

Republic of Iraq
Federal Supreme Court
Ref. 6 / federal/state order /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 8/1/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Requestor of Issuing the State Order: Abdul kazem Karim Jail AL-Kinani.

Who Requested to Issue the State Order Against: Asaad Abdul ameer Abdul ghafar AL- Edani

The Abstract of the Request:

The applicant for the issuance of the state order submitted to this court by the statemet of claim dated 26/12/2023,for wich the legal fee was collected on the same date, and was registered in the number (6/Federal/2024) The judgment is required ((to delete all the results obtained by the person against whom the state order is required to be issued in the 2023 Basra Provincial Council elections, estimated at (156,470 votes) according to the preliminary results, and to invalidate his membership from the Basra Provincial Council)), It also requested the issuance of an urgent state order that includes :(stopping the announcement of the final results of the Basra Provincial Council elections, not ratifying them, and notifying the Independent High Electoral Commission of this). Until the aforementioned lawsuit is resolved, for the reasons detailed in the lawsuit petition, including: (The state order is required against him as a candidate for the 2023 provincial council elections (Basra Provincial Council) within the list (Tasmeem) that he heads, he holds the position of Governor of Basra and for committing violations related to attracting votes for voters through illegal electoral propaganda, which affected the validity of election results,

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rights, freedoms and respect for legality, And the fact that the state order is required against him has committed several violations through the exploitation of the buildings of state institutions for propaganda and electoral activities of his entity, and the use of functional influence and state resources and means of electoral propaganda, And granting material gains and promising them with the intention of influencing the results of the elections, which led to obtaining the votes of voters in an illegal manner contrary to the law...)), after reviewing the above-mentioned request and completing the scrutinies, the Court issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for the issuance of the state order, due to his filing of the lawsuit in the number (6/Federal/2023) before this court, requested under the statement of claim 26/12/2023 to issue an urgent state order, including: (Stopping the announcement of the final results of the Basra Provincial Council elections and not ratifying them and notifying the Independent High Electoral Commission of that), until the aforementioned lawsuit is resolved, for the reasons referred to in detail in the lawsuit petition, and the Federal Supreme Court finds, that the issuance of an urgent state order based on an independent request or implicit in the constitutional cases filed before it has not been addressed, nor has it been addressed in the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, Nor the internal regulations of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, and thus it is subject to the provisions referred to in Articles (152,151) of the Civil Procedure Law No. (83) of 1969, as amended. To the extent commensurate with the nature and privacy of the constitutional lawsuit, based on the provisions of Article (39) of the Rules of Procedure of the Federal Supreme Court referred to

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above, which stipulates that (the Court may consider requests for summary judgmentOrders on petitions in accordance with the provisions stipulated in the Civil Procedure Law No. (83) of 1969 as amended or any other law replacing it) In terms of Article (36) thereof, which stipulates that (the decisions of the court are final and binding on all authorities and persons and shall not accept appeal by any means of appeal...), On the basis of the foregoing, the issuance of an urgent state order by the Federal Supreme Court is governed only by the controls and conditions that must be met for its issuance referred to in the Civil Procedure Law, for the finality of the decisions issued by this court, And not subject to the methods of appeal, which lies in submitting a request in two copies including the facts, evidence and documents, and the availability of urgency, And not to enter into the origin of the right and decide on it, and since the audit of the request for the issuance of the state order from this court has proven the lack of urgency and the necessity that requires its issuance, In addition to the above, responding to its content means entering the origin of the right and giving a prior opinion of the constitutional lawsuit filed before this court in the number (6/federal/2023) according to which the judgment is claimed(By deleting all the results obtained by the person against whom the state order is required to be issued in the Basra Provincial Council elections for the year 2023, whose votes are estimated at (156,470 votes) according to the preliminary results and the annulment of his membership from the Basra Provincial Council), For the reasons referred to in detail in its petition, and that this contradicts the established judicial customs in the constitutional districts of Arab and foreign countries, With what was settled by the Iraqi judiciary, both constitutional and ordinary, and what was included in the well-established judicial applications in this area based on the provisions of the Constitution and the laws in force, based on the realization of the right and the achievement of justice and fairness away from tendencies, whims, arbitrariness and flattery, there is no blame

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for the appropriate in what was really issued from the word or deed, thus, deciding on the applicant's request to issue the state order, the duty to reject it for two reasons: the first: is the absence of urgency and the state of necessity that requires its issuance, and the second: that deciding on it means entering the origin of the right and giving a prior opinion of the lawsuit filed before this court in the number (6/Federal/2023), according to the above-mentioned detail, and for the foregoing, the Federal Supreme Court decided to reject the application submitted by Abdul Kazem Karim Jalil Al-Kinani, The decision has been issued unanimously based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5/2nd) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, which is final and binding and was done in the session dated 25/Jamada Al-Akhira/1445 A.H. corresponding to 8/January/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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