

Republic of Iraq
Federal Supreme Court
Ref. 170 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 23/7/2023 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 Requestor of Issuing the State Order: President of the Cooperative Union in Baghdad/ being in this capacity – his agent the barrister Aseel Jamal Hadi.

Who Requested to Issue the State Order Against:

The Speaker of the ICR/ being in this capacity.

The Request

The applicant for the issuance of the state order submitted to the Federal Supreme Court the statement of claim dated 16/7/2023, for which the legal fee was collected on the same date and registered in the number (170/Federal/2023) under which the claim is made, ruling on the unconstitutionality of Article (20/7th) of Law No. (13) of 2023 ((Federal General Budget of the Republic of Iraq for the years (2023, 2024, 2025)), which stipulated that ((Cooperative societies established under the provisions of the Cooperation Law No. (15 of 1992, as amended), are prohibited from disposing of real estate owned or owned by them. from the state, whether it is the excretion, sale, or distribution of land to their employees or others, or disposing of it for a purpose other than the

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purpose for which it was owned by establishing its headquarters, otherwise, the Minister of Finance must recover them in accordance with the law with the suspension of the provisions of Article (thirty-fourth of the aforementioned law)), and also requested the issuance of an urgent state order to suspend the implementation of the article - the subject of the challenge - until the lawsuit is resolved, as the aforementioned law came unfair to the rights of cooperative organizations over their various activities, and since the cooperative work is in accordance with Law No. (15) of 1992 as amended, is a public, social, economic, and self-financed organization, and it is one of the institutions belonging to the Arab Cooperative Union, where it employs a large segment of employees and workers in its organizations, lifting the burden of the state not a few workers within the cooperative movement, and that the law - the subject of the lawsuit - decided to suspend Article (34) with its ten paragraphs without discussing it separately, which negatively affects the cooperative sector, which is the pillar in the work of the Iraqi ministries, as each ministry includes one or two cooperative societies, including Housing, consumer and service that serve and develop its employees to reform their economic situation, this is contrary to Article (22/1st) of the Constitution, which stipulates that: (Work is a right for all Iraqis to ensure them a decent life) and Article (23/2nd), which stipulates that: (Expropriation may only be made for the purposes of public benefit in return for fair compensation), and for the foregoing, and based on the provisions of Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, and Article (39) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, the request was submitted to issue an urgent state order in accordance with the details referred to above.

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The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for the issuance of the state order, due to his filing of the constitutional lawsuit No. (170/Federal/2023) before this court, requested, under his regulation dated 16/7/2023, to issue an urgent state order, including Suspending the implementation of Article (20/VII) of Law No. (13) of 2023 ((Federal General Budget of the Republic of Iraq for the years (2023, 2024, 2025)), until the case is resolved, for the reasons detailed in its petition, and the Federal Supreme Court finds that the issuance of a state order Urgent at the request of an independent or implicit in the constitutional cases filed before it that have not been addressed, it has also not been addressed in the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, nor the Internal Regulations of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, and thus it is subject to the provisions referred to in Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969 as amended, to the extent commensurate with the nature and specificity of the constitutional case, based on the provisions of Article 39 of the Rules of Procedure of the Federal Supreme Court referred to above, which stipulates that "the Court may consider requests for summary judgment and orders on petitions in accordance with the provisions stipulated in the Civil Procedure Law No. 83 of 1969, as amended, or any other law replacing it", and in accordance with Article 36 thereof, which stipulates that: (The court's decisions are final and binding on all authorities and persons and are not subject to appeal by any means of appeal...) On the basis of the foregoing, the issuance of an urgent state order by the

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Federal Supreme Court is governed only by the controls and conditions that must be met for its issuance referred to in the Civil Procedure Law, because the decisions issued by this court are conclusive and not subject to the methods of appeal, which is to submit an application in two copies containing facts, substantiations and documents, and the availability of urgency, and the non-entry into the origin of the right and the decision thereon, whereas the scrutiny of the request for the issuance of the state order by this court has proven that there is no urgency in it nor the state of necessity that requires its issuance, in addition to the foregoing, responding to its content means entering into the origin of the right and giving a prior opinion on the constitutional lawsuit filed before this court in number (170 /federal/ 2023) under which the claim ((ruling on the unconstitutionality of Article (20/7) of the Federal Budget Law of the Republic of Iraq for the years (2023, 2024, 2025) No. 13 of 2023)), for the reasons detailed in its petition, and that this contradicts the judicial customs established in the constitutional districts of Arab and foreign countries and with what the Iraqi judiciary has settled on, both constitutional and ordinary, and what is included in the well-established judicial applications in this field based on the provisions of the Constitution and the laws in force, based on the realization of the right and the achievement of justice and fairness away from tendencies, whims, arbitrariness and flattery, there is no blame for what has really been said or done, should be rejected for two reasons: the first: it is the absence of urgency and the state of necessity that requires its issuance, and the second: that deciding on it means entering into the origin of the right and giving a prior opinion on the constitutional lawsuit filed before this court No. (170/Federal/2023), according to the aforementioned detail, and for the foregoing, the Federal Supreme Court decided to reject the request. The decision has been issued unanimously, final, and

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binding according to the provisions of article (94) of the Constitution of the Republic of Iraq for 2005 and article (5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited on the session dated 4/Muharram Al-Haram/1445 Hijri coinciding with 23/July/2023 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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