

Republic of Iraq  
Federal Supreme Court  
Ref. 209 / Federal / 2022



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The Federal Supreme Court (F.S.C.) convened on 5.10.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Galeb Amer Shneen, Haider Jaber Abed, Haider Ali Noory, Ayoub Abbas Salih, Abed Alrahman Sulaiman 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: Hadi Hassan Al-Salami / a member of the Iraqi parliament - his attorney is Ali Kamel Rasoul.

The defendants: 1- The Prime Minister / in addition to his position - his deputy, the legal advisor Haider Ali Jaber.  
2- The Governor of Najaf / in addition to his job - his deputy, legal advisor Qassem Karim Abbas.

**The claim:**

The plaintiff claimed, through his attorney, that the first defendant issued Diwani Order No. (22014) on 13/1/2022, which included assigning the second defendant the tasks of managing the affairs of Najaf Governorate and authorizing him with financial and administrative powers. As a result, the second defendant issued administrative order No. (117) on 1/13/2022, which included his assumption of this position, and that he had initiated an appeal

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*Athraa*

Republic of Iraq  
Federal Supreme Court  
Ref. 209 / Federal / 2022



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against him in accordance with Article (93/Third) of the Constitution on the grounds of violating the constitution in each of Article (122/Third) thereof, which specified the mechanism for selecting the governor by electing him by the Provincial Council. And Article (78), which defines the powers of the Prime Minister and does not include appointing or assigning governors, and Article (61/fifth) after him with special grades as he is the rank of Deputy Minister in accordance with Article (24) of the Provincial Law, and also violates the law of governorates that are not organized in a region No. (21) of 2008 in Articles (7, 25, and 26/first) of it, and the provisions it contains regarding the competence of the provincial council to appoint the governor, the conditions for assigning the position of the governor, and the mechanism for issuing the appointment order. Federal Supreme Court No. (121 / Federal / 2022), which defined the powers of the caretaker government and does not include appointing or assigning governors, so the plaintiff asked this court to rule the unconstitutionality of the Diwani order assigning the second defendant to the tasks of the governor. The lawsuit was registered with this court in No. (209/Federal/2022), and the legal fee was collected for it in accordance with the provisions of Article (21/First) of the Federal Supreme Court's internal system No. (1) of 2022, and informs the first and second defendants of its petition and documents in accordance with the provisions of item ( Second) of the same article, the attorney for the first defendant responded with the answer statement dated 9/29/2022, which included detailed formal and objective

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*Athraa*

Republic of Iraq  
Federal Supreme Court  
Ref. 209 / Federal / 2022



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defenses, the summary of which is that the plaintiff's request is outside the jurisdiction of the court because the Constitution and Court Law No. (30) for the year 2005 specified its jurisdiction and not Including what the plaintiff requested, and this is what the court's judiciary settled on in many of its decisions, and requested a ruling to dismiss the appeal and charge the plaintiff with expenses, fees, and attorney's fees. By an administrative decision, State Council Law No. (65) for the year 1979, as amended, specified the courts competent to consider it, which are the Employees Judiciary Court and the Administrative Judiciary Court he requested that the plaintiff's lawsuit be dismissed and that he be charged with fees, expenses, and attorney's fees. After completing the procedures required by the aforementioned internal system of the court, a date for the pleading was set in accordance with Article (21/Third) of it. On the appointed day, the court was formed. The plaintiff and his representative attended, and the defendants' attorneys attended. The plaintiff and his attorney repeated what was stated in the lawsuit petition and requested judgment. Accordingly, the two defendants' attorneys answered and asked each of them to dismiss the case for the reasons mentioned in the answer list attached to the case papers, and each party's attorney repeated his previous statements and requests, and where there was nothing left to say, the case decided the conclusion of the pleading and the court issued the following ruling:

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*Athraa*

Republic of Iraq  
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Ref. 209 / Federal / 2022



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**The decision:**

Upon examination and deliberation by the Federal Supreme Court, it was found that the plaintiff's lawsuit focused on the claim of the unconstitutionality of Diwani Order No. (22014) issued in the letter of the Office of the Prime Minister No. (3041/2200207) on 1/13/2022 containing ((1- Assigning Mr. ( Dr. Majid Azab Jaber Al-Waeli) is charged with the tasks of managing the affairs of Najaf Governorate, and he is given the administrative and financial powers that enable him to do so) of the Constitution of the Republic of Iraq for the year 2005, which stipulates that the Federal Supreme Court shall have jurisdiction over the following (First. Oversight of the constitutionality of laws and regulations in force), while the plaintiff, through his attorney, requested a ruling of the unconstitutionality of the Diwaniy order in question, and since the jurisdiction of the Court outlined in Article (93) of the Constitution There are multiple jurisdictions, and each jurisdiction has its procedures and conditions, which necessitate observance of those procedures and conditions when filing a lawsuit, and since the plaintiff's lawsuit is instituted in accordance with Paragraph (First) of Article (93) of the Constitution of the Republic of Iraq. The court decided to dismiss the claim of the plaintiff Hadi Hassan Merihej Al-Salami for lack of jurisdiction and charge him with expenses, fees, and attorney fees for each of the two The first defendant, Legal Counsel Haider Ali Jaber, and the representative of the second defendant, Legal Counsel Qassem Karim Abbas, an amount of one hundred thousand dinars, to be distributed between

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*Athraa*

Republic of Iraq  
Federal Supreme Court  
Ref. 209 / Federal / 2022



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them in accordance with the law. The decision was issued according to articles (93 and 94) of the constitution and articles (4 and 5) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and publicly understood on Rabi' Al-Awwal 8/1444 AH corresponding to 10/5/2022 AD.

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