

In the name of God most Gracious most Merciful

Republic of Iraq
Federal supreme court
Ref. 56/federal/media /2013



Kurdish text

The Federal Supreme Court (F S C) has been convened on 28. 8. 2013 headed by Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi, Aboud Salih Al-temimi, 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: (ain. mim. ain. lam.).

The Defendant: Speaker of House of Representatives- being in this capacity his jurists (sin. ta. yeh.) and (heh. mim. sin.).

The Claim:

The plaintiff claimed that the House of Representatives had already issued/ the Fourth Amendment Law of the Provincial Council Election Law sub-districted and districted No. (36) of 2008 amended No. (114) of 2014 and the text of the article (13/2nd) of the Law and it came flawed and in violation of the articles (2/1st - beh) and (13/2nd, 14,15,16,20,49,38/1st) of the Constitution. The completion of the women's quota until it reaches a quarter by redistributing the positions of women in the winning lists and even more than replacing the winning men with high numbers in their single-seat lists with a woman on the same list with a much smaller number of votes than her colleague on the list. This is particularly contrary to article

(14) of the Constitution, which calls for non-discrimination because of sex between men and women. Women's quota is an exception granted to women to enable them to participate in political and legislative life in Iraqi society and is unparalleled in European societies, and this exception has detracted from the dignity and personality of Iraqi women, as there are women who have won elections with their political and electoral power without resorting to the quota of women granted to them by the Constitution. Thus, the granting of quotas to women violated the Iraqi Constitution on (15 and 20) of it. Where everyone has the freedom to choose and it is not permissible to force a woman to express her right or exercise it through the quota of women only, the best way to achieve and guarantee the rights of all men and women is for the voter in one constituency to have two votes for the women's quota and the other for the public vote. (25%) of the constituency seats are allocated to voting for female candidates and the rest of the constituency seats representing (75%) of the seats. Men and women are allocated to the general competition and win these (75%) seats. Who gets the highest votes or who gets the seat price (what qualifies him to win a seat) whether he is a man or a woman, without discrimination on the basis of sex, this is a proper application of Article (49) of the Constitution, where the proportion of women is set at least (25%), meaning they may be more than (25%) and to achieve justice, equality, equal opportunity and non-discrimination due to sex proposed (request) by the plaintiff (1) amendment of paragraph (2nd) of Article (13) of the Provincial, Sub-district and District Councils Election Law No. (36) of 2008 as follows (Second : Distribution of seats to open list candidates and the sequence of candidates is rearranged based on the number of votes received by the candidate and the first winner is the one who gets the most votes on the open list and so on for the rest of the candidates. (2) Creating a paragraph (3rd) of article (13) above of the contested law is developed in accordance with the following text: (third: A- The seats of the (governorate) constituency are divided into two parts, the first (75%) for the general vote on which political entities and individual candidates compete, both men and

women, and the second, (25%) for the special vote in the women's quota in which women candidates from political entities and individual candidates compete only. B-The Independent High Electoral Commission allocates two ballot boxes in one station, the first for general voting and the second for the women's quota, where qualified voters of both sexes who wish to cast their votes may vote twice, the first for the general vote and the second for the women's quota. After registering the case in accordance with paragraph (3rd) of article (1) of the FSC's bylaw No. (1) for the 2005, a date was set for the hearing, in which the plaintiff himself and the defendant's agents/ being in this capacity attended, the plaintiff repeated what was stated in the lawsuit petition, the defendant's attorneys repeated what was stated in their draft of answers received by this court on 17/6/2013 and requested reject the case because there was no interest for the plaintiff in instituting it and instructed the plaintiff to prove the existence of an interest for him in accordance with the Civil Procedure Law No. (83) of 1969 (amended) and the FSC's Law No. (30) of 2005, he replied that it is only applied by the method of allocating special seats (the quota for women) and that he is a citizen and is not among the candidates who win or lose the elections. Each of the two parties repeated their previous statements, and there was nothing left to say the end of argument has been made clearly, the decision had made clear public.

The Decision:

After scrutiny and deliberation by the FSC found that the plaintiff challenges the process of allocating seats to the women's quota (quota) guaranteed by the electoral seat distribution system No. (12) of 2013 issued by the Independent High Electoral Commission to distribute electoral seats to the winners of the candidates for the election of provincial councils, because this (and according to his claim) violates the provisions of articles (2/1st- beh , 13/2nd,14,15,16,20,49 and 38/1st) of the Constitution, and for the reasons outlined in his petition, he initiated this case, demanding the repeal of Article (13) of Law No.

(36) of 2008 (Law of the Provincial Council Election Law sub-districted and districted), which was addressed by Law No. (114) of 2012, the Fourth Amendment Law of the Provincial Council Election Law sub-districted and districted mentioned above. Since the plaintiff did not indicate an interest in the establishment of this case, he acknowledged during the case and at the hearing of 28/8/2013 that he was not one of the winning or losing candidates in the recent provincial council elections and that he had filed his claim as a citizen of Iraqi society. The plaintiff's interest in establishing this case is therefore denied on the basis of the provisions of article (6) of the Civil Procedure Law No. (83 of 1969 amended) and article (6) of the Bylaw of the FSC No. (1) of 2005. Accordingly, the FSC decided to reject the case from this side and charge the plaintiff the expenses and the fees of the lawyers the agents of the defendant the jurists (sin. ta. yeh.) and (ha. mim. sin.) amount (10,000) one hundred thousand Iraqi dinars between them the decision was issued unanimously and had made clear public on 28/8/2013