

Republic of Iraq  
Federal Supreme Court  
Ref. 135 / Federal / 2022



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The Federal Supreme Court (F.S.C.) convened on 24.7.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Galib Ammer Shnen, Haider Jaber Abed, 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:**

Ammar Jaber Khalil- his agent the attorney Saif Maher Ebraheem.

**The defendants:**

1. The Prime Minister / In addition to his position - his deputy, Legal Counsel Haider Ali Jaber.
2. Esmael Khdeer Haloob – deputy governor of Salah Aldeen/ in addition to his post – his agent is the legal advisor Sabhan Mohamad Shabeb.

**The claim:**

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The plaintiff claimed, through his attorney, that he had preceded the first defendant and decided to approve his dismissal and approach the Council of Representatives by its letter No. (3002/2292262) on 04/26/2022 signed by his office manager despite his knowledge of the restriction of his powers under the Federal Supreme Court Decision No. (121/Federal/2022 dated 5/15/2022), which explained the conduct of business and clarified the prime minister's inability to appoint and dismiss him. Despite that, a decision was taken to dismiss him in violation of the aforementioned Federal Supreme Court decision and the law of governorates not organized in region No. (21) of 2008 as amended, and as a result, the decision was issued Parliament No. (11) and the first defendant circulated it in his book No. (2/5/42/2216) dated 24/5/2022 addressed to Salah al-Din Governorate / Governor's Office and accordingly the second defendant exploited it in violation of the law and the constitution and the assigning of himself as governor of the governorate according to Administrative Order No. (1108) for 2022 No. (3715) on 25/5/2022 despite his knowledge of the appeal against the dismissal decision and based on the provisions of Article (7/8<sup>th</sup>/4)

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of the law that granted the continuation of the dismissed governor to conduct business until the result of the appeal and to preserve on rights the governorate, its security and stability, and the Republican Decree issued to appoint (the plaintiff) No. (67) on 1/9/2018, which is still in force, and in implementation of the decision of the Federal Supreme Court to draw and interpret the powers of the first defendant, and for all of the above, the plaintiff requested the Federal Supreme Court to cancel the plaintiff's decision The first, numbered (3002/2292262) on 04/26/2022, and the cancellation of the administrative order No. (1108) for the year 2022 issued by the second defendant, No. (3715) on 05/25/2022, also requested the issuance of a royal order as soon as possible that includes stopping the work Administrative Order No. (1108) for the year 2022 issued by the second defendant No. (3715) on 25/5/2022 until the outcome of the lawsuit, with the defendants charged, in addition to their jobs, fees, expenses, and attorney fees. The case was registered with this court in No. (135/Federal/2022), and the legal fee was collected for it in accordance with Article (1/Third) of the Federal Supreme Court's Bylaw No. (1) of 2005, and it informs the defendants of its petition

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and documents in accordance with Article (2/first) of The same rules of procedure as above. The first defendant's agent (the Prime Minister / in addition to his position) responded with the regulation dated 06/28/2022, the conclusion of which is that the plaintiff's lawsuit must be rejected because it was previously decided by the Federal Supreme Court in the case numbered (129/federal/2022) filed by the same plaintiff. It is a final and binding decision for all authorities based on the provisions of Article (94) of the Constitution, and it has become an argument for the rights it has been decided based on the provisions of Article (105) of Evidence Law No. (107) of 1979, and that the prosecutor's request to cancel the letter of the Prime Minister's office is out for consideration. On the jurisdiction of the Federal Supreme Court based on the provisions of Article (7/Eighth/4) of the Law of Governorates Not Organized in a Region No. (21) of 2008, as amended, which stipulates that (the governor may appeal the dismissal decision to the Administrative Court within (15) days from the date of his notification The same law specified the jurisdiction of the Federal Supreme Court exclusively And that his request to issue a royal order has no basis in the law

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because of the absence of the urgency required to be achieved under Article (151) of the Civil Procedures Law No. (83) of 1969, and that the dismissal of the governor was a legislative option for the Council of Representatives according to the aforementioned parliamentary resolution based on the proposal of the Speaker of the Council of Representatives Ministers who exercise their powers in accordance with Article (78) of the Constitution, and that the parliament's authority to dismiss the governor based on the proposal of the Prime Minister does not conflict with the constitution. Rather, the proposal of the Prime Minister to dismiss him came after the recommendation of the investigative committee formed by Diwan's order No. (2292223) dated 24/4/2022, which concluded that Salah al-Din Governorate was mismanaged due to its poor performance level based on reports evaluating the performance of the work of its governorates received by the Supreme Committee for Coordination between the governorates, which was based on reports of the competent authorities, with violations and notes indicating the work and performance of the governor Salah al-Din through administrative, financial and legal violations established in the

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reports of the Federal Financial Supervision Bureau, in addition to the presence of several cases against him before the Integrity Commission in matters related to Suspicions of administrative and financial corruption and taking bribes were suspended. Based on that, the committee recommended in its report to exempt the governor, thus realizing the reasons for dismissal specified by the legislator under Article (7/8<sup>th</sup>/1) of the provincial law. The second defendant's attorney (Ismail Khudair Halloub/Deputy Governor of Salah al-Din/in addition to his job) responded to the two response regulations dated 06/19/2022 and 7/24/2022, which included the same defenses made by the first defendant's agent regarding suspicions of corruption and the investigative committee and that the dismissal was supported by the constitution and that The plaintiff instituted his lawsuit in his capacity without his job, and thus it was instituted by a person who does not have the right to institute it because the litigation was not directed in accordance with the provisions of Article (80/1) of the Civil Procedures Law No. (83) of 1969 as amended, and that his client is not the one who issued the decision of dismissal He has litigation in the case, and the Administrative Court

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of Justice issued its decision in the case numbered (2345/qaf/2022) on 27/6/2022 to dismiss the article's case, so the case before this court has no basis in the law as it is not competent to consider it, so the defendant's attorney requested The second dismissed the plaintiff's suit. After completing the procedures required by the aforementioned internal system of the court, a date was set for the pleading in accordance with Article (2/second) of it, and the parties were informed of it. On the appointed day, the court was formed, so the plaintiff's attorney, Saif Maher, attended, and the first defendant's attorney, Haider Ali, attended. Jaber, and his attorney, the legal employee, Sabhan Muhammad Shabib, attended on behalf of the second defendant, and the public pleading was conducted. The case and each of them asked to dismiss the case on behalf of his client for the reasons stated therein, and the parties' attorneys repeated their previous statements and requests, and where there was nothing left to say, the court decided the conclusion of the pleading and issued the following ruling:

**The decision:**

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Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff requested to cancel the decision of the first defendant no. (3002/2292262) on 26/4/2022 which included the minute of the investigation committee and the acceptance of the prime minister to his dismissal from the post of Salah Aldeen's governor under the provision of the article (7/8<sup>th</sup>/2) of the law of governorates that are not organized in a rejoin No. (21) of 2008, and to cancel the administrative order issued by the second defendant No. (1108) of 2022 issued on No. (3715) on 25.5.2022 which included assigning himself to the post of the governor, also requested to issue urgent state order to suspend the implementation of administrative order No. (1108) of 2022 until deciding the lawsuit, and burden the defendants the fees and advocacy fees. In regard to the plaintiff's request to issue a state order, this court has previously decided to dismiss the request by its decision No. (135/federal/state order/2022) on 20/6/2022 for lacking urgency, and deciding the request means entering in the origin of the right and giving a prior opinion about the constitutionality of the request. By reviewing the requests of both parties the court finds that it has already decided the lawsuit of the

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plaintiff by its decision No.9129/federal/2022) on 20/6/2022 which included that (the jurisdiction of this court is defined by articles 52 and 93 of the constitution and other special laws didn't state its jurisdiction to consider decision issued to dismiss the governors from their posts and that the law No. (15) of 2010 the first amendment to the law of governorates that are not organized No. (21) of 2008 specified the party to appeal against the decisions issued to dismiss the governors from their positions has been specified, as Article (2) of the aforementioned amendment law stipulates that (paragraphs 4 and 5 of item 8<sup>th</sup> of Article (7) of the law shall be repealed and replaced by the following: 4- The governor may: The dismissal decision shall be appealed to the Administrative Judiciary Court within (15) fifteen days from the date on which he was notified of it, and the court shall decide on the appeal within (30) thirty days from the date of receiving the appeal. Thus, the plaintiff's claim is outside the jurisdiction of this court and must be responded to by this authority and for all of the foregoing, the court decided to dismiss the claim of the plaintiff, Ammar Jabr Khalil, and charge him the fees, expenses, and attorney's fees), and to establish that the subject matter

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of this case has already been decided upon according to the decision of this court No. (129/federal/2022) regard the decisions issued by the defendants regarding the governor of Salah al-Din including the decision of dismissing him from the post of the governor, and since the judgments issued by the Iraqi courts that have reached the final degree, they are an argument with the rights they have settled if the parties to the case are united and their characteristics have not changed and the dispute is attached to the same subject matter. And for reasons according to the provisions of Articles (105 and 106) of the Evidence Law No. (107) of 1979, as amended, and accordingly, the plaintiff's lawsuit is obligatory to be dismissed to the fact that it has already been decided upon by this court. For all the above the court decided to dismiss the lawsuit of the plaintiff and to burden him with the attorney fees for the attorney of the first defendant, the Prime Minister, in addition to his job, legal advisor Haider Ali Jaber, and the attorney for the second defendant, Ismail Khudair Haloub, Deputy Governor of Salah al-Din, in addition to his job, legal advisor Sabhan Muhammad Shabib, an amount of one hundred thousand dinars equally between them. The decision was issued final and

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binding to all authorities in accordance with the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and publicly understood on 24 / Dhu al-Hijjah / 1443 AH corresponding to 24/7/2022 AD.

Signature of  
The president

***Jasem Mohammad Abbood***

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