

In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq
Federal Supreme Court
Ref.72 /federal/media/2015



Kurdish text

The Federal Supreme Court has been convened on 16/11/2015, headed by the senior judge Farouk Mohammed Al-Sami and membership of judges, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temman, Muhammad Rijab AL-Kubaisi, and Sulaiman Abd-Allah Abd-AL-Samad who authorized in the name of the people to judge and they made the following decision :

The Plaintiff: the Judge (Alif.Ain.Heh)- his two agents the barristers (Mim.Nun.Kaf) and (Waw.Sad.Ra).

The Defendant: the Head of Higher Council of Judiciary/ being in this capacity- his agents the legal official (Feh.Ain.Ain).

The Claim:

The two agents of the plaintiff claimed before the FSC in the case No.(72/Federal/2015) that the Defendant/ being in this capacity- referred the plaintiff to the discipline commission of judges and public prosecution affairs on 26/12/2014, for dealing with global organizations and judicial education programs during his working at Iraqi judiciary society as the official spokesman of the society and a member in its board of directors according to the article (7/1) from the law of judicial regulation No.(160) for 1979. Whereas the working of civil society foundations subjects the law No.(12) for 2010 because the society was recorded at the department of helping the non-governmental organizations that belong to the cabinet so we are facing a situation of law disputing, whereas this is withing the tasks of your re-

spected courts. So they requested from the FSC after completing what required to oblige the Defendant to close the judicial investigation before the discipline committee of judges and public prosecution affairs, considering that the law which the behaviors of Iraqi judiciary committee members subject to is the Law No.(12) for 2010 for being a civil society organization and has its own law which controls it, and the department of the non-governmental organizations which belongs to the cabinet is the responsible body for rating the working of civil society organization and its behaviors and members behaviors and its bylaw and how much its activities correspond to the law. After the case had been registered at this court according to the third clause (3rd) from the article (1) of the FSC bylaw and the completing of the required procedures according to the clause (2nd) from the article (2) of the aforementioned system, and the answer of the defendant by his written draft dated on 11/8/2015. A day for the argument was selected so the plaintiff attended by himself and his agent didn't attend despite the notification. The argument was started publicly, the court recited what listed in the case petition whereas the two agents of the plaintiff requested the judgment according to it and to burden the defendant all the expenses and fees of the advocacy. The defendant agent repeated her previous sayings. Whereas nothing left to say the end of the argument had been understood and the decision was understood publicly.

The Decision:

During scrutiny and deliberation by the FSC, the court found that the two agents of the plaintiff requested in their case petition from the FSC the judgment of closing the judicial investigation before the commission of judges and public prosecution discipline against their client, whereas he had been referred to it by the defendant/being in this capacity- considered as deputy prosecutor for violating the provisions of the article (7/1st) from the law of judicial regulation No.(160) for 1979 and whereas the competences of the FSC was determined in the article (93) from the Constitution of the Republic of Iraq and the article (4) from the law of FSc No.(30) for 2005, and it didn't contain what the two agents of the plaintiff asked in the case peti-

tion, so the FSc is incompetent to try the case and it must be rejected from competence point so the FSc decided to reject the case and to burden the plaintiff all the expenses and fees of the defendant agent, the legal official (Feh.Ain) amount of hundred thousand Iraqi dinar. The decision had been issued unanimously and decisive and was understood publicly on 16/11/2015.