



The Federal Supreme Court (F.S.C.) has been convened on 23.7.2013 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:
Roaa Ebrahim Hussain/ her agent the attorney Aereby Shnien Mehamed.
- The Defendant:
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. on 12.3.2013 approved the Seats Distributing System no. (12) of 2013 to be implemented in the elections of the governorates Councils of 2013, as the mechanism of distributing the seats violates the law and the Constitution, where women were

Athraa



affected by great injustice, as those who were included in the third step of the seat registration system for the distribution of the women's quota, his client obtained (375) vote of (11207) votes in the list of loyalty to Iraq Gathering in Diwaniyah governorate, while the women who won the seat were the total votes of one of them was (275) votes. He requested to rule to amend third step of Seats Distribution System no. (12) of 2013 of calculating (the woman quota) in way that ensure justice and equity between participants. The defendant\ in addition to his post was informed with the case petition, he replied with the draft dated 10.6.2013 which included that woman quota is an exception of the equity principle stipulated in article (14) of the Constitution. As the Constitution stated in article (49/4) that the elections law shall aim to achieve a percentage of representation for women of not less than one-quarter of the members of the Council of Representatives. the F.S.C. ruled in 31.7.2007 in the lawsuit no.(13/teh/2007) that the mentioned constitutional text is to be implemented on the governorate Council for the unity of the objective, therefore the Committee is obligated to achieve representation percentage of woman in the governorate Council not less than one quarter, the Seats Distribution System no. (12) of 2013 came in accordance with the requirement of justice, and because the law referred to the (Saint-Lego) method that leads to the wining of multiple lists with one or two seats, it has become difficult to achieve the

Athraa



percentage of female representation, according to the verbatim text of the law, article (4/2nd) of the Committee law no.(11) for 2007 (amended) authorized the Committee to set regulation and instructions, therefore, the system for distributing seats in accordance with the law and the constitution. Paragraph (heh) of the system came in consistent with the requirements of justice and fairness, and it was drawn up after discussions in the presence of United Nations experts. The committee finds that the list that get two seats under (Saint-Lego) method has obtained more votes than the list that get one seat, it came at the bottom of the ladder in the descending order of the three-fold winning lists. The plaintiff (Roaa Ebrahim Hussain) candidate from the list of the loyalty to Iraq Gathering in Diwaniyah governorate no.(412) got (11207) votes and have one seat according to the Seats Distribution System no. (12) of 2013, the seat was given to the winner (Baqaer Ali Shaalan Salman) who got the highest votes in the list (1895) votes, while the plaintiff got (375) votes. After registering the lawsuit and completing the required procedures according to article (2/2nd) of the F.S.C. bylaw no. (1) for 2005, the court convened on the argument day and call upon the parties, the plaintiff and the agent of the defendant has attended, the plaintiff agent repeated the case petition and requested to rule according to it adding that the court is competent to consider it, the defendant' agent repeated the answering draft requesting to dismiss the case. whereas

Athraa



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 requesting the F.S.C. to amend third step of Seats Distributing System no.(1) of 2013 of calculating (quota of women) in the governorates Councils no.(1) for 2013, 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 what the plaintiff requested of amendment, therefore deciding the plaintiff request is out of its jurisdictions, accordingly it decided to dismiss the lawsuit for the aspect of jurisdiction, and to burden the plaintiff the expenses and advocacy fees for the defendant agent amount of (one hundred thousand) IQ.D. ((according to article (63) of the Advocacy Law no.(173) of 1965, and the Council of Ministers' decision no.(220) of 2013)), This decision has been issued in presence, unanimously, and final according to article (94) of the Constitution, issued publicly on 23.7.2013.

Athraa