

In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq
Federal Supreme Court
Ref.73 /federal/media/2015



Kurdish text

The Federal Supreme Court has been convened on 19/10/2015, headed by the judge Madhat Al-Mahmood and membership of judges Farouk Mohammed Al-Sami, Akram Taha Mohammed ,Akram Ahmed Baban, Mohammed Saib Al-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, Aad Hatif Jabbar, Hussein Abbas Abu Al-Temman, and Mohammed Rajab AL-Kubaisi, who authorized in the name of the people to judge and they made the following decision :

The Plaintiff: the minister of interior/ being in this capacity- his agent the jurist colonel (Sad.Mim.Jim)

The Defendant:

- 1- The head of Misan governorate's council/ being in this capacity- his agent the legal official (Alif.Heh.Dal)
- 2- The governor of Misan/ being in this capacity

The Claim:

The plaintiff/ being in this capacity- claimed that the second defendant issued a letter No.(768) on 11/6/2015 requires to fire the head of the governorate's police, conceal his signature, to not cooperate with him, and to not spend the amounts of the oils' spendings and the security requirements. This decision came according to the dismissal decision No.(49) on 11/6/2015, which was issued by the second defendant. All that violated the law of the governorates that not organized in a region No.(21) for 2008, the item (5) from the article (2) from the law, Also the decision No.(47).based on that the plaintiff/ being in this capacity – requests from the court to annul

the two decisions No.(49, 47) and the two administrative decisions that been issued from the two defendants. Also to annul the decision No.(54) that was issued from the council of Misan governorate on 1/7/2015 which included the nomination of officers and request of ratifying on their nominations. After the case had been registered and appointing the day of the argument, the FSC heard the sayings of the plaintiff agent and the sayings of the two agents of the two defendants who requested from the court to reject the case for the reasons that were listed in their drafts. Each of them repeated their sayings and previous requests. The end of the argument had been understood and the court issued the following decision because the FSC completed its investigations.

The Decision:

During the scrutiny and deliberation by the FSC, the court found that the plaintiff/ being in this capacity- challenges the decision of dismissal No.(47) and the administrative order that was issued by the defendants/ being in their capacities, and he requested from the court to annul it for violating the law. Also to annul the decision No.(54) dated on 1/7/2015 that was issued from the council of Misan governorate which included the nomination of an officer for the post of the head of the governorate's police, he requested to ratify their nominations because the decision was built on a previous decision for the governorate's council No.(49). During the scrutiny by the FSC, the court found that the challenged decisions are administrative decisions which its trying is not among the competences of the FSC that were determined in the article (93) from the Constitution and the article (4) from the law of the FSC No.(30) for 2005. From the other side, the law of governorates that not organized in region No.(21) for 2008 determined the competences of the FSC of trying what relates to the applying of the provisions of this law in the article (31/11/3) which allowed to the governor to refer the decision of the governorate's council insisting on its decision or amending it without removing the violation that the governor clarifies to the FSC to decide in this order. What was listed above came exclusively in the law of the governorates that not organized in region No.(21) for 2008, so the trying

of the plaintiff request is not among the competences of the FSC, and the case is lacking for its legal substantiation. The court decided to reject the case from the competence point and to burden him all the expenses and fees of the advocacy amount of hundred thousand Iraqi dinars divided between them equally. The decision had been issued decisive according to the article (94) from the Constitution and it was understood publicly on 19/10/2015.