



The Federal Supreme Court (F S C) has been convened on 9.26.2017 headed by the Judge Madhat Al-mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Mohammed Rijab AL-Kubaisi, Mohammed Saib Al-Nagshabandi, Aboud Salih Al-Temimi, Mikael Shamshon Qas Georges and Hussein Abbas Abu Altemmen who authorized in the name of the people to judge and they made the following decision:

Plaintiff: Mayor of Missan/ being in this capacity – his agent the legal official (ain.ha.nun).

Defendant: Head of Missan governorate council/ being in this capacity – his agent the legal official (alif.heh.dal)

Claim

The agent of the plaintiff claimed, that Missan governorate council previously issued its decision No. (30) On 5.30.2017 decided according to it, to replace the name of (the local government) instead of name (the local administration) in registering the local administration real estates and this matter violates provisions of article (116) of the constitution which stipulated on (the federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations), whereas the two articles (2/2nd & 22) of governorates incorporated into a region law No. (21) for 2008 granted both of governorates and administration units the legal personality and the financial independence, therefore each an administrative unit has a funds and an independent real estates of the funds and the real estates of the governorate council, so, the plaintiff initiated to object the aforementioned decision within the legal period, and because of the governorate of Missan council insistence on its aforementioned decision according to its decision No. (34) For 2017, therefore the agent of the plaintiff/ being in this capacity initiated to challenge the

aforementioned two decisions and requested to judge by cancelling them. The agent of the defendant/ being in this capacity answered the petition of the case that the local administration is itself the local government which consist of elected local committees issues the decisions and local drafts, and these are two concepts for one meaning and naming the local administration came according to provisions of article (1/11th) of governorates incorporated into a region law No. (1) For 2008. This matter was done to organize and administrate the local administration real estates, accordingly the agent of the defendant requested to reject the case. After registering the case at this court according to clause (3rd) of article (1) of the aforementioned order, the day 9.26.2017 was set as a date for pleading. On that date the court was convened and the public in presence pleading proceeded, the agent of the plaintiff repeated what listed in the petition of the case and requested to judge according to it. The agent of the defendant repeated his defends listed in the answering draft and requested to reject the case, whereas nothing left to be said, the end of the pleading and the decision were made clear.

The decision

After scrutiny and deliberation by the FSC, the court found that the plaintiff challenging the decisions number (30 & 34) for 2017 issued by Missan governorate council which included replacing the name of (the local government) instead of name (the local administration) in registering the local administration real estates and he requested to cancel it for the reasons listed in his case's petition. The FSC finds that issuing this decision by Missan governorate council of replacing the name of (the local government) instead of (local administration) in registering the local government real estates in governorate of Missan is a violation to provisions of article (116) of the constitution whereas the aforementioned article listed the phrase (the local administration) includes the administrative formations of the Iraqi state, but the phrase of (local government) was not listed in this field, whereas the aforementioned article stipulated on ((the federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations)). And because of plaintiff aforementioned objection on the decision within the legal period and insistence of governorate council on the aforementioned

decision, according to its decision No. (34) For 2017. Therefore, the FSC and according to the provisions of article (116) article abovementioned, decided to with unconstitutionality of the two decisions (30 & 34) for 2017 and cancelling them, and to burden the defendant/ being in this capacity the expenses and advocacy fees to the agent of the plaintiff/ being in this capacity the legal official (ain.ha.nun) amount of (one hundred thousand) Iraqi dinars. The decision issued decisively and unanimously according to provisions of article (94) of the constitution and article (5/2nd) of FSC law No. (30) For 2005 and article (31/11th/ 3) of governorates incorporated into a region law and made clear on 9.26.2017.