

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 67/federal/media/2015



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 17/11/2015 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 Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (ain.jim.sin.)- his agent the attorney (alif.teh.).

The Defendant: the president of Al-Najaf governorate council/
being in this post.

The Claim:

The agent of the plaintiff claimed that his client has obtained the investment license No.(209) on 17/11/2014 and according to that he received a plot from the investment committee formally, when start to implement the agreed investment project, and the agreement to remove the overtaking, and under the request of the defendant the plot was fenced and the rubble removed, he was surprised by the issuance of the defendant decision No.(31) for 2015 of canceling the investment license, this decision was reversed by the Governor as it violated the investment law, but the defendant insist on his decision

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that violated the constitution particularly the text of article (13) of it, and also violated the law of the governorate unassociated into a reign, and finally it violated article (122) of the constitution, in light of that the plaintiff requested to judge that the decision of the governorate council is unconstitutional, after scheduling a date for the argument the court listened to the agent of the plaintiff statement and the statement of the defendant agent who request to reject the case for the reasons listed in his answering draft dated on 23/8/2015, as the F.S.C. has completed its investigations the argument is closed and issued the following decision.

The Decision

During scrutiny and deliberation by the F.S.C., the court found that the plaintiff challenged the constitutionality of the decision No.(31) for 2015 of Al-Najaf governorate council that included canceling his investment license, although the Governor has returned the challenged decision for being unconstitutional to the governorate council supported by the reasons of his challenge and stating of his notes, but the governorate council insist on it decision without repeal or amend it. Whereas the challenged decision for being unconstitutional is an administrative decision considering its authenticity is out of the F.S.C. jurisdictions that are stipulated in article (93) of the constitution, and article (4) of the F.S.C. law No.(30) for 2005, on the other hand the law of the governorate unassociated into a reign No.(21) for 2008 article (31/11th/2) of it has limited the F.S.C. jurisdictions of considering what regard the implementation of the law, in case that the Governor objected on the decision of the governorate council and return it to it supported by

the reasons of his challenge and his notes, and the insisting of the council on it, the law has authorize to challenge the insisting decision of the council on his decision before the F.S.C., whereas this power is limited to the Governor only and as he didn't use it, so the related people are not allowed to use it, accordingly the case must be rejected from two points are the point of jurisdictions as the challenged decision for being unconstitutional is an administrative decision that could be challenged before the competent court, and also rejected from the point of litigation. Therefore the court decided to reject the plaintiff case from the points of litigation and jurisdiction, and to burden him the expenses and advocacy fees for the agent of the plaintiff amount of one hundred thousand Iraqi dinars. The decision has been issued decisively according to article (94) of the constitution and unanimously on 17/11/2015