



The Federal Supreme Court (F.S.C.) has been convened on 27.11.2013 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen whom are authorized in the name of the people to judge, they made the following decision:

The Plaintiff:

(ha.sad.ain.) his agent the attorney (mim.jim.ain.).

The defendant:

The President of the Independent High Electoral Commission – in addition to his post his agent the legal official (alif. ha. ain).

The claim:

The agent of the plaintiff claimed that his client member of the List of Gathered Sincere Hands that obtained in Wasit Governorate (2038) votes was informed to be replaced by the candidate (alif.ain.yeh.alif.) who obtained (505), this replacement is still not in force according to the letter (shin.mim./2/) regular minutes (118) on 8.9.2013, this decision

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require to be revoked because it violated in content the decision of the F.S.C. no.(36/2013) the third step which was revoked by the mentioned decision, a text came to replace it as the follow (if the required seats for women is not achieved according to what stated above, then a seat for them shall be allocated from the lists that obtained two seats, the winner candidate of the second seat shall be replaced with woman candidate), this text must be revoked for the following reasons:

1. That text violated the constitution and the justice and fairness principle.
2. It didn't set new provision or replacement for the revoked text, rather it just coiled the decision which makes it revocable.
3. As the F.S.C. decision came clear and obvious regard achieving justice, implementing articles (14, 16, 20, 38/1st) of the constitution, also the provisions of fourth amendment of the Governorates Councils Elections law, to maintain the implementation of the constitutional provisions, and to referred to the spirit of justice. What the defendant office has decided has effected all. As the text contradicted the soul of law, justice principle, and to maintain the stability of the

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situation, the rights stated by the law, and the acquired rights . accordingly he requested the F.S.C. to revoke the mentioned text for violating the law, and to make him enjoy the electoral right decided by the electors, he request to issue in rush decision to keep his client in the governorate council until the issuance of the Court's decision, and to burden the defendant the expenses and advocacy fees.

After registering the lawsuit before this court according to paragraph (3rd) of article (1) of the F.S.C. bylaw no. (1) for 2005 and completing the required procedures according to paragraph (2nd) of article (2) of the same bylaw, a date for the argument was appointed, the agent of the plaintiff attended according to his power of attorney approved by the unitary office in Al-Kout by the no.(18839) on 30.9.2013 attached to the case petition, and the defendant agent attended and started the in presence public session, the plaintiff agent repeated the case petition requesting to rule according to it and to burden the defendant the expenses and fees, the defendant agent repeated the answering draft dated on 10.11.2013 requesting to dismiss the lawsuit and to burden the plaintiff the expenses and fees because his agent being in this post issued the decision according to the F.S.C. decision

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no.(36/federal/2013) it is final and binding decision on all authorities, according to the mentioned decision the seat distributing system no.(12) for 2013 was amended. As the plaintiff list won two seats and both were granted for men not women, in order to achieve the quota ratio the second candidate was replaced with woman from the same list who obtained high votes according to paragraph (d) of third step of the amended seats disrupting system that stated (if the required seats for women is not achieved according to what stated above, then a seat for them shall be allocated from the lists that obtained two seats, from the lowest to the highest the second seat shall be replaced with woman candidate who obtained highest votes within the same list). The plaintiff has submitted request to the judicial committee of election transfer the F.S.C. decision (36/federal/2013) issued on 26.8.2013 to the upcoming electoral cycles, the judicial committee issued it decision to reject the request. whereas nothing left to be seed, the argument is closed, the decision issued publicly.

The decision:

During scrutiny and deliberation by the F.S.C., it found that the plaintiff agent requested in the case petition the F.S.C. to revoke paragraph (d) of the Board of Commissioners

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decision no.(1) regular minutes (115) on 1.9.2013 of third step (women's quota calculation), regard distributing the seats on the candidate of the governorate council. The F.S.C. jurisdictions are stipulated in article (93) of the constitution of 2005 and article (4) of the F.S.C. law no. (30) for 2005, it don't includes what the plaintiff requested of considering the challenges against distributing the seats on the winners as that is competent of the Independent High Electoral Committee, its decision submits to challenge before the cassation body formed in the Federal Cassation Court, therefore the plaintiff lawsuit is out of the F.S.C. jurisdiction, then it is binding to be dismissed from the aspect of jurisdiction. The court decided to dismiss the plaintiff lawsuit from the point of jurisdiction and to burden him the expenses and advocacy fees for the defendant agent amount of (one hundred thousand) IQ.D. This decision has been issued unanimously, final according to article (94) of the constitution, issued publicly on 27.11.2013.