

Republic of Iraq
Federal Supreme Court
Ref. 169 / federal /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 17/10/2022 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali, who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Raid Fawzi Kareem – his agent the barrister Hussam Al-Deen Al-Anbaki.

The Defendants: 1. The Prime Minister/ being in this capacity – his agent the legal counselor Hayder Ali Jaber.

2. Speaker of the ICR/ being in this capacity – his agents the legal counselor, Hyatham Majid Salim, and the official jurist, Saman Muhsin Ibrahim.

3. Minister of Oil/ being in this capacity/ - his agent the official jurist Hadeel Ghazi Abdul Razzaq.

The Claim

The plaintiff claimed through his agent that the first and second defendants appointed the third defendant as Minister of Oil in addition to his job contrary to the provisions of the Constitution of the Republic of Iraq of 2005 because there are cases against him in the Integrity Commission related to corruption and waste of public funds that are still under investigation, which makes his assumption of office a constitutional violation, and since the Ministry of Oil is one of the sovereign positions and has importance and role in the entity of the Iraqi

saady

Republic of Iraq
Federal Supreme Court
Ref. 169 / federal /2022



Kurdish text

state since Iraq depends for its revenues mainly on oil to finance the state treasury. Therefore, the holder of this position must be a person free from any accusation of corruption, and his candidacy and confirmation of his appointment to the post of Minister of Oil are unsupported by the law and the Constitution, and what is built on falsehood is void. The Federal Supreme Court also issued its decision No. (17/Federal/2022) in which it recognized the principle of the existence of an investigation into matters of integrity against the candidate that would prevent him from nominating and therefore from assuming a sovereign position until the decision on the cases of corruption accused of it, so based on the provisions of Article (93/III) of the Constitution, the plaintiff requested this court to rule on the invalidity of the nomination, approval, and appointment of the third defendant as Minister of Oil and remove him from his position, and oblige him to return all salaries and payments to him from all types of allocations and dispatch fees. And its expenses and all the privileges he enjoyed because he assumed office and returned them to the state treasury, and to burden the defendants with expenses, fees, and attorneys' fees. The case was registered with this court in the number (169/federal/2022) and the legal fee was met in accordance with Article (21/I) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 and informs the defendants of its petition and documents in accordance with the provisions of item (2nd) of the same article, the agent of the first defendant replied with the answer regulation dated 21/8/2022 and the two agents of the second defendant replied with the answer regulation dated 7/8/2022 and the deputy of the third defendant replied with the answer regulation dated 28/8/2022 These regulations included detailed formal and substantive defenses, including their request to dismiss the case for lack of interest in accordance with the

saady

Republic of Iraq
Federal Supreme Court
Ref. 169 / federal /2022



Kurdish text

conditions stipulated in Article (20/1st and 2nd) of the Bylaw of the Federal Supreme Court No. (1) of 2022. After completing the procedures stipulated in the rules of procedure of the Court, a date was set for the pleading in accordance with Article (21/3rd) thereof, and the parties were informed of it, and on the appointed day the court was formed and the plaintiff, in particular, his agent and the defendants' agents were present and began to conduct the public pleading proceedings, the court noted that lawyer Hossam El-Din Abdellatif submitted a request dated 2/10/2022 that included the entry of his client the Representative (Hadi Hassan Merhej) as a third person in the case alongside the plaintiff and since the case is ready for resolution and there is no justification for this Legally the court decided to reject the request, the plaintiff and his agent repeated what was stated in the petition and requested the verdict according to what it stated, the defendants' agents replied and each of them requested that the case be dismissed from his client for the reasons contained in the answer regulations linked to the case papers, and each party repeated its previous statements and requests, and where there was nothing left to be said, the end of the argument has been made clear, and the court issued the following judgment decision:

The decision:

Upon scrutiny and deliberation, it was found that the plaintiff Raed Fawzi Karim had asked this court to rule that the candidacy of the current Minister of Oil, Ihsan Abdul Jabbar, was invalid, that the confirmation of his candidacy and appointment, his removal from his position and that he was obliged to return all salaries and payments from allocations and dispatch wages and expenses and all other privileges he

saady

Republic of Iraq
Federal Supreme Court
Ref. 169 / federal /2022



Kurdish text

enjoyed due to his assumption of the said position and return them to the State Treasury because of the cases of the said minister that are still under investigation in the Integrity Commission, and the court finds that the plaintiff's claim Admissible in terms of litigation, because both the plaintiff and the defendants, in addition to their functions, are legal litigants who meet the conditions of litigation and possess the legal capacity to litigate, as for interest, Article (20) of the Bylaw of the Federal Supreme Court No. (1) of 2022 stipulates that the plaintiff in the case brought before this Court, in addition to the conditions stipulated in the Code of Civil Procedure, must have a status, direct and influential interest in his legal, financial or social status, and that the impugned text or decision has already been applied to him and that he has not benefited from that provision or decision in whole or in part, i.e. A claim before this Court is admissible only to persons who are harmed by the validity of the impugned text or decision and such damage shall always be separate from the mere violation of the Constitution by the impugned text or decision assuming the existence of such a violation, and such damage shall be independent of its elements and identifiable, referring in its source to that decision, if the impugned text or decision has not actually been applied to the person who claims to have violated the Constitution or the impugned decision and the violation of the rights claimed by him do not belong to him, this indicates the absence of the direct personal interest of the plaintiff, and if the court finds that the impugned decision has not been applied to the plaintiff and that the suit does not benefit him or alter his legal, financial or social status, then the condition of interest is negated in his claim. Which requires a response from this side. Accordingly, the FSC decided to reject the case of the plaintiff Raid Fawzi Kareem and to burden him with the expenses, fees, and advocacy fees for the agent of the first defendant, the Prime

saady

Republic of Iraq
Federal Supreme Court
Ref. 169 / federal /2022



Kurdish text

Minister/ being in this capacity, the legal counselor Hayder Ali Jaber and the agents of the second defendant, the Speaker of the ICR/ being in this capacity, each of the legal counselor Haytham Majid Salim and the official jurist Saman Muhsin Ibrahim, and the agent of the third defendant, the Minister of Oil/ being in this capacity, the official jurist Hadeel Ghazi Abdul Razzaq amount of one hundred thousand Iraqi dinars, to be divided between them in accordance with the law. The decision has been issued unanimously, final and binding for all authorities according to the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear on dated 20/Rabee Al-Awal/1444 Hijri coinciding 17/October/2022 AD.

Signature of
The president
Jasem Mohammad Abbood

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