7th) of the Amended Independent High Electoral Commission Law no.(36) of 2008. The plaintiff also submitted another appeal to the Judicial Authority for Elections in the Court of Cassation after the Commission rejected its request to reverse its decision of cancelling the approval of the plaintiff's nomination for the provincial council elections of 2013, and the Judicial Authority for Elections at the Federal Court of Cassation issued its decision (33/appeal/2013) to dismiss the appeal in form, as the

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decisions it issues are final in accordance with the provisions of Article (7th of article 8) of the Independent High Electoral Commission Law. From the foregoing, the court finds that the plaintiff in his case is requesting the annulment of the decisions issued by the Judicial Authority for Elections in the Federal Court of Cassation formed under the provisions of Article (8/3rd) of the High Commission Law, which are decisions issued in accordance with its powers stipulated in Article (8/7th) of the Law. as the Jurisdictions of the F.S.C. are stipulated in paragraph (93) of the Constitution of 2005, and article (4) of its bylaw no. (30) for 2005, it didn't includes repealing judicial decisions issued by judicial committee formed by the law, which decision are final and doesn't submit to challenge in any form, accordingly, the plaintiff request to repeal these decisions doesn't based on substantiation of the law. accordingly it decided to dismiss the lawsuit and to burden the plaintiff the expenses and advocacy fees for the defendant agent amount of (one hundred thousand) IQ.D. This decision has been issued in presence, unanimously, and final according to article (94) of the Constitution, issued publicly on 28.8.2013.

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