

Republic of Iraq  
Federal Supreme Court  
Ref 111/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 8/5/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalaf Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Khaled Taha Ahmed who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Naba Imad Mohsen Al-Jabri - Her agent the barrister Abdullah Falah Meshaal.

The Defendant: Chairman of the Independent High Electoral Commission / being in this capacity - His agent the legal adviser Ahmed Hassan Abed.

**The Claim:**

The plaintiff, through her agent claimed that she had the highest votes among the candidates on the winning lists in the elections Governorate councils that are not organized in a region for the year 2023, by nominating them for (Dhi Qar) Governorate in sequence (12) for the (Mission/183) coalition, and they were damaged as a result of the defendant's failure to apply the text of paragraph (5) of Article (3/3<sup>rd</sup>/Dal) of the distribution of seats for the irregular governorate council elections in Region No. (9) for the year 2023, which was approved by the Board of Commissioners by Resolution No. (10) of the extraordinary minutes (52) on 31/10/2023, which stipulated (If one seat reserved for women (quota) remains and there are lists that obtained three, two seats or one seat, and none of them was a winning woman, the replacement shall be from the lists that obtained three, two seats or one seat for a candidate who obtained the highest votes among women in these lists and did not win a seat and is replaced by a winning

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candidate from among those lists)) whereas the application of this paragraph of the Commission changes the result for the plaintiff from a loser to a winner by obtaining the last quota seat in Dhi Qar Governorate because she obtained the highest votes and (712) votes among the candidates in the winning lists that did not obtain a women's seat in the governorate, so it requested this court to rule on the application of paragraph (5) of Article (3/3<sup>rd</sup>/Dal) of the Seat Distribution System No. (9) of 2023 in Dhi Qar Governorate, and to charge the defendant the expenses and fees. After registering the case with this court No. (111/Federal/2024), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1<sup>st</sup> and 2<sup>nd</sup>) of the Court's Rules of Procedure No. (1) of 2022, his agent replied with the reply list dated 24/4/2024, its conclusion: The Independent High Electoral Commission Law No. (31) of 2019 has laid the legal path to appeal the decisions issued by the Board of Commissioners, and the competent authority to consider objections to the decisions issued by the board of commissioners, it is the judicial authority for elections under Articles (18 and 19) thereof, and the plaintiff had previously challenged the decision of the aforementioned board of commissioners and the decision No. (338/Appeal/2024) was issued by the Judicial authority for Elections - as it had to appeal the Commission's decision to announce the results and not by submitting a complaint to the Commission for the lapse of the legal period to appeal the decision to announce the results, as the Judicial authority for Elections decided to reject the appeal, so the defendant's agent requested to reject the plaintiff's lawsuit and charge her expenses. After completing the procedures required by the court's internal regulations, a date was set for the consideration of the case without pleading based on Article (21/3<sup>rd</sup>) thereof, in which the court was formed and the case was

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considered, and the court scrutinized the plaintiff's requests and supports and the defenses of the 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's lawsuit focused on a request for a ruling to apply paragraph (5) of Article (3/3<sup>rd</sup>/Theh) of the Seat Distribution System for the elections of the governorates councils that are not organized in Region No. (9) of 2023, and then charge the defendant in addition to his job fees, expenses and attorneyship fees. By scrutinizing the lawsuit file, its documents, and the defenses of the defendant's agent in addition to his job, we find that the plaintiff's claim is free to respond, as the Independent High Electoral Commission Law No. (31) of 2019 has drawn up the legal mechanism to be followed to appeal the decisions issued by the Board of Commissioners, as Article (10) of it indicated the powers exercised by the Board of Commissioners, and item (5<sup>th</sup>) of the aforementioned article clarified that the Board of Commissioners decides on all electoral complaints and appeals, and its decisions are subject to appeal before the Judicial Authority for Elections article (19/1<sup>st</sup>) stipulates that (the Supreme Judicial Council shall form a judicial authority for elections consisting of three part-time judges, none of whom shall be less than the first category to consider appeals referred to it by the Board of Commissioners or submitted by the person affected by the Council's decisions directly to the Judicial Authority) and article (19/2<sup>nd</sup>) of the aforementioned law states that the decisions of the Board of Commissioners may only be appealed before the Judicial Authority for Elections in matters related to the electoral process exclusively,

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while item (3<sup>rd</sup>) of it indicated that the decisions of the Judicial authority for Elections are final, which the plaintiff should have in the event that the Board of Commissioners does not apply paragraph (5) of Article (3/3<sup>rd</sup>) of the Seat Distribution System No. (9) of 2023 to appeal the decision of the Board of Commissioners before the judicial authority formed in the Supreme Judicial Council in accordance with the provisions of Article (19) of the Independent High Electoral Commission Law No. (31) of 2019, and based on the foregoing, this court is not competent to hear the plaintiff's lawsuit, which requires to reject it for lack of jurisdiction therefore, and on the foregoing, the Federal Supreme Court decided to reject the plaintiff's lawsuit (Naba Imad Mohsen Al-Jabri) and charging her all judicial expenses, including the attorneyship fees of the defendant's agent/ being in this capacity, the legal adviser Ahmed Hassan Abed, an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, final and binding based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq of 2005 and (4 and 5 / 2<sup>nd</sup>) 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 29/ Shawwal/ 1445 A.H. corresponding to 8/5/2024 AD.

**Judge**  
**Jasem Mohammad Abboud**  
**President of the Federal Supreme Court**

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