

Republic of Iraq
Federal Supreme Court
Ref. 103 / federal /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 26/6/2022 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Hayder Jaber Abid, Khalef Ahmed Rajab, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Akitifa'a Muzhir Abid Kassar Al-Hasnawi – her agent the barrister Mustafa Sahib Saadoon.

The Defendant: the Speaker of the ICR/ being in this capacity – his agents the legal counselor Hyatham Majid Salim and the official jurist Saman Muhsin Ibrahim.

The Claim

The plaintiff claimed by her agent that on 15 March 2022 she presented an objection to the defendant to challenge the authenticity of the membership of the Member of Parliament (Khaled Miteb Yassin Al-Obaidi) but did not receive a response to her request, and since she is a candidate for the province of Baghdad/ Al-Rusafa/ 6th District, whereas article (49/4th) of the Constitution of the Republic of Iraq 2005 stipulates (the electoral law aims to achieve a representation of women at least a quarter of the number of members of the Council of Representatives), and article (16/2nd) of the Iraqi Council of Representatives Elections Law No. (9) of 2020 stipulates that (the representation of women shall be at least 25% of the number of members of the Council of Representatives in each province) and where article (15/3rd) stipulates that the sequence of candidates in the

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constituency should be rearranged according to the number of votes each of them and is the winner of the highest votes, and so on for the remaining candidates, and that the Board of Commissioners did not replace the fourth winning candidate on the sixth district of men, which is it the candidate that follows him from women, as she received seventh place and is preceded by two men in the election results as required by articles (14, 15 and 16) of the above-mentioned electoral law, since women win their votes are not considered to be women, and the representation of women by at least a quarter of the number of members of the Council of Representatives has not been achieved in the chamber, so the membership of Representative (Khaled Miteb) is contrary to the Constitution of the Republic of Iraq for 2005. Therefore, the plaintiff requested the Federal Supreme Court to judge that the representation of women in the Iraqi Parliament is unconstitutional, that the membership of the Member of the Council of Representatives (Khaled Miteb Yassin al-Obaidi) is incorrect and replaced, and that the defendant shall be burdened with fees, expenses, and advocacy fees. The case was registered with this court in number (103/Federal/2022) and the legal fee for it was completed on the basis of the provisions of article (1/3rd) of the Bylaw of the Federal Supreme Court No. (1) of 2005 and informs the defendant of its petition and documents in accordance with article (2/1) Of the same Bylaw above-mentioned, his agents replied in the answering draft dated 20 April 2022 the conclusion that the distribution of seats was based on the provisions of the in effect Council of Representatives Elections Law and the relevant regulations issued by the Independent High Electoral Commission and ratification of the Court on final results of elections in accordance with the provisions of the Constitution. If the female

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quota is achieved in the province and in accordance with the schedule attached to the Council of Representatives Elections Law (constituencies) and articles (16/2nd, 3rd, and 4th), it is not permissible to add the quota for women if the existence of the feminist element of that constituency is achieved, so if the female quota is exhausted in the province, there will be no replacement, so they asked for the plaintiff's claim to be dismissed and charged with judicial fees, expenses, and lawyers' fees. After completing the procedures required by the Court's rules of procedure, mentioned above, a date for the case was set in accordance with article (2/2nd) of which. The two parties were notified of it, and on the appointed day the court was formed and the agent of the Plaintiff, Mustafa Sahib Saadoun, attended and the defendant and his agents, Legal Counsel Haitham Majid Salem and the official jurist Saman Mohsen Ibrahim attended and the public in presence argument proceeded, the plaintiff repeated the petition and requested to judge according to what was listed in the petition of the case. The defendant's agents requested to reject the case for the reasons listed in their answering draft of 20 April 2022, adding that the plaintiff had already brought the case on the same subject in the number (108/federal/2022) which was resolved in 13/6/2022, the plaintiff added that the Representative Khaled Miteb Yassin was involved in corruption suspicions while he was minister of defense in addition to being covered by the procedures of the Law of Accountability and Justice and requested to approach the Integrity Commission to provide the court with cases in which legal proceedings were taken against him, since the issue of whether or not the Representative is included in the Accountability and Justice Law or the existence of corruption cases concerning him, this is under the scrutiny of the Independent High Electoral Commission when he

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begins his candidacy for the elections to the Council of Representatives. Therefore, the Court decided to reject the request of the plaintiff's agent. Agents of both parties repeated their previous sayings and requests, whereas nothing was left to be said, the Court decided to make the end of the argument clear and issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff requested, through her agent, in this case, the authenticity of the membership of the member of the Council of Representatives Khaled Miteb Yassin Al-Obaidi and its replacement and the ruling that the representation of women in the Council of Representatives and to burden the defendant with charges, expenses and fees for lawyers, and for public present argument and to inform the court of the petition and its annexes and the defenses and requests of the agents of the parties, including the request of the defendant's agents the Speaker of the Council of Representatives/ being in this capacity in the lists submitted by them and in the session of the two drafts submitted by them and in the session of the two parties. The case was dismissed on 26 June 2022 for several reasons, including a previous adjudication by this court's decision in the number (108/federal/2022) on 13 June 2022 and to inform the court of the above-mentioned decision (The plaintiff Aktifa'a Abid Kassar Al-Hasnawi and the defendants, the Speaker of the Council of Representatives/ being in this capacity and the chairman of the Council of Commissioners of the High Electoral Commission/ being in this capacity, khaled Miteb Yassin Al-Obaidi) and the case is focused on demanding that the membership of defendant Khaled

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Miteb Yassin al-Obaidi be invalid and replaced him with the plaintiff as the highest vote in the women's quota and included the ruling paragraph (the dismissal of the plaintiff's case of Aktifa'a Abid Kassar Al-Hasnawi because there is no legal basis to claim and charge fees, expenses and fees for lawyers of defendants). The plaintiff's case has already been decided, and since the rulings of the Iraqi courts, which have won the degree of decisiveness, are an argument for the rights that were dismissed if the parties to the case united and the dispute related to the same subject, subject to the provisions of articles (105 and 106) of the Amended Evidence Law (107) of 1979, and since the decisions of the Federal Supreme Court are now decisive and binding for all powers. Therefore, the FSC decided to reject the case of the plaintiff Aktifa'a Muzhir Abid Kassar Al-Hasnawi because there was a decision on the same subject token by the FSC and to burden her with the expenses, fees, and advocacy fees for the agents of the defendant, the Speaker of the ICR/ being in this capacity, the legal counselor Haytham Majid Salim and the official jurist Saman Muhsin Ibrahim amount of 100 thousand Iraqi dinars, to be divided following the law. The decision has been issued unanimously, decisive and binding for all powers according to the provisions of article (94) of the Constitution of the Republic of Iraq for 2005 and article (5/2nd) of the FSC Law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear on 26/Dhul Qaeda/1443 Hijri coinciding 26/June/2022 AD.

Signature of
The president
Jassem Mohammed Abbood

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