

Republic of Iraq
Federal Supreme Court
Ref. 170 / federal /2021



Kurdish text

The Federal Supreme Court (F S C) has been convened on 2/3/2022 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Hyder Jabir Abid, Ayoob Abbas Salah, Abdul-Rahman Suleiman Ali, Dyar Mohammed Ali, and Munthir Ibrahim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Tahir Subayeh Falhi – his agents the Barristers Ali Khalid Ali and Sarah Tawfeek Kinan.

The Defendant: the President of the Independent High Electoral Commission/ being in this capacity – his agent the Legal Counselor Ahmed Hasan Abid.

The Claim

The plaintiff claimed through his agent that the role of the Independent High Electoral Commission is to implement the regulations, rules, and procedures related to elections, administrative work, and technical activities related to electoral affairs, where the Commission found after the end of the electoral process held on 10/10/2021 the presence of a number of false electoral cards exceeded (5%) in many stations and electoral centers, indicating uncertainty and that human intervention is likely to affect them, some stations have been closed indefinitely or exceeded, affecting the election results of a candidate at the expense of another candidate, requiring the Independent High Electoral Commission to abolish those centers and polling stations and not count their votes. This is what the judiciary referred to in the accompanying decision with the

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case regulations to ensure the transparency and integrity of the elections, to ensure the application of the Constitution, and to safeguard the right to participate in public affairs, and enjoying political rights, including the right to vote, elect and nominate, referred to in article (20) of the Constitution, must therefore observe the principles of this Law and no act contrary to it may be carried out, and in accordance with article (93) of the Constitution requesting to call upon the defendant's/ being in this capacity to argue and rule that the results of the stations and electoral centers exceeded the percentage of invalid papers in them (5%) for violating the provisions of the aforementioned article and the provisions of articles (5, 6 and 16) of the constitution of the Republic of Iraq in force and the obligation of the plaintiff/ being in this capacity, he must amend the electoral results, abide by the provisions of the Constitution, observe transparency, principles of democracy and the principle of equal opportunity, and to burden him with expenses and the advocacy fees. The case was registered with this court in number (170/Federal /2021) and the legal fee for it was met in accordance with the provisions of article (1/3rd) of the Bylaw of the Federal Supreme Court No. (1) of 2005 and the defendant is informed In accordance with the provisions of article (2/1st) of the same Bylaw, he replied by the answering draft in the number Kha/21/1743 on 12 December 2021, which included the following: 1. The Independent High Electoral Commission Law No. (31) of 2019 has charted the legal way to challenge the decisions of the Board of Commissioners as the competent body for hearing objections to decisions issued by the Board of Commissioners is the judicial committee of the elections under article (19/2nd) of the law above and may not appeal to any other party, so the Federal Supreme Court is not competent to

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hear this case. 2. The plaintiff has already appealed to the Electoral Judiciary committee on the decisions of the Board of Commissioners concerning the preliminary results of the elections and the decision of the Electoral Judiciary committee (1268/ Electoral Judiciary Committee/ 2021) dated 16/11/2021 This includes the ratification of the challenged decision of the Board of Commissioners, and since the decisions of the Electoral Judiciary committee are based on an article (19/3rd) of the Independent High Electoral Commission Law No. (31) 2019, the defendant, therefore, requested that the plaintiff's case be dismissed and to burden him with the expenses. After completing the procedures stipulated in the Bylaw earlier, a date was set for the argument in accordance with the provisions of article (2/2nd) of it, and the parties were informed, and on the appointed day the court was formed and the agent of the plaintiff, Lawyer Ali Khaled Ali, was present, and the defendant was present, his agent, legal counsel Ahmed Hassan Abid. The public in the presence of argument proceeded to conduct the case the presence and publicly, the agent of the plaintiff repeated what was stated in the petition and requested to judge according to what was listed in it, and the defendant's agent answered the request for dismissal for the reasons in the answer list. Dated 12 December 2021, each party's agent reiterated his previous statements and requests, and where there is nothing left to say, the Court decided to make the end of the argument clear and issued the following judgment:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the summary of the case of plaintiff Taher Sobhi Falhi and

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by his agents was his claim that after the electoral process conducted on 10 October 2021, the conclusion of the case of plaintiff Taher Sobhi Falhi and by his agents was found to be that after the electoral process conducted on 10 October 2021, there were a number of invalid electoral cards that exceeded (5%) in many polling stations, indicating uncertainty and that human intervention was also influenced by the presence of stations that were closed indefinitely for closure or exceeded, affecting the election results. For a candidate at the expense of another candidate, which requires the High Electoral Commission to cancel these polling stations and stations and not counts their votes, therefore, he requested to call upon the defendant/ being in this capacity for argument and to judge by voiding the results of these electoral stations and centers results which the percentage of the false papers in it exceeded (5%) because it violates the provisions of the article (5,6,16) of the Republic of Iraq Constitution for 2005 and to oblige the defendant/ being in this capacity to be obliged by amending the electoral results, in addition, to burden him with the expenses, fees, and the advocacy fees. After the court heard the defendant's agent's/ being in this capacity defense, which concluded that the Federal Supreme Court is not competent to hear this case because decisions issued by the Board of Commissioners are appealed to the Judicial Electoral Committee based on the article (19) of the High Electoral Commission Law No. (31) of 2019, and this Court finds that the decisions issued by the Board of Commissioners which related to the initial results of the elections might be challenged before the competent judicial committee which formed according to the item (1st) of the article (19) of the High Independent Electoral Commission Law No. (31) for 2019. This Court finds that the decisions issued by the Board of

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Commissioners which related to the initial results of the elections are permissible to be challenged before the competent committee which formed according to the item (1st) of the article (19) of the High Independent Electoral Commission Law No. (31) for 2019. The decisions of the judicial committee regarded final according to the provisions of the item (3rd) of the aforementioned article, whereas the jurisdictions of the FSC are determined according to the article (93) of the Republic of Iraq Constitution and the article (4) of the FSC's Law No. (30) for 2005 which amended by the Law No. (25) for 2021, not among these jurisdictions are trying the requests listed in the plaintiff's case. Accordingly, the FSC decided to reject the case of the plaintiff Taher Sobhi Falhi and ti burden him the all the judicial expenses including the advocacy fees for the agent of the defedendant/ being in this capacity the official jurist Ahmed Hasan Abid amount of one-hundred thousand Iraqi dinars. The decision has been issued unanimously, decisive according to the provisions of the 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 28/Rajab/1443 Hijri coinciding 2/March/2022 AD.

**Signature of
The president**

**Jasem Mohammad
Abbood**

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