

(Translated From Arabic)

In The Name Of God The Most Gracious, Most Merciful

Republic Of Iraq

Federal Supreme Court (Emblem)

(Kurdish Text)

Ref: 51/Federal/Media/2017

The Federal Supreme Court has convened in 27.7.2017, headed by the Judge Medhat Al-Mahomood and the membership of the Justices Jaefar Naser Hussain , Akram Taha Mohamed , Akram Ahmed Baban , Mohamed Saeb Al-Naqshabnde , Mikaeel Shamshon Qas Qourqis , Hussain Abbass Abo Al-timen , Abood Salih Al-Temimi and Faroq Mohamed Al-Sami who are authorized to judge in the name of the people. And it issued the follow decision:

The Plaintiff: Safa' Aldeen Rabee' his agent the attorney (Seen. Meem. Ha').

The Defendant:

The ICR Speaker/being in this post, his agent the legal official (Ha'. Meem. Seen.) .

THE CLAIM:

The agent of the plaintiff claims that the ICR issued a decision in 11.4.2017 to set down his client of his position as Head Of Media And Communications Commission; that decision violate the Constitution and the ICR Bylaw that the decision deals with the position that his client doesn't fill, therefore he request to void the set down decision for the follow reasons: before the set down decision there was an inquiry done in absent to the Head Of Media And Communications Commission , his client was informed as in this post which is not his client position , the ICR didn't informed his client in person but the informing was to the Head Of Media And Communications Commission according to Board Of Trustees decision no.(46) in 3.9.2013 that confirms that his client doesn't fill the position of the Head Of Media And Communications Commission , also according to article (1) of the Civil Proceeding Code that deals with the all the procedures regarding the informing and that his client is in a sick leave and the ICR was informed in that by the letter no.(1/2/5) on 19.2.2017 with the medical report attaching to it , also the ICR previously connect with the FSC requesting to explain the text related to inquiring the heads of the independents commotions in proxy ; it should wait the Court decision , but the ICR violated article (61/HA'.) of the Constitution and articles (67 &63 &50) of the Bylaw when decide

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to cancel the inquiry and issued the set down decision dated 11.4.2017 in session (24) thinking that the decision of set down the heads of the independents commotions is an absolute right and shouldn't be preceded by an inquiry. Also the set down decision violating article (59) of the Civil Proceeding Code because his client not included by article (61) of Constitution and article (50) of the Bylaw as he is a general director and attended to the Investment Commotion after he returned from the sick leave and informed the Board Of Trustees in the Commotion that he is ill and need to be treated outside the country also the order no.(65 for year 2004) is still valid and the plaintiff was assigned as a general director by the Trustees Board therefore his position is out of the ICR competence. In year 2011 a new Head for the Media And Communications Commission was assigned and the ICR formed an inquiry committee for the previous general director, the committee issued a recommendation directed to the Prime Minister to make the right decision because he is the responsible of the general directors. And request in the case petition to compel the defendant to cancel the set down decision dated 11.4.2017 in session (24) and burden the defendant all the judicial expenses.

After registering the case in the FSC according to clause (third) of article (1) of the FSC Bylaw no.(1) for year 2005 and completing the required procedures according to clause (second) of article (2) the same Bylaw the defendant answer came in the draft dated 29.5.2017 requesting to reject the case for reasons mentioned in it , a day 27.7.2017 appointed as a date for the proceeding, on it the Court convened, the agents of the two parties attended, and started the public proceeding.

As the case is ready to be judged the Court decided to end the proceeding and the follow decision made clear.

THE DECISION:

In the deliberation and discussion the FSC found that the plaintiff agent impeaching the ICR decision issued in session (24) on 11.4.2017 to set down his client of his duty, the plaintiff agent claims that the decision is unconstitutional as it explained in the case petition and requested to judge to cancel this decision.

The FSC find that the plaintiff assigned as Head Of Media And Communications Commission in proxy. And un inquiry directed to him according to article (61/eight/Ha'.) of the Constitution as he is a head of

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one of the independence committee in proxy. The inquiry accord with the absent of the plaintiff many times without an excuse that the ICR convinced of; the ICR made the set down decision after his member where convinced in the evidence presented to them. The inquiry done by the ICR to the Heads for the independence Commission in proxy with their absent coincide with the constitutional judgment aim where the FSC issued a judgment about that in 8.5.2017 no.(33/federal/2017) . Also it find that the validity of order no.(65) for year 2004 that deals with the activity of the Media And Communications Commissions doesn't contradict with the constitution article no.(61/eight/Ha'). Therefore the plaintiff case lost it constitutional and legal base.

And reject the plaintiff case and burden the plaintiff the expenses of the agent of the defendant amount of money (100000) Iraqi Dinar.

The decision was made unanimous according to article (94) of Constitution and made clear in 27.7.2017.