

Republic of Iraq
Federal Supreme Court
Ref. 1 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 18/1/2023 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: Laith Mustafa Humood – his agent the barrister Kamal Abdul Qadir Faraj.

Who Requested to Issue the State Order Against: Speaker of the ICR/ being in this capacity.

First: Abstract of the Request

The applicant for issuing the state order submitted to this court, through his representative, his regulation dated 17/1/2023, for which the legal fee was collected on the same date and registered with the number (1/federal/state order/2023), due to his filing the lawsuit before this court with the number (9/federal/2023) according to which ((the ruling to annul the parliamentary order No. (5) on 15/1/2023, which includes the termination of his membership from the Iraqi Council of Representatives based on the resignation organized by the applicant for issuing the state order in violation of the provisions of the law and the removal of the legal effect resulting from it, the basis for violating the provisions of the Constitution of the Republic of Iraq of 2005 and the

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laws in force for the reasons detailed in the petition)), and requesting the issuance of an urgent state order (to stop the procedures against which a state order is required to be issued related to voting on the replacement candidate to set 18/1/2023 as the date for passing the vote), until the resolution of the aforementioned lawsuit, for the reasons detailed in the regulation, including the violation of the aforementioned parliamentary order the provisions of the Constitution in force and the laws in force, as it represents a serious violation of the principles contained therein, since the resignation request was organized under pressure by the person required to issue the state order against him at the end of the previous fourth parliamentary session and before the elections of the fifth current parliamentary session, and it was signed in advance and without a date, and this was at the request of the request of the request of the state order against him to add For his job he is a member of his party (Taqadum), of which the applicant for the state order was one of the members, by signing his resignation requests in advance and without a date, as well as signing a white paper, justifying this as a guarantee of financial support for the campaign of the state order applicant for the electoral order, since many representatives, after winning the parliamentary seats, move from one parliamentary bloc to another bloc, and that signing the white paper to ensure the return of the money that is spent on the election campaign for each representative, including the state order applicant who signed this resignation and the white paper in good faith under pressure and coercion and the intention of the person required to issue the state order against him to pass the said resignation contrary to the law and the constitution in force and in anticipation of reparation for the damage that may affect the applicant for issuing the state order and the legal effect that may result from the passage of the alternative candidate (Ahmed Ismail Ibrahim Abdullah) and his repeated oath and the

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consequent legal entitlements. 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 Rules of Procedure of the Federal Supreme Court No. (1) of 2022, a request was submitted to issue an urgent state order in accordance with the aforementioned details.

Second: the decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for issuing the state order, due to filing the lawsuit No. (9/Federal/2023) before this court, requested according to its regulations dated 17/1/2023 to issue an urgent state order, which includes: (suspending the procedures against whom the state order is required to be issued related to voting on the alternative candidate to set 18/1/2023 as the date for passing the vote), until the aforementioned lawsuit is resolved, for the reasons detailed in the regulation, the Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicit in the constitutional cases filed before it has not been addressed, nor has it been addressed in the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021, nor the Rules of Procedure 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. Decree 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

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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 shall not be subject to appeal in any way from Methods of appeal...) On the basis of the foregoing, the issuance of an urgent state order by the Federal Supreme Court is governed only by the controls and conditions that must be met for its issuance referred to in the Code of Civil Procedure, because the decisions issued by this court are finality and are not subject to the methods of appeal, which lies in submitting a request in two copies that includes the facts, grounds and documents, and the availability of urgency, and not to enter into the origin of the right and decide on it, and since the scrutiny of the request for issuing the state order by this court has proven that it is not urgent nor the state of extreme necessity that requires its issuance, in addition to the above, 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 (9/federal/2023) under which it is claimed ((Ruling to annul the parliamentary order) No. (5) on 15/1/2023, which includes the termination of his membership from the Iraqi Council of Representatives based on the resignation organized by the applicant for issuing the state order in violation of the provisions of the law and removing the legal effect resulting from it)), on the basis of its violation of the provisions of the Constitution of the Republic of Iraq of 2005 and the laws in force, for the reasons detailed in the petition, and that this contradicts the established judicial customs in the constitutional districts of Arab and foreign countries, and with what the Iraqi judiciary has settled on in both its constitutional and ordinary parts and what is included in the well-established judicial applications in this area based

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on the provisions of the Constitution and the laws in force, which are 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. to be in accordance with what has been truly said or done, and thus to decide on the applicant's request for the issuance of the state order, should be rejected for two reasons: the first: is the absence of urgency in it, and the second: it lies in the fact that deciding on it means entering into the origin of the right and giving a prior opinion on the lawsuit filed before this court in number (9/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 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. It has been edited on the session dated 6/Rajab/1444 Hijri coinciding 29/January/2023 AD.

Judge
Jasem Mohammad Abboud
President of the Federal Supreme Court

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