

In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq
Federal Supreme Court
Ref.50 /federal/media/2015



Kurdish text

The Federal Supreme Court has been convened on 22/6/2015, 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: (Alif.Feh.Dal)- his agent the barrister (Mim.Sin.Mim.Feh)

The Defendant: ICR Speaker/ being in this capacity- his two agents the legal officials (Sin.Tah.Yeh) and (Hh.Mim.Sin)

The claim:

The plaintiff agent claimed that his client has already presented a request to the defendant/ being in this capacity- requesting the challenge of the validity of the representative's membership (Heh.Mim.Shin), and he thinks that he is more deserving the membership of ICR. On 2/5/2015 the defendant issued in ICR session No.(34) a decision that the approval had not been got after the voting. Whereas FCS decided a legal principle that article (14/3rd) and (15/1st) from the valid law of elections No.(45) for 2015 must be applied where the articles conformed the claim of who got the highest votes inside the electoral list, and as for the representation of women in ICR reached more than (25%) and the exception doesn't expand. His client was withing the winners of the list (Dawlat AL-Qanon coalition 277) when the aforementioned texts were applied then he was ruled out by the women quota claim-

ing that there is a lack in the number of women winners despite the fact that the number of his votes is bigger than the number of one of the winner women candidates for completing the women quota. The representation of man has no effect on the women quota because it is achieved, from the other side the representative (Ha.Mim.Shin) came as replacing the representative (Mim.Ghain) who became a minister of the ministry of interior and was representative from the same electoral list. Since his client got (2337) votes while the replaced representative got (1478) votes and the descending order of his client in the electoral list for Baghdad Governorate is (35) and with reserve serial (4) while the replaced representative (Ha.Mim.Shin) in the same electoral list his descending order (51) with a reserved serial (28), so the decision of the defendant/ being in this capacity- violated the texts of the elections law and violated the FSC's decisions according to its precedents especially the decision No.(117/131/federal/2014), his client is the real legal representative. He requested from the FSC to annul the decision of ICR and to withdraw the membership of the representative (Ha.Mim.Shin) and to make his client (Alif.Feh.Dal) a member instead of him who became a minister because they are all in the same electoral list (Dawlat AL-Qnon coalition) and to burden the defendant all the fees and expenses of the advocacy. After the registration of the case at this court according to the clause (3rd) from the article (1) of the FSC's bylaw No.(1) for 2005, the answer of the defendant has been listed requesting to reject the case for the reasons listed in it, he made clear that the plaintiff (Alif.Feh.Dal) belong to (Dawlat AL-Qnon coalition) (Al-Daawa Islamic party entity) according to the letter of IHEC/ the commissioner's council No.(Kha./14/722) on 16/9/2014, therefore he is not right to request to occupy the seat of (Mim.Sin.Ain) which belongs to Dawlat AL-Qnon coalition (Badir organization entity) for Baghdad Governorate after being a minister. The seat had been occupied by (Ha.Mim.Shin) from the same bloc and the entity for Baghdad Governorate, so the replacing has corresponded to the law of replacing No.(6) for 2006 in the article (2/2nd). After the completion of the required procedures, the day 22/6/2015 was selected for the argument then the two parties attended and repeated their sayings and after the court made the scrutiny to the case documents,

the end of the argument had been understood and the decision was recited on 22/6/2015 publicly.

The Decision:

During the scrutiny and deliberation by the FSC, the court found that the plaintiff in the case No.(50/federal/2015) challenges the ICR's decision which made (Ha.Mim.Shin) a replaced of the representative who became a minister and resigned (Mim.Sin.Ain.Ghain) because he got (2337) votes while the replaced representative got (1478) votes and they are all from the same list (Dawlat AL-Qnon coalition). The plaintiff said that the subject of the case is covered by the article (14/3rd) and the article (15/1st) from the law of ICR's elections No(45) for 2013 and according to the precedents of the FSC. The court finds that the representative (Mim.Sin.Ain.Ghain) has resigned for being a minister of the ministry of interior and (Ha.Mim.Shin) was nominated as a replaced because they belong to the same political bloc (Badir organization entity) and from the same Governorate. its is applied to their replacement what was listed in the article (2/2nd) from the law of replacing No.(6) for 2006, its text is ((if the vacancy seat is withing the governorate's seats which the electoral law determined, the covered member shall be replaced from the same bloc he belongs to)). Even if the plaintiff from the same list and from the same governorate but he is from another bloc (AL-Daawa Islamic party) and the provisions of the article (2/2nd) from the law of replacing No.(6) for 2006 is not applied to him which shall be applied in this case, so the case of the plaintiff is lacking for its legal substantiation and the court decided to reject it and to burden the plaintiff all the expenses and fees of the advocacy for the two agents of the defendant amount of hundred thousand Iraqi dinars divided between them equally. The decision had been issued decisive and unanimously according to the provisions of the article (94) from the constitution of the Republic of Iraq for 2005, and was understood publicly on 22/6/2015.