

Republic of Iraq
Federal Supreme Court
Ref. 12 / Federal / 2022



The Federal Supreme Court (F.S.C.) convened on 13.3.2022 headed by Judge Jasem Mohammad Abboud and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali who are authorized to judge in the name of the people, they made the following decision:

The plaintiff:

Uday Awad Kazem Al-Husseini / member of the Iraqi parliament for the fifth session, his attorney is Fawzi Kazem Al-Mayahi.

The defendant:

The third head by seniority, Khaled Hassan Al-Daraji/Member of Parliament.

The claim:

The plaintiff claimed, through his attorney, that the first session of the Council of Representatives (the fifth session) was held at four o'clock in the evening of 9/1/2022, headed by the head of the age, Dr. Mahmoud al-Mashhadani, whose age was confirmed according to the letter of the Independent High Electoral Commission No. /2021, which is addressed to the General Secretariat of the Council of Representatives, and two reserve names have also been established for the oldest representatives, and since Article (54) of the Iraqi Constitution stipulates in the last part of it that ((The session is held

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under the chairmanship of the oldest member to elect the Speaker and his two deputies)) as stipulated in Article (55) of the Constitution on ((The Council of Representatives shall elects in its first session a president, then a first deputy and a second deputy, by an absolute majority of the number of members of the Council, by direct secret election)). article (5) of the I.C.R. Bylaw stated ((the first meeting of the Council of Representatives is headed by the oldest of its members present, his task is to manage the first session and conduct elections for the Speaker and his two deputies.)) based on these texts, the session was held under the chairmanship of the head of the age, Dr. Mahmoud al-Mashhadani, and the list of the bloc with the largest number was submitted by the coordinating framework coalition, also the representative Dr. Basem Khashan submitted an objection to the nomination of MP Muhammad al-Halbousi, and for these two issues, the head of the age requested deliberation and taking the legal opinion from the legal advisor of the Council of Representatives and checking the names to confirm the most numerous bloc submitted by the coordination framework bloc, which consists of (88) representatives, and after the head of the age left for deliberation, he was harassed, which led to him being exposed to a health problem, and this caused him to be forcibly to leave. After that, the second reserve proceeded to run the parliament session and opened the door for nomination for the speaker and two deputies of the Council of Representatives, and they proceeded with the election procedures. This procedure violates the constitution, law and the bylaw, as the provision of the constitution or law didn't includes the reserve head of the age, but rather an explicit provision for the head of the age, who is confirmed by the letter of the High Elections Commission,

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and that the head of the age did not leave his constitutional and legal duties, but continued with the session procedures and took the necessary measures to implement the constitution and the law, and there is no permanent or temporary obstruction that prevents him from exercising his duties, and in the event that the age president is unable to complete his duties to manage the first session of the Council of Representatives, the Council of Representatives must vote on his exemption and then the first reserve head of age chairs the session, just as the head of the first reserve age did not apologize in writing for managing the session so that the session could be chaired by the second reserve, and that the parliament's reliance on the opinion of the legal advisor to the Speaker of the Council of Representatives is a legal violation considering that the Council has a department and an advisor Legal and does not require the opinion of the council president's advisor, so the plaintiff requested the Federal Supreme Court to rule annulment of the proceedings of the session headed by the second age reserve Khaled Al-Daraji and all that resulted from it, and charged him with all expenses and fees. The case was registered with this court in No. (12/Federal/2022), and the legal fee was collected for it in accordance with the provisions of Article (1/Third) of the Federal Supreme Court's bylaw No. (1) of 2005. The defendant was informed of its petition and documents, and he responded with the answer draft dated 30/1/2022, requesting the dismissal of the case because the litigation is not directed, as the tasks of the age chief end with the election of the council president and his two deputies, also dismiss it as it already has been adjudicated by this court decision No. (5 unified with 6/ federal on 25.1.2022) which dismissed the lawsuit. after completing the

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required procedures in accordance with the provisions of the court's bylaw, a date was set for the pleading based on Article (2/second) of it, and the two parties were informed of it. On that date the court convened and call upon the parties, neither the parties nor their agents have attended, and the court started the session publicly. The court reviewed what was stated in the plaintiff's lawsuit, as well as the defendant's response in his regulations dated 30/1/2022, in which he requests the dismissal of the lawsuit. The court understood the conclusion of the pleading and issued the following decision:

The decision:

After scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff, Uday Awad Kazem, and through his attorney, requested a ruling to annul the proceedings of the session, which was chaired by the second age reserve, Khaled Al-Daraji, and all what resulted from it for the reasons mentioned in his petition, and after informing the defendant of a request in his list dated 30/1/2022 dismissing the case because the litigation was not directed, as well as because the tasks of the age president ended with the election of the Speaker and his two deputies, and also because the case was previously decided upon according to the decision of this court's ruling No. (5 and its units 6/Federal/2022 on 1/25/2022) which decided to dismiss the plaintiffs' lawsuit, and the court reviewed the decision of the aforementioned ruling issued in the lawsuit filed by the plaintiffs in the name of Khazal Khashan and Mahmoud Daoud Salman against the defendant, the Speaker of Parliament, in addition to his post, requesting the ruling unconstitutional of the first session of the Council of Representatives

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and the cancellation of all procedures and decisions issued in it and all the results that led to it and which ended with the decision of the ruling referred to above, which decided to dismiss the plaintiffs' suit and charge them the judicial fees and expenses and to cancel the state order issued by this court in No. (1 and 2 / federal / state order / 2022 on 13 2022/1, and since the subject matter of this case is the same as the subject of the judgment decision in No. (5, its units, and 6/Federal/2022) and it has been decided upon, and since the judgments issued by the Iraqi courts that have reached the final stage are an argument with the rights they have settled, and no It is permissible to accept evidence that contradicts the authority of the final judgments based on Articles (105 and 106) of the Evidence Law No. (107) of 1979, and since the decisions issued by this court are final and binding on all authorities based on Article (94) of the Constitution of the Republic of Iraq for the year 2005, so the plaintiff's lawsuit is It is obligatory to respond to the preceding chapter on its subject. Accordingly, and when the foregoing, the Federal Supreme Court decided to rule dismissing the claim of the plaintiff, Uday Awad Kazem Al-Husseini, and charging him with the judicial fees and expenses. No. (30) for the year 2005 as amended by Law No. (25) for the year 2021 and understand publicly on 9 Shaban / 1443 AH corresponding to 3/13/2022 AD.

Signature of
The president

Jasem Mohammad Abbood

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