

Republic of Iraq
Federal Supreme Court
Ref. ٧/federal/media/٢٠١٤



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on ٤.٥.٢٠١٤ 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 whom are authorized in the name of the people to judge, they made the following decision:

The plaintiff:

President of Wasit governorate council, being in this post /his agent the attorney (zin. Ain.zin.).

The defendant:

Minister of internal affair, being in this post – his agent the juristic head (sad. Mim.jim.).

The claim:

The agent of the plaintiff claimed that the Wasit governorate council in the session no.(٢٤) held on (٢١,١٠,٢٠١٣) issued the decision (١١١) to appoint the general(ain.ghain.ain.) as sheriff of Wasit police, the decision was based on the governorate' council decision no.(٢٦) on ٦,٨.٢٠١٣ of not approving the council on the appointment of general (ra.shin.jim.) as sheriff of Wasit police, as the appointment contradicts the jurisdictions of the governorate council that are stipulated in article (٩) of the law of governorates

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that are not incorporated in a region No.(٢١) for ٢٠٠٨, stating the jurisdiction of the council of governorate to appoint high level posts including the sheriff of Wasit police that was confirmed by article (٤/٩th/١) of the second amendment law for the law of governorates that are not incorporated in a region No.(١٩) for ٢٠١٣ which defined the who occupy high level posts in article (١/٨th) of the mentioned amendment law. The Ministry, after issuing the decision of appointing general (ain.ghain.ain.) as the sheriff of Wasit police, stated that the laws which regulates the work of internal affairs ministry and internal security forces no.(١١) of ١٩٩٤, law of service and retirement for the internal security forces no.(١٨) for ٢٠١١, penal code for the internal security forces no.(١٤) for ٢٠٠٨ and the criminal Procedures Law for the Internal Security Forces no.(١٧) for ٢٠٠٨, that consider as privet laws that restrict the general laws. The plaintiff agent stated that the constitution has stipulates the jurisdictions of federal authorities in article (١٠٩) and it didn't includes the appointment general-sheriff of the governorate police. Article (١١٥) of the constitution granted the priority for the governorates law, also article (٣/٩th) of the law no.(١٩) for ٢٠١٣ the second amendment law for the law of governorates that are not incorporated in a region granted power for the governorate council to approve the appointment of high level posts such as general directors including heads of security forces. The agent of the plaintiff stated that senior undersecretary for the Ministry of the Interior decided on ٣١,١٠,٢٠١٣ to reconsider the decision of the governorate council in the letter ٢٠١٢٣ on ٤,١١,٢٠١٣ of dismissing the sheriff of Wasit police general (ra.shin.jim.) and to appoint replacement, this decision violates the law, he requested to repeal

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and revoke it . the defendant was informed with the case petition, he responded with the answering draft dated on ٤,٢,٢٠١٤ stating that the appointment of the sheriff require conditions in the candidate, the dismissal must be preceded by a fundamentalist questioning and investigation to prove the matters attributed to him, and that the jurisdictions of federal authorities are stipulated in article (١١٠) of the constitution not (١٠٩) as mentioned by the plaintiff agent. the national security policy in turn requires a security policy that is managed by the central government, considering that the Ministry of Interior is responsible for the state's general policy in maintaining the internal security of the Republic of Iraq as stated in it law no.(١١) for ١٩٩٤ article (١) of it that is remain valid, appointing the general-sheriff of the governorate is priority internal security policy, he requested to reject the lawsuit. the court found that the case is complete for reasons of judgment then decided to close the argument and issued the following decision.

The decision:

During scrutiny and deliberation by the F.S.C. the court found that the Prime minister commander in chief of the armed forces issued the dewan order no.(٤٥١) included in the letter no.(٥٠٧٨ on ٢,٩,٢٠١٣) to appoint the general (ra.shin.jim.) as sheriff of Wasit police (acting) but Wasit governorate council rejected this appointment by it decision no.(٢٦) on ١٥,٨,٢٠١٣ and appointed general (ain.ghain.ain.) as the sheriff of Wasit police. The senior undersecretary for the Ministry of the Interior requested on his letter

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no.(٢٠١٢٣ on ٤,١١,٢٠١٣) the governorate council to reconsider the decision of dismissing the general (ra.shin.jim.) and the appoint of replacement, there was this case in which the plaintiff being in his post is objecting on the letter of senior undersecretary for the Ministry of the Interior requesting to repeal it and to adopt the mentioned governorate council decision. as the jurisdictions of the F.S.C. are listed in article (٩٣) of the constitution, article (٤) of it law no.(٣٠) for ٢٠٠٥ and articles (٢٠/٣rd/٢) (٣١/١١th/٣) of law of governorates that are not incorporated in a region No.(٢١) for ٢٠٠٨, it didn't include the objection on dismissing the general-sheriff and appointing replacement, as considering the legitimacy of administrative decisions including the mentioned one is out of the court jurisdictions therefore this lawsuit is binding to be rejected. accordingly the court dismissed the plaintiff case and to burden him the expenses and the advocacy fees for the defendant' agent amount of (one hundred thousand) IQ.D. This decision has been issued unanimously on ٤.٥.٢٠١٤.