

Republic of Iraq
Federal Supreme Court
Ref 105/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 24/4/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Khalid Taha Ahmed who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: the representative Saud Saadoun Al-Saadi - his agent the barrister Mahdi Abdul Redha Jassim.

The Defendants: 1. President of the Republic / being in this capacity.
2. Chairman of the Basra Provincial Council / being in this capacity - his agent the legal adviser Khaled Hitler Ghadban.

The Claim:

The plaintiff claimed through his agent that the President of the Republic issued Presidential Decree No. (4) on 13/2/2024, which includes the appointment of Asaad Abdul Amir Abdul Ghaffar Al-Aidani as Governor of Basra, and despite the fact that the first defendant relied on the provisions of Article (73/7th) of the Constitution, and based on what was presented by the Provincial Council, however, the legal conditions that must be met in appointing the governor were not scrutinized in accordance with the provisions of Article (25) of the Law of Governorates not incorporated into a Region No. (21) of 2008, as amended, which stipulated that the candidate for the position of governor meets the conditions required to be met by a member of the provincial council, and that he holds a university degree or its equivalent, as the governor of Basra did not meet the legal conditions that must be met in the position specified in the aforementioned article, and in accordance with Article (5) of the law, which is represented by

Zainab

Republic of Iraq
Federal Supreme Court
Ref 105/ federal/2024



Kurdish text

the condition of good conduct and behavior, and that it has not been illegally enriched at the expense of the homeland or public money, as the decision of the Board of Commissioners No. (35) of the extraordinary record 73/on 28/12/2023 imposed a fine on the trustee for violating Article (10) of the electoral campaigns system No. (2) of 2023, in addition to the violation of the second defendant to the provisions of the internal regulations of the Basra Provincial Council with regard to the procedures for holding the voting session on the governor, the vote was not carried out with the secret and sealed election paper by the management of the Council as required by the provisions of the rules of procedure, but the order was to raise hands, therefore, the plaintiff asked this court to rule that the presidential decree appointing the governor of Basra is invalid and that all measures taken in this regard are invalid and charging the defendants the fees and expenses of the lawsuit. After registering the case with this court No. (105/Federal/2024) and collecting the legal fee for it, and informing the defendants of its petition and documents in accordance with Article (21/1st and 2nd) of the internal regulations of the Federal Supreme Court No. (1) of 2022, the second defendant's agent replied in the reply list dated 21/4/2024, its conclusion: The plaintiff has no direct interest in filing the lawsuit, which leads to the non-direction of litigation, as for the conditions of membership, scrutiny is the prerogative of the Independent High Electoral Commission and it did not approve the names of the candidates until after checking the conditions that must be met by the candidate, the subject of imposing a fine on candidates is not considered a crime that turns into the loss of candidates membership conditions stipulated in the Law of Governorates Not Organized in the Region No. (21) of 2008, as amended, in Article (5) thereof, as there is no proof of illegal gain and unjustified enrichment of the Governor of Basra and that

Zainab

Republic of Iraq
Federal Supreme Court
Ref 105/ federal/2024



Kurdish text

what the plaintiff claimed is not supported by law, as it has not been proven what he claimed, and there is no violation of the provincial council in the session of electing the governor of Basra and that the election was public and that the decisions are voted on publicly unless the Council deems that the vote should be secret, especially since most of the decisions are voted on publicly, therefore, he asked to reject the plaintiff's lawsuit and charge him fees and judicial expenses, and after completing the procedures required by the rules of procedure of the court set a date for considering the lawsuit without pleading in accordance with Article (21/3rd) thereof, in which the court was formed and began to consider the case, the court scrutinized the plaintiff's requests and his supports and the defenses of the second defendant's agent, and after completing its scrutinies, the end of the minutes has been made clear and the court issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff, the representative Saud Saadoun Al-Saadi, requested, through his agent, to rule on the invalidity of Presidential Decree No. (4) of 2024 (appointing Asaad Abdul Amir Abdul Ghaffar Al-Eidani as Governor of Basra) and the invalidity of all measures taken in this regard, through the audit of the lawsuit file and its attachments, the court did not find any indication that there is an interest for the plaintiff in filing this lawsuit, and since Article (20) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, stipulated that the plaintiff has a direct and influential interest in his legal, financial or social status and that it is available from the filing of the lawsuit until the issuance of a judgment decision, so the plaintiff's lawsuit is obligatory to respond, when the foregoing, the Federal Supreme Court

Zainab

Republic of Iraq
Federal Supreme Court
Ref 105/ federal/2024



Kurdish text

decided to reject the lawsuit of the plaintiff Saud Saadoun Al-Saadi, for lack of the condition of interest necessary to establish and charging him the fees, expenses and attorneyship fees of the second defendant's agent, Chairman of the Basra Provincial Council / being in this capacity, the legal adviser Khaled Hitler Ghadban, an amount of one hundred thousand dinars distributed in accordance with the law. The ecision has been issued unanimously, final and binding on all authorities, based on the provisions of Articles (93,94) of the Constitution of the Republic of Iraq for the year 2005, And Articles (4,5/2nd) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and it has been made clear on the session dated 15/Shawwal/1445 A.H. corresponding to 24/4/2024 AD.

Judge
Jasem Mohammad Abboud
President of the Federal Supreme Court

Zainab