

In the name of god most gracious most merciful

Republic of Iraq
Federal supreme court
Ref. 89/federal/media /2015



Kurdish text

The Federal Supreme Court (F S C) has been convened on 16.12.2015 headed by Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges and Hussein Abbas Abu AL-Temman who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (zin. ain. kaf. sin.) his agent (shin. nun. lam.).

The Defendant: Speaker of House of Representatives/ being in this capacity his Jurists (sin. ta. yeh.) and (ha. mim. sin.).

The Third Person: MP who objected to the validity of his membership (ain. ain. ha. jim.) his agent (yeh. kaf. sin.)

The Claim:

The plaintiffs' agent claimed before the FSC in the case No. (89/federal/2015) that her client submitted un object to the House of Representatives and the registrar has the No. (1086) on 19/5/2015 Objecting to the membership of Mr. (ain. ain. ha.) in the House of Representatives Instead of Mr. (sad. mim. ain. mim.) The candidate in the national dialogue party for the province of Baghdad and the member (Arab list) after he became a minister

At the session No. (142) of the House of Representatives on 15/8/2015, the validity of membership of Mr. (ain. ain. ha.) was voted on and her client was not satisfied with the decision issued by the House of Representatives on 15/8/2015, which is referred to above, as she challenges the decision to the FSC for the following reasons:

1. Her client, the plaintiff, holds the No.(1) sequence in the list of candidate sequencing in a coalition among the biggest losers within the National Front for National Dialogue, according to the book issued by the Independent High Electoral Commission (alif dal/2/2289) on 26/7/2015 and the number of votes reached (5312) and is included under the name (Arabic List) this is why her client is the replacement seat holder for Mr. (sad. mim. ain. mim.) based on the provisions of article (14) of the Electoral Law of the House of Representatives No. (45) of 2013. Accordingly, for other reasons, the FSC requested that the Iraqi Parliament's decision to certify Mr. (ain. ain. ha.) membership the abolition of its membership in the House of Representatives and the ruling that her client, Mr. (zin. ain. kaf.), would take the vacant seat in place of Mr. (sad. mim. ain. mim.) be invalid on the basis of article (52) of the Constitution, and the article (14/3rd) Electoral Law of the House of Representatives No. (6) of 2006 in addition precedents issued by the FSC in many of its decisions to replace the members of the House of Representatives, especially since her client has all the requirements referred to in the provisions of the law and the introduction of the Independent High Electoral Commission for the purpose of clarifying the bloc to which her client belongs and the bloc to which the objector (against) deputy belongs. The defendant's account of the expenses and expenses was answered by the defendant's attorney to the petition with an answer list on 14/9/2015 that Mr. (sad. mim. ain. mim.) belonged to the (Arab Alliance / National Dialogue Bloc) for Baghdad Province after he became a minister after he a sum to the Prim Ministry his seat was filled by Mr. (ain. ain. ha.), who is the same

alliance, the bloc and the province, and therefore the replacement is in accordance with the Law on the Replacement of Members of the House of Representatives No. (6) of 2006, which stipulates in article (2nd), paragraph (2) that (If the vacant seat is within the provincial seats specified by the electoral law, it shall be replaced by the bloc to which the replacement member belongs on the list of the province...) Mr. Ali was sworn in to the House of Representatives on 28/4/2015 as a replacement deputy for Mr. (sad. mim.) according to the article (52/2nd) of the Constitution. The challenge filed by the plaintiff for the validity membership of Mr. (ain. ain.) was presented to the House of Representatives at the session No. (12) on 13/8/2015 and the Council has approved the validity of the membership of Mp Mr. (ain. ain. ha.), the FSC and its resolution no. (123/federal/2014) on 17/2/2015 decided that Mr. (ain. ain. ha.) is from the same bloc (Iraqi Front for National Dialogue) which is part of the list (Arab Alliance) for Baghdad province, to which he belongs and is headed by Mr. (sad. mim.), and based on article (2/2) of the Law on the Replacement of Members of the House of Representatives No. (6) of 2006, the decision of the House of Representatives to rule on the validity of the membership of Mp Mr. (ain. ain. ha.i) is consistent with the provisions above of the law, and the plaintiff's request has no substantial by the law, the request to reject the case in form and content, with the plaintiff charging all the expenses and fees of the lawyers. Lawyer (yeh. kaf. sin.) filed an application on 1/12/2015 to the FSC asking the court to include his client (ain. ain. ha.) a third person in the case next to the defendant/ being in this capacity because the case affects his rights and then rejected the case because the FSC has already ruled on the issue of the case No. (123/federal/2015) on 17/2/2015 and according to which it was proved that his client is entitled to the vacant parliamentary seat instead of the plaintiff (zin. ain.) the plaintiff filed the criminal complaint and was heard by the Al-Karkh Misdemeanors Court

(1473/jim/2015) and issued its decision on 15/6/2015, in which it convicted the accused (qaf. shin.feh.) in accordance with article (331) of the Penal Law, and that his client challenged the decision and that the of the Federal Court of Appellate Baghdad/ Al-karkh within cassation entity decided under its decision No. (341/misdemeanors/2015) on 18/8/2015 by releasing the accused and overturning all the decisions issued in the criminal case because the fact of the forgery alleged by the complainant was not proven (in this case) Independent High Electoral Commission has already acknowledged its (169/15/kha) on 5/2/2015 letter highlighted in the suit that his client (ain. ain.) is from Baghdad province and a candidate for the National Front for National Dialogue and that prosecutor (zin. ain.) from Baghdad province and a candidate from the Iraqi Nashor Party will be the vacant position of his client's entitlement, so he asked, After the necessary procedure and his acceptance in the suit litigation and then reject the case with the plaintiff charging all expenses and fees and after registering the case with the FSC in accordance with paragraph (3) of the article (1) from its system No. (1) of 2005 on 16/12/2015, a court was set up, where the plaintiff's attorney repeated the petition and requested a ruling, with the defendant's liability and the defendant's agents repeated the statement sought in the answer list submitted by them and requested that the case be rejected, with the plaintiff charging their expenses and the fees of the lawyers. Mr.(ain. ain. ha.)'s agent also repeated his request that his client include a third person in the case alongside the defendant/ being in this capacity therefore, reject the case, with the plaintiff charging all expenses, and the court refused to accept his application and pay the legal fee for his claim, and the court was informed of the decisions issued by the Court of Misdemeanors of Karkh No. (143/jim/2015) on 15/6/2015 and the decision of the Federal Court of Appellate Al-karkh within cassation entity No. (341/misdemeanors/2015) on 18/7/2015 The Court was informed of

the decision of the judiciary in the Federal Court of Cassation No. (8/9/Appellate/2015) on 24/11/2015, whereby it decided to annulled the decision of the Board of Commissioners of the Independent High Electoral Commission No. (7), minutes ordinary (26) on 26/6/2015, based on the decision of the Court of Misdemeanors of Al-Karkh, which is no longer legal, and the agent of each party reiterated his previous statements and requests and requested a rule under which there was no remaining. The end of argument has been made clearly the decision had made clear public.

The Decision :

After scrutiny and deliberation by the FSC found that the plaintiff's agent request in the petition to rule of the decision of the House of Representatives on 13/8/2015 to approve the validity of the membership of MP (ain. ain. ha.) and annulment his membership from the House of Representatives and requested the ruling that Prosecutor (zin. ain. kaf.) should take the vacant seat in place of Mr. (sad. mim. ain. mim.), who was assigned the portfolio of deputy prime minister when the government was formed and upon scrutiny the court found that Mr. (sad. mim. ain. mim.) belonged to the (List of the Arab Alliance) of the National Front bloc for National Dialogue in Baghdad province, after serving as deputy prime minister, he lost his parliamentary seat and was worked by Mr. (ain. ain. ha.), who is from the same bloc and from Baghdad province. And that the plaintiff objected to the validity of his membership in the House of Representatives claiming that he was deserving of MP (ain. ain. ha.) because he got in the parliamentary elections on (5312) votes from the votes of the voters while the MP who objected to the validity of his membership obtained (3174) votes and because he was proved before the Court of Misdemeanors al-Karkh under the penal ruling issued No. (1473/jim/2015) on 15/6/2015 the incorrectness of his signature and the fingerprint of the thumbs attributed to him in form No. (6) the pledge to

be a member of the Al-Nashor Party included the Arab Coalition and the Board of Commissioners of the Independent High Electoral Commission decided to return him to the National Front for National Dialogue from the Al-Nashor Party by its decision on 26/9/2015. However, the House of Representatives decided by the above-mentioned decision on 13/8/2015 to approve the validity of the membership of MP (ain. ain.) as a substitute for the retired MP (sad. mim.) and that the prosecutor challenged the decision before this court requesting the ruling of its inaccuracy and the cancellation of its membership and the ruling that her client should take the seat in question since the challenge was submitted within the legal period (where it was filed on 6/9/2015) established in article (52/2nd) of the Constitution, it decided to accept it in form. In considering his case, it was found that the decision of the Al-Karkh Misdemeanor Court No. (1473/Misdemeanor/2015) on 15/6/2015 was overturned by the Presidency of the Baghdad Al-Karkh Federal Court of Appeal as within cassation entity on 18/8/2015 filed No. (342/misdemeanor/2015). It decided to overturn all decisions issued in case No. (1473) on 15/6/2015 and cancel the charge against the accused (qaf. shin. feh.) on article (331) Penalties and release him and cancel his bail and return the collected fine from him as the judiciary in Federal Cassation Court decided by resolution No. (8/9/appeal/2015) on 24/11/2015 at the request of the appellant (ain. ain. ha.) to veto of the Board of Commissioners of the Independent High Electoral Commission No. (7) for the ordinary minutes (26) on 26/6/2015 based on the decision of the Al-Karkh Misdemeanor Court No. (1473/jim/2015) on 15/6/2015, therefore, the plaintiff (zin. ain. kaf.) after this decision belongs to his former bloc (The Iraqi Al-Nashor Party) which is part of the Arab Alliance and what is presented above and since the MP resigned is from the National Front bloc for national dialogue and a candidate for the province of Baghdad and from the List of Arab Alliance, as well as the MP who objected to the validity of his membership is from the bloc of the resigned MP and from the same list and from the province of Baghdad, while the plaintiff is from the bloc of

the Al-Nashor Party from the list of the Arab Alliance and from Baghdad province, as well as the above, his affiliation with the Iraqi Al-Nashor Party is fixed in the FSC's decision No. (123/federal/2014) on 17/2/2015. Therefore, the conditions for the work of the vacant parliamentary seat in the plaintiff's case in accordance with article (2/2) of the Law on the Replacement of Members of the House of Representatives No. (6) of 2006 amended are not available in his claim to the take office and have the decision of the House of Representatives challenged is incorrect and is compatible with the law and the Constitution. Therefore, the FSC decided to rule on its approval and reject the plaintiff's claim with all the expenses and fees of the lawyers of the defendants, the Jurists (sin. ta. yeh.) and (ha. mim. sin.) and the expenses of the case incident and the fees of the lawyer to the third person agent for the case incident Lawyer (yeh. kaf. sin.) amount edited between them in half, The verdict was issued on the basis of article (2nd), paragraph (2) of Law No. (6) of 2006 amended and the article (52/2nd) and the article 94 of the Constitution in unanimously decisively the decision had made clear public on 16/12/2015.