

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 56/federal/ 2015



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 23.9.2019 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 who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Noffal Hamai Sultan Alaakoub/ his agent the attorney
Muhamad Majeed Alsaedy.

The Defendant:

- 1- Speaker of the Parliament/ being in this post -his agent the legal advisor Haytham Majid Salim.
- 2- President of the state council/ being in this post -his agent the legal official Ibrahiem Muhamad Madhy.

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The Claim:

The agent of the plaintiff claims that his client has filed the lawsuit No.(1848/qaf/2019) before the administrative judicial court of the second defendant that is competent to review the Government decisions. The mentioned court didn't take into account the articles (19/5th) and (100) of the constitution, and didn't relied on what the plaintiff has submitted of an formal and objective evidence, as his client was dismissed from his post as the Governor of Nynawa for the claim of presented lawsuits before the Integrity Investigation Court and it based on before the fact-finding committee, his client was not interrogated and had been dismissed, he challenge the decision of the administrative judicial court No.(1848/qaf/2019) dated on (12/5/2019) and requested to revoke it for violating the constitution, as he returns to the parliamentary decision No.(30) for 2019 which issued by the first defendant. The defendants/ being in this post were informed by the case petition and documents; the agent of the first defendant has respond with the answering draft dated on 24/6/2019 which stated that the jurisdictions of the F.S.C. are stipulated in article (93) of the constitution and the request to revoke the decision of the administrative judicial court is out of its jurisdictions, and requested to reject the case. The agent of the second defendant replied that the administrative judicial court decision can be challenge before the Supreme Administrative court, the plaintiff challenged the decision and the case still under consideration by the Supreme Administrative court, also the case is out of the F.S.C. jurisdictions and requested to reject the case. the date 23/9/2019 was scheduled to consider the case, the court call upon the parties, the agent of the plaintiff, the agent of first

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defendant, and the agent of second defendant has attended, the agent of the plaintiff repeated the case petition and requested to judge according to it and added that the legal principal is that the accused is innocent until proven guilty, the agent of the defendant repeated the answering draft and requested to reject the case. The argument is close and the decision is issued publicly.

The Decision

During scrutiny and deliberation by the F.S.C. the court found that the plaintiff (Noffal Hamai Sultan Alaakoub) was occupy the post of Nynawa Governor, then was dismissed from his post by the Council of Representatives' decision No.(30) for 2919 which was issued in fifth session of the second legislation term the first legislation year on 24/3/2019, and he challenged the dismissal decision before the administrative judicial court in the lawsuit No.(1848/qaf/2019) which was rejected on 22/5/2019, the plaintiff filed this lawsuit before the F.S.C. against the Speaker of the I.C.R./ being in this post, and against the President of the state council/ being in this post that the administrative judicial court associated with him, challenging the constitutionality of the administrative judicial court' decision No.(1848/qaf/2019) and requesting to revoke that decision. The F.S.C. finds that the case consideration is out of its jurisdictions that are stipulated in article (93) of the constitution and article (4) of the F.S.C. law No.(30) for 2005 which don't include considering the constitutionality of the challenged decision that the law has set method to challenge it but not before the F.S.C.. Accordingly the court decided to reject the case from the point of jurisdictions, and

to burden the plaintiff the expenses and advocacy fees for the agents of the defendants' amount of one hundred thousand Iraqi dinars divided on them equally. The decision has been issued decisively and unanimously according on 23/9/2019.