

Republic of Iraq
Federal Supreme Court
Ref. 53 / federal /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 25/5/2022 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, Dyar Mohammed Ali, and Munthir Ibrahim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: the Medical Assistant Muthafer Abdul Majeed Ibrahim – member of the constituent body for the High Health Professions Society/ being in this capacity – his agent the Barrister Intisar Ahmed Al-Mulla.

The Defendant: The Speaker of the ICR/ being in this capacity – his agents, each of the Director-General of the legal department of the ICR Ph.D. Sabah Juma'a Al-Bawi, the legal counselor Haytham Majid Salim, and the official jurist Saman Muhsin Ibrahim

The Claim

The plaintiff claimed through his agent that the dissolved Revolutionary Command Council had already issued its resolution No. (1559) of 1977, on which law No. (189) of 1978 (the Law on the Dissolution of the Health Professions Union) was based on the confiscation of its movable and immovable funds, since the decision and what was built At the time, it is contrary to article (26) of the repealed Constitution of 1970 and contrary to the International Covenant on Civil and Political Rights for acquiring constitutionally protected original rights, and contrary to the Constitution of the

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Republic of Iraq of 2005 in articles (22/3rd) and (23) And (39) of it as the Health Professions Union is a group of persons organized on a professional basis and for professional purposes not for profit or speculation (association) according to the article (50) of civil law No. (40) of 1951 amended and this assembly is established by its law, Law No. (153) of 1969, and the decision in question is contrary to the article (46) since the legislature and the Council of Representatives have not issued currently, this removes constitutional irregularities in this decision, so the plaintiff asked this court (to rule that the dissolved Revolutionary Command Council Resolution No. 1559 of 1978 under article (13/2nd) of the Constitution and what was built on it nullified and restored its rights The constitutionality that has been taken and the rights that arise have resulted from this nullity and the reinstatement of Law No. 153 of 1969 (The Health Professions Union Law) in violation of the provisions of the Constitution and taking into account the sequence of degrees of force legally binding in the implementation and application of its provisions). The case was registered with this court in number (53/Federal/2022) and the legal fee for it was completed on the basis of the article (1/3rd) of the Bylaw of the Federal Supreme Court No. (1) of 2005, and the defendant is informed of its petition and documents in accordance with the provisions of article (1) 2/1) From the same Bylaw mentioned above, his agents replied in the answer list dated 23 March 2022, the conclusion that the plaintiff filed the case in his capacity as a member of the founding body of the Association of Health Professionals/in addition to his job, i.e. representing the moral personality of the said association. It is known that if there is a moral figure, it is assumed that its existence is under an internal system or law that gives the moral personality of

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the association if it has a legal presence, so the plaintiff's antagonism is not directed, and after referring to the rule of Iraqi legislation it is clear that the repeal of the law of the union of health professionals No. (153) of 1969, was under the Health Professions Union Dissolution Act No. (189) of 1978 and classified (Iraqi law) and not the decision of the dissolved Revolutionary Command Council and dissolved under the said law (Health Professions Union) institution Under it, in accordance with article (130) of the Iraqi Constitution of 2005, it is considered effective unless it is repealed or amended and does not violate any of the constitutional provisions, so the defendant's agent requested that the plaintiff's case be dismissed and that all judicial fees, expenses, and lawyers' fees be charged. After completing the procedures stipulated in the aforementioned Bylaw, a date was set for the argument based on an article (2/2nd) of it, and the parties were informed, and on the appointed day the court was formed and the plaintiff himself, his agent and the defendant's agent attended in addition to his job and the pleading usher in public repeated the plaintiff's statement and requested the judgment according to it and the plaintiff added that he is a founding member of the Association of Higher Health Professionals established by resolution (4968) and that the Association has a system in question. Internal published in the Iraqi newspaper Al-Nia'a, the most prominent copy of which was shared with the Court in the issue (3790) on 6 September 1999, he initiated the proceedings not as a member of the Association of Health Professionals, as he did not represent the President of the Association in this case, but rather as a medical assistant and is included in the repealed law and has an interest in bringing such a case, while the defendant's agents, in addition to his function, repeated their regulations dated 23 March

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2022, adding that the plaintiff's liability was not addressed, as the petition contained the words of a member of the Founding Committee of the Association of Higher Health Professionals in addition to his job and this could not be corrected. They requested a dismissal, and after the parties to the case repeated their latest statements and where there is nothing left to say, the end of the argument has been made clear and the court issued its next decision:

The decision:

Upon scrutiny and deliberation from the Federal Supreme Court, it was found that the medical assistant plaintiff (Muzaffar Abdul Majid Ibrahim) member of the founding establishment of the Association of Higher Health Professionals in addition to his job filed the case by his agent against the defendant speaker of the Council of Representatives in addition to his job requesting the ruling of a hero Resolution of the dissolved Revolutionary Command Council No. (1559) of 1978, the restoration of its constitutional rights and the rights that arise from it on the provisions of this nullity and the reinstatement of Law No. (153) of 1969, including no. Contrary to the provisions of the Constitution, at the hearing of 9 May 2022, he explained that he did not represent the President of the Association of Higher Health Professionals and that he had initiated the case as a medical assistant and was covered by the repealed law, while the defendant's deputy speaker of the Council of Representatives in addition to his job had requested dismissal for the reasons in the regulations dated 23 March 2022, they also requested a dismissal of the case because the plaintiff's antagonism was not directed, and since this court finds that the antagonism from public order and that the antagonism, if incorrect, can be completed if it is incomplete, and

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since the plaintiff has openly filed the case in addition to his or her job as a member of the Founding Committee of the Association of Health Professionals, and he was not represented or authorized by the Association with legally considered authorization, so that his or her opponent from the Association is incorrect, because each moral person is represented by his will on the basis of his will. Article (48/1) of Civil Law No. (40) of 1951 and that it is moral persons established in accordance with the provisions of the law in accordance with article (47/Zin) of the same law, and on the other hand the plaintiff cannot correct this antagonism in the minutes of the hearing and consider that he established it as a medical assistant and among those covered by the repealed law, for all of which has been submitted and since the antagonism from the public order and the court order to dismiss the case when it does not proceed, whether by request or without it. Therefore, the court decided to dismiss the case of the plaintiff (Muzaffar Abdul Majid Ibrahim), a member of the founding body of the Association of Higher Health Professionals in / being in this capacity for not directing the litigation and charging him the expenses of the lawsuit, including the fees of the agent of the ICR Speaker/ being in this capacity, each of the legal counselor Haytham Majid Salim and the official jurist Saman Muhsin Ibrahim amount of 100 thousand Iraqi Dinars, to be divided between according to the legal proportions. The decision has been issued unanimously and decisive according to the provisions of article (94) of the Constitution of the Republic of Iraq for 2005 and article (5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear on 23/Shawal/1443 Hijri coinciding 23/May/2022 AD.

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**Signature of
The president
Jasem Mohammad Abbood**