

Republic of Iraq
Federal Supreme Court
Ref. 57/ Federal / 2022



The Federal Supreme Court (F.S.C.) convened on 24.3.2022 headed by Judge Jasem Mohammad Abboud and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali who are authorized to judge in the name of the people, they made the following decision:

The plaintiff:

The representative Alia Nassif Jassem - her attorney, Muhammad Majid Al-Saadi.

The defendants:

1. President of the Republic of Iraq / in addition to his post - his deputy, chief legal experts Ghazi Ibrahim Al Janabi
2. The Speaker of the Council of Representatives / in addition to his position - his deputy, director-general of the legal department in the Council of Representatives, Dr. Sabah Juma Al-Bawi, legal advisor Haitham Majed Salem, and legal employee Saman Mohsen Ibrahim.

The claim:

The plaintiff claimed, through her two attorneys, that, based on the provisions of Article (67) of the Constitution of the Republic of Iraq for the year 2005, on the basis of which her interest and litigation is achieved from filing the case since the first defendant is keen to ensure compliance with the constitution and the preservation

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of Iraq's independence, sovereignty, unity, and territorial integrity in accordance with the aforementioned constitutional article, The second defendant is obligated to prevent the nomination of candidate Riber Ahmed Barzani or any other official who holds a position in the Iraqi state if he belongs to the Kurdistan Democratic Party after he declared his categorical rejection of the decisions of the Federal Supreme Court and refused to implement them and not comply with them. This party had previously failed to comply with the state order issued by the Federal Supreme Court to cancel the referendum on the secession of the Kurdistan Region from Iraq, in addition to this party's refusal to implement its decision to abolish the oil and gas law and to cancel oil contracts in the region, which is a flagrant repudiation of the commitment to the principles and articles of the Iraqi constitution. and the laws arising from it, and since the decisions of the Federal Supreme Court are issued based on Article (94) of the Constitution of the Republic of Iraq for the year 2005 and are considered final and binding on all authorities, including the region and the presidency of the region, and since the president of the region and the head of the regional government are from the Kurdistan Democratic Party, which refused and refrained from applying the articles of the Constitution and the decisions issued by the Federal Supreme Court in accordance with the Constitution and Article (13/first and second) thereof, and Article (5) of the Political Parties Law of 2015 stipulates (the party is established on the basis of citizenship and in a manner that does not conflict with the provisions of the Constitution), as stated in Article (8/ Fourth), provided that there should not be among the party's founders, leaders or members who were proven by a final ruling to have advocated or participated

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in promoting in any way from Public methods of ideas that contradict the provisions of the constitution), and Article (24) of the same law stipulates that (the party and its members are committed to the following: First – the provisions of the constitution and respect for the rule of law. Third - not to prejudice the independence and security of the state and the maintenance of its national unity.) Accordingly, the leaders of the Kurdistan Democratic Party have stripped themselves of the legitimacy of their presence in the political process, which has become an imperative for the esteemed Iraqi judiciary and as a first measure to isolate and dissolve the party rebellious against the Iraqi constitution and reject any candidate, it presents for the position of the presidency or any other executive or legislative position in the Iraqi state. The case was registered with this court in the number (57 / federal / 2022) and the legal fee was collected for it in accordance with the provisions of Article (1 / third) of the Bylaw of the Federal Supreme Court No. (1) of 2005, and the defendants were informed, in addition to their positions, of its petition and documents in accordance with the provisions of the Bylaw, the attorney of the first defendant responded with the answering draft dated 23/3/2022, which concluded that the litigation against his client is not achieved, as there is no relationship between his post and his powers, and the other powers entrusted to other agencies in establishing political parties, and the Political Parties Law has drawn the legal way for a mechanism of the establishment, dissolution, merging and abolition of parties and the competent judicial authority to consider these requests, so this court is not competent to consider the case, in addition to the fact that the Kurdistan Democratic Party is one of the oldest political parties that

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faced totalitarian regimes and fought the previous regime and made sacrifices and martyrs and was part of the political system on the side of the Union. The PUK and other Kurdish parties have been negotiating with successive governments since its establishment in the royal age and until the present time, and it is an essential part of the political process since 2003, in addition to that Article (5) of the Law No. (8) of 2012 on the provisions of the nomination for the post of President of the Republic has drawn up a mechanism for appealing the decision of the council of Representatives regarding the candidate for the said position, and for the foregoing the request of the first defendant's attorney, the President of the Republic, in addition to his post to reject the plaintiff's lawsuit and charge her fees, expenses and attorney's fees. The second defendant's attorney responded with an answer draft, summarizing that the council of Representatives approached the concerned authorities to determine the extent to which the candidate, Reber Ahmed Khaled, for the post of President of the Republic fulfills the conditions stipulated in the Law of Candidacy Provisions for the Post of President of the Republic, and no evidence was received from any of them that proves his ineligibility for candidacy. This court has already dismissed the case No. (19/Federal/2022) in which the plaintiff requested a ruling that accepting the candidacy of the candidate Barham Ahmed Salih was unconstitutional on the grounds of his participation in the referendum in question, which proves that the issue is not one of the justifications for depriving the candidates of candidacy, and that the nomination for the said position is based on Personal regardless of political affiliation in accordance with the provisions of the Constitution and Law No. (8) of 2012, in addition to the fact that the plaintiff's

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representative did not provide evidence of prejudice to the legal existence of the Kurdistan Democratic Party, and based on the Political Parties Law, the legal entity of the said party remains untouched and the absence of a final judicial decision it states that he is not committed to the constitution, or that one of its founders, leadership, or members has promoted slogans that contradict the provisions of the constitution, and that what the plaintiff's attorney alleges represents a poor viewpoint of any evidence, it is known that the Federal Supreme Court is not concerned with evaluating unproductive viewpoints, so the second defendant's attorney requested to dismiss the plaintiff's suit and charge her fees, expenses and attorney's fees. After completing the procedures in accordance with the provisions of the court's aforementioned Bylaw, the court set a date for the pleading, informing the parties of it, and on the appointed day the court was formed and the parties were called, but the plaintiff did not attend. The court noted that her agent submitted a request to postpone the session, as the subject of the case is related to the constitutional terms of the political process of forming the authorities, it decided to reject the request, and the first defendant did not attend the Speaker of the council of Representatives in addition to his post and did not send a legitimate excuse or his legal representative despite being informed in a fundamental manner, the public fundamentalist pleading was initiated. The agent of the second defendant repeated the answering draft requesting to dismiss the lawsuit, since the court has completed its audits, it decided on the conclusion of the pleading, and issued the following ruling:

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The decision:

Upon examination, the court noted that the plaintiff was requesting a ruling to dissolve the Kurdistan Democratic Party for violating the provisions of Articles (8 and 24) of the Political Parties Law No. 36 of 2015 due to his non-compliance with the provisions of the constitution and decisions of the Federal Supreme Court. This court finds that although its competencies were specified in Article (93) of the Constitution of the Republic of Iraq for the year 2005 and Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, some legislations has stipulated other competencies for it other than what was mentioned in the constitution and its law, including what was stipulated in Article (56) of the Political Parties Law No. (36) of 2015 which stated (it is permissible to appeal before the Federal Supreme Court the decisions of the subject court regarding the dissolution of the political party or suspension of its activity within 30 thirty days from the date the political party was notified of the decision or considered as notified, and the decision on the appeal is an urgent matter), and what was stipulated in Article (14/ Fourth) of the same law regarding appealing the decision of the Parties Department to accept or reject a request to establish the party, which it subjected to appeal before the subject court, and the decisions issued by that court are subject to appeal before the Federal Supreme Court in accordance with the provisions of Article (15) of the law, and what Article (32/2) stipulates that (everyone with an interest may file a complaint to the Department of Parties against any party that violated the provisions of this law) and

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what was stated in Item (Fourth) thereof, provided that (the subject court shall decide on the request submitted in accordance with the above paragraphs of this Article within 30 thirty days from the date of its submission, and the decision of the subject court is subject to appeal before the Federal Court), which means that the dissolving of the political party is by a decision of the subject court. Based on a reasoned request submitted by the Parties Department in accordance with the provisions of Article (32/First/1) of Political Parties Law No. (36) of 2015, which the court decides on within 30 thirty days from the date of its submission in accordance with the provisions of Article (32/Fourth) of the same law, and that the decision issued by the subject court is subject to appeal before the Federal Supreme Court, and therefore it is not permissible to file cases to dissolve the political party directly before this court, and it was not mentioned within the jurisdiction of the Federal Supreme Court contained in the constitution, nor its law, nor in the law of political parties. It is permissible to appeal directly before it in any decision or procedure stipulated in that law, with the exception of challenging the constitutionality of the articles of that law, which is governed by the rules for challenging unconstitutionality stipulated in the law of the Federal Supreme Court and its Bylaw. Since the plaintiff did not follow the path set by the law, therefore, the consideration of her requests is outside the jurisdiction of this court, and her claim is obligatory to be dismissed for this aspect. For all the foregoing and the request, the Federal Supreme Court decided to dismiss the claim of the plaintiff, Alia Nassif Jassem, and to charge her the fees, expenses, and fees of the defendants' attorneys, an amount of one hundred thousand dinars distributed according to the law. The

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decision was issued by agreement, conclusive and binding on all authorities, based on the provisions of Articles (94) of the Constitution of the Republic of Iraq for the year 2005 and (5) of the Bylaw of the Federal Supreme Court No. (1) of 2005 and was publicly understood on Sha'ban 20/1443 AH corresponding to 24/3/2022 AD.

Signature of
The president

Jasem Mohammad Abbood

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