

Republic of Iraq  
Federal Supreme Court  
Ref 153/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 28/7/2024 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 Jassim Jazaa Jafer who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Saba Ali Mahmoud – Her agent the barrister Ali Kamel Rasul.

The Defendant: Chairman of the Board of Commissioners of the Independent High Electoral Commission / being in this capacity – His agent the Legal adviser Ahmed Hassan Abed.

**The Claim:**

The plaintiff claimed through her agent that she had previously run for the 2023 provincial council elections within Wasit Governorate State Forces Alliance / 129 Sequence 20, and the Commission informed her that she was a winner, but her name did not appear in the list of winners for the membership of the Wasit Provincial Council when the official announcement of the results, so she challenged the decision of the Board of Commissioners No. (49) for the extraordinary minutes (73) dated 28/12/2024, which included the approval of the announcement of the final results of the irregular governorate council elections in the region for the year 2023, where the list of appeal was sent to the Judicial Authority for Elections by the Board of Commissioners in the Independent High Electoral Commission, and then submitted new tapes number (2) she holds votes for her to win, but the defendant refused attaching the tapes to the appeal list, on the grounds that it is not

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permissible to send an order subsequent to the appeal submitted to the Electoral Judicial Authority, which is unjustified, unfair and affects its rights, whereas the Judicial Authority for Elections rejected the appeal with its decision No. (14/Judicial Authority for Elections/2024) on 4/1/2024, so the plaintiff requested the court to rule obliging the defendant to recalculate her votes and grant her a seat in the Wasit Governorate Council, and charging him the fees and attorneyship fees, and after registering the case with this court No. (153/Federal/2024) and 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 Internal Regulations of the Federal Supreme Court No. (1) of 2022, his agent answered the regulation the reply dated 3/6/2024 concluded: The Independent High Electoral Commission Law No. (31) of 2019 has set the legal path to appeal the decisions issued by the Board of Commissioners in accordance with Articles (18/1<sup>st</sup> and 2<sup>nd</sup>) and (19/1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup>) thereof, according to it, the competent authority to consider objections to the decisions issued by the Board of Commissioners is the Judicial Authority for Elections, as the plaintiff had previously challenged the decision of the Board of Commissioners on the results of the 2023 provincial council elections, and the decision of the Judicial Authority for Elections No. (14/Judicial Authority for Elections/2024) was issued to reject the appeal, so the defendant's agent requested to reject the plaintiff's lawsuit and charging her the expenses. After completing the procedures required by the Court's Rules of Procedure, a date was set for the consideration of the case without pleading in accordance with Article (21/3<sup>rd</sup>) thereof, in which the court was formed and the case was considered, the court scrutinized the plaintiff's requests and substantiations of the defendant's agent's defences, after completing

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their scrutinies the end of the minutes has been made 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 to order the defendant to be bound Chairman of the Board of Commissioners of the Independent High Electoral Commission/ being in this capacity to recalculate its votes and grant it a seat in the Wasit Provincial Council, and then charging the defendant with the fees, expenses and advocacy fees, and when you look closely from the hand this court finds that the plaintiff's requests are must be rejected as the Independent High Electoral Commission Law No. (31) for the year 2019, the legal mechanism for appealing the decisions of the Board of Commissioners related to elections and with regard to the distribution of seats, counting votes, etc. in accordance with the provisions of Article (19) thereof, and the appeal against such decisions shall be with the Judicial Authority for Elections formed in the Supreme Judicial Council, whose decisions in this regard shall be final as stipulated in item (third) of the aforementioned article, the provisions of Article (52) of the Constitution of the Republic of Iraq of 2005 are not applicable to the plaintiff's lawsuit, as the said article concerns the challenge to the validity of the membership of members of the Council of Representatives and does not concern the provincial councils, and this court is not competent to hear appeals related to the calculation of the votes of members of provincial councils, but rather it is the competence of the Board of Commissioners of the said council is subject to appeal to the Judicial Commission for Elections as previously explained, and accordingly the plaintiff's lawsuit

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must be rejected, for lack of jurisdiction, so the Federal Supreme Court decided the following:

First: Rejecting the plaintiff's lawsuit (Saba Ali Mahmoud Jassim), for lack of jurisdiction.

Second: Charging the plaintiff with all judicial fees and expenses, including advocacy fees for the defendant's agent/ being in this capacity the legal adviser Ahmed Hassan Abd an amount of one hundred and fifty 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 for the year 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 edited in the session dated 21 Muharram 1446 A.H. corresponding to 28/7/2024 AD.

**Judge**  
**Jassim Mohammed Abood**  
**President of the Federal Supreme Court**

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