

Republic of Iraq  
Federal Supreme Court  
Ref 157/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 23/7/2024 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: Meshaan Rakad Damen Al-Jubouri – His agent the barrister Ali Kamel Rasul.

The Defendant: Speaker of the Council of Representatives, being in this capacity the official jurist Saman Mohsen Ibrahim and Aseel Samir Rahman.

**The Claim:**

The plaintiff's agent claimed that his client had previously submitted a request to the defendant, the Speaker of the Iraqi Council of Representatives, being in this capacity to challenge the membership of the representative (Ahmed AbduAllah Khalaf Al-Jubouri) based on the provisions of Article (52) of the Constitution, since maintaining his membership it is a violation of the Constitution and the law and also contrary to the decisions of the Federal Supreme Court, as Article (6/3<sup>rd</sup>) of the Elections Law No. (4) of 2023 stipulates that he must not be convicted of a felony or misdemeanor involving moral turpitude or cases of administrative and financial corruption stipulated in articles (330, 333, 334, 335, 336, 338, 339, 340) of the Iraqi Penal Code No. (111) of 1969, as amended, Article (12/5<sup>th</sup>) of the Law of the Council of Representatives and its formations No. (13) of 2018 stipulates that (the prosecution in the Council shall be terminated in the following cases: The issuance of a final judicial judgment against him for a felony or

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misdemeanor whose penalty is deprivation of liberty...) and the defendant's failure to decide on the objection, and because of the previous decisions of the Federal Supreme Court to terminate the membership of a member of the Council of Representatives, whose membership ends under the law if he violates his constitutional and legal obligations in accordance with the provisions of the Constitution and the law, perjury is foremost of such violations, and the Federal Supreme Court has absolute discretion to assess this in accordance with the facts, evidence and investigations conducted by it, the jurisdiction of the court to decide on the appeal against the validity of the membership of the deputy and the ruling issued in this regard shall be the basis for the termination of membership not revealing him, and because there are many crimes in the record of the representative (Ahmed AbduAllah Khalaf), including (negligence, theft, possession and deliberate damage to public money) and he was sentenced and some penal sentences were implemented against him, and he has another record before 2003 that includes many crimes, when the plaintiff requested this court to order the termination of the membership of the representative (Ahmed AbduAllah Khalaf Al-Jubouri) and to charge the defendant fees and attorneyship fees. After registering the case with this court with the number (157/Federal/2024), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/I and II) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, his agents replied with the reply regulation dated 9/6/2024, which included: The plaintiff did not indicate the current, direct and influential interest in his legal, financial or social status or that the contested text has actually been applied to him, and based on the text of Article (20/1<sup>st</sup> and 2<sup>nd</sup>) of the law internal court No. (1) of 2022 they requested to reject the lawsuit from this authority, also, what the plaintiff

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refers to in the lack of conditions for candidacy in the representative (Ahmed AbduAllah Abd Khalaf Al-Jubouri), the Independent High Electoral Commission It is the authority responsible for meeting the necessary conditions for candidacy for membership of the Council of Representatives in accordance with the provisions of Article (10) of the Council of Representatives Elections Law No. (9) of 2020, especially as he is a member of the Council of Representatives for the fifth electoral cycle and has been approved on the election results according to the decision of the Federal Supreme Court No. (175/Federal/2021) dated 27/12/2021 and that the decisions of the Federal Supreme Court are final and binding on all authorities and are not subject to appeal by any of the usual or unusual methods of appeal in accordance with the provisions of article (94) of the constitution, the court also decided on the subject matter of the lawsuit according to its decision No. (219/Federal/2021) dated 30/3/2022, so this lawsuit must be rejected in form, because its subject matter had already been decided, and for the previous mentioned they requested to reject the plaintiff lawsuit and charging him the fees and expenses. After completing the procedures required by the Court's Rules of Procedure, a date was set for the hearing of the case without pleading in accordance with Article (31/5<sup>th</sup>) thereof, in which the court was formed and the case began to be heard, the court scrutinized the plaintiff's requests, his supports, and the defenses of the defendant's agents, 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 (Meshaan Rakad Damen Al-Jubouri) filed this lawsuit against the Speaker of the Council of Representatives being in

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this capacity, claiming that he had previously asked the Council of Representatives to decide on the validity of the membership of the representative (Ahmed AbduAllah Khalaf Al-Jubouri) based on the provisions of Article (52) of the Constitution of the Republic of Iraq for the year 2005, for losing one of the conditions for membership in accordance with the provisions of Article (6/3<sup>rd</sup>) of the Elections Law, which confirmed that he is not convicted of a felony or misdemeanor involving moral turpitude or cases of administrative and financial corruption by a final court ruling, whether he is covered by pardon or not, and that the defendant in addition to his job did not decide on the application submitted to him despite the expiry of the period stipulated in Article (52) of the Constitution, so he requested to be invited being in this capacity to plead and rule to terminate the membership of the representative (Ahmed AbduAllah Khalaf Al-Jubouri) and charge the defendant with fees and advocacy fees, the court reviewed the answer of the defendant's agents being in this capacity with their list dated 9/6/2024, which included the request, the Independent High Electoral Commission, which is responsible for ensuring that the necessary conditions for candidacy for membership of the Council of Representatives, did not indicate that the conditions for the representative (Ahmed AbduAllah Al-Jubouri) were not met, and the Federal Supreme Court had previously ratified the results of the elections under which the aforementioned the representative became a member of the Council of Representatives, in addition to the fact that this court had previously decided on the same subject by virtue of its decision on the number ( 219/Federal/2021) on 30/3/2022. The Federal Supreme Court finds that the plaintiff (Meshaan Rakad Damen Al-Jubouri) had previously asked the Council of Representatives to decide on the validity of the membership of the representative (Ahmed

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AbduAllah Khalaf Al-Jubouri) based on the provisions of Article (52) of the Constitution of the Republic of Iraq. for the year 2005, and his request was registered with the Council on 18/2/2024, and the Council of Representatives did not decide on the aforementioned request within the period stipulated in the aforementioned article, so it appealed the negative decision issued by the Council of Representatives to reject his request on the basis of for the provisions of Article (31) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 and the application was registered with the Court after paying the legal fee on 2/6/2024, and whereas Article (31) of the Rules of Procedure of the Federal Supreme Court has stipulated that:

The court shall decide on the appeal against the decision of the Council of Representatives issued as a result of the objection to the validity of the membership of its members in accordance with the following conditions and procedures: First: The objector submits a request to the Council of Representatives to object to the validity of the membership of one of its members. Second: The Council of Representatives decides in the objection request within thirty days from the date of its registration and by a two-thirds majority of its members. Third: In the event that the application is not decided within the period mentioned in paragraph (2<sup>nd</sup>) of this Article, this shall be considered a rejection, unless it is submitted during the legislative recess, and such period shall be calculated as of the date on which the Council commences its work after its expiry. Fourth: The appeal shall be submitted to the court by the objector or challenged membership within thirty days from the date of the decision on the objection by the Council of Representatives or within thirty days from the date of the expiry of the period referred to in item (third) of this article which requires that the appeal be submitted to the court within thirty days from the date of deciding on the objection

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from the Council of Representatives or within thirty days from the date of the expiry of the period during which the Constitution requires the Council of Representatives to decide on the objection, and since the period for deciding on the objection request by the Council of Representatives has expired on 18/4/2024, which means that the appeal must be submitted before this court within thirty days from that date, and whereas the plaintiff filed this lawsuit on 2/6/2024, therefore, the appeal submitted by him shall be outside the legal period and his claim must be rejected from this view and for all of the above, the Federal Supreme Court has decided the following:

First: reject the plaintiff's lawsuit (Meshaan Rakad Damen Al-Jubouri) in form, for being filed outside the stipulated legal period, Article (31) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022.

Second: Charging the plaintiff the expenses, fees and advocacy fees of the defendant's agents / being in this capacity by the official jurist Saman Mohsen Ibrahim and Aseel Samir Rahman, an amount of (100,000) 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 (52 and 94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (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 16/Muharram/1446 Hijjri corresponding to 23/7/2024 AD.

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

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