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The Federal Supreme Court (F.S.C.) convened on 12.1.2022 headed by Judge Jasem Mohammad Abboud and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, Diyar Muhammad Ali, and Monther Ebrahim Hussain who are authorized to judge in the name of the people, they made the following decision:

**The plaintiff:**

Sabah Hassan Muhammad Shajar al-Bazouni - his attorneys are Muhammad Majid al-Saadi and Ahmad Mazen Makiya.

**The defendant:**

The head of the Independent High Electoral Commission / in addition to his post - his deputy, the legal employee Ahmed Hassan Abd.

**The claim:**

The plaintiff claimed, through his two attorneys, that he had previously participated in the elections of the Iraqi Council of Representatives for the fifth session for the fourth district of Al-Zubayr in Basra governorate, within the conditions stipulated by the Independent High Electoral Commission and due to the presence of defects and violations in the electoral mechanism followed by the electoral centers in the aforementioned constituency, and through noting the preliminary results announced by the commission regarding the number of votes he obtained. It became clear that the

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number of votes contradicted the results collected from the tapes, and according to the reports of the observers for the entity within which he was nominated, as the entity's observers were present throughout the electoral process and they have proof He obtained many times the announced votes, and that the number of guaranteed votes through the vote of (2000) observers who had given him their votes distributed among the polling stations and centers except for the votes of their relatives, as well as (150) associations with no less than (50) votes in them, and these guaranteed votes were not approved And for no reason, in addition to a major irregularity in the special vote, as the Commission announced, through satellite channels, that he had won fourth place over Basra Governorate and He ranked first in his constituency in terms of the number of votes and these results and votes were wasted, and that most of the boxes in Basra Governorate, in the fourth constituency in particular, were closed after six o'clock, and for all of the above, the plaintiff requested from the Federal Supreme Court to call upon the defendant to plead, and the ruling to cancel the election results in stations and centers that exceeded the time set for closing the polls and the end of the voting period, as this caused a serious breach of the electoral results, and he requested to issue a state order to stop the procedures for ratifying the election results in Basra Governorate until the case is resolved, and the defendant is charged with all fees, expenses and attorney fees. The case was registered with this court in No. (186/Federal/2021), and the legal fee was collected for it, in accordance with what was stated in Article (1/Third) of the Federal Supreme Court's internal system No. (1) of 2005 and informs the defendant of its petition and documents in accordance with the provisions of Article ( 2/ First)

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From the same bylaw above, he responded with his answer draft in the number (kha/21/1770) dated 12/16/2021, which includes the following:

1. The Independent High Electoral Commission Law No. (31) of 2019 outlined the legal way to appeal against the decisions issued About the Board of Commissioners, where Article (18) thereof states: (First - The Board of Commissioners has the authority to decide on complaints submitted to it, and the Board of Commissioners refers criminal cases to the competent authorities if there is evidence of misconduct related to the electoral process. Second - The Board has the exclusive authority to resolve disputes resulting from the preparation and implementation of national elections at the level of a province or the level of governorates, and he may delegate the authority to the electoral administration to resolve disputes the moment they occur) and Article (19) thereof stipulates that (First - The Supreme Judicial Council shall form a judicial body for elections consisting of three judges who are not Full-time, not less than the first category, to consider the appeals referred to it by the Board of Commissioners or submitted by the aggrieved by the decisions of the Council directly to the judicial authority. Third - The decisions of the Judicial Commission for Elections are final. By perusing these legal texts, the authority competent to consider objections to decisions issued by the Board of Commissioners is the Judicial Commission for Elections, and it is not permissible to appeal to any other party, so the Federal Supreme Court is not competent to consider this case.

2. The plaintiff had previously submitted an appeal before the Judicial Commission for Elections against the decisions of the Board

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of Commissioners related to the preliminary results of the elections. The Judicial Commission for Elections' Decision No. (1303/ Judicial Commission for Elections/ 2021) dated 11/16/2021 was issued on 11/16/2021, which includes ratification of the contested decision of the Board of Commissioners. The decisions of the Judicial Commission for Elections are finally based on Article (19/Third) of the Independent High Electoral Commission Law No. 31 of 2019, so the defendant asked the Federal Supreme Court to reject the plaintiff's lawsuit and charge him the expenses. After completing the required procedures in accordance with the provisions of the aforementioned internal system, a date was set for the pleading in accordance with the provisions of Article (2/Second) of it, and the two parties were informed of it. The pleading was commenced in public and presence. The plaintiff's attorney repeated the lawsuit's pleading and requested the judgment in accordance with what was stated in it. The defendant's attorney responded, requesting that the lawsuit be dismissed on behalf of his client for the reasons stated in his answer list dated 16/12/2021. The pleading and the court issued the following ruling:

### **The decision:**

Upon examination and deliberation by the Federal Supreme Court, it was found that the plaintiff, Sabah Hassan Muhammad Shajar al-Bazzouni, had filed a lawsuit before this court against the head of the Independent High Electoral Commission, in addition to his post, in which he requested a ruling to annul the election results in stations and centers that exceeded the time specified for closing the polling boxes and the end of the voting period due to the fact that

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This caused a serious breach of the electoral results and that he was one of the candidates and was harmed by this procedure, and he requested the issuance of a state order to stop the procedures for ratifying the election results in Basra Governorate until this case is resolved. The Federal Supreme Court finds that its jurisdiction under Article (93/Seventh) of the Constitution of the Republic of Iraq for the year 2005 is to ratify the final results of the general elections for membership in the House of Representatives, and that this jurisdiction has also been confirmed under the text of Article (4/Seventh) of its Law No. (30) of Amended 2005, and that the exercise of the Federal Supreme Court's role in approving the election results is after sending those results by the Independent High Electoral Commission after resolving all complaints and appeals submitted to it by it and by the judicial body competent to consider the appeals formed under Article (19/Second) of the Law The Independent High Electoral Commission No. (31) of 2019 and that the decisions issued by this authority are final, based on the provisions of Paragraph (Third) of Article (19) mentioned above, and that any complaint about what happened during the elections must be submitted to the Independent High Electoral Commission, and the decision issued In this regard, he is appealed to the Judicial Commission for Elections. Accordingly, the plaintiff will appeal the election results in stations and centers that have exceeded the time specified for closing the polling stations and the end of the polling period. A vote must take place before the judicial body for elections and not before this court, especially since the jurisdiction of this court is specified under Articles (52 and 93) of the Constitution and Article (4) of the Federal Supreme Court Law No. (30) for the year

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Republic of Iraq  
Federal Supreme Court  
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Kurdish text

2005 amended by Law No. (25) for the year 2021. This court is not competent to hear those appeals, and this court has approved the final results of the general elections for membership of the Iraqi Council of Representatives for its fifth session 2021 by its decision issued by the number (175/ federal / 2021) dated 12/27/2021.

First - The ruling to dismiss the claim of the plaintiff, Sabah Hassan Muhammad Shajar Al-Bazuni, for lack of jurisdiction.

Second - Refusal to issue a state order to stop the procedures for ratifying the election results in Basra Governorate because its issue is not available.

Third – The plaintiff shall be charged with fees, expenses, and attorney fees for the defendant's attorney, in addition to his position as a legal employee, Ahmed Hassan Abd, an amount of one hundred thousand dinars. The decision was issued in agreement final and binding on all authorities under article (52, 93/7<sup>th</sup>, 94) of the constitution of 2005, and articles (4/7<sup>th</sup>, 5/2<sup>nd</sup>) of the Federal Supreme Court Law No. (30) for the year 2005 amended by Law No. (25) for the year 2021 and publicly understood on 8 Jumada al-Akhar 1443 AH corresponding to 12/1/2022 AD.

**Signature of  
The president**

***Jasem Mohammad  
Abbood***

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