



The Federal Supreme Court (F.S.C.) was convened on 22.11.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Ammer Shneen, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The applicant for the issuance of the state order:

Azher Abed Alrazaq Muhemed Juad – his agent the attorney Rafed Hamed Faraj.

The state order is against:

1. The Secretary-General of the Council of Ministers – in addition to his post.
2. the Minister of Commerce – in addition to his post.
3. the president of the Iraqi federation of chambers of commerce – in addition to his post.
4. the president of the Karbala federation of chambers of commerce – in addition to his post.

The Request summary:

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Republic of Iraq
Federal Supreme Court
Ref. 252 / federal / state order / 2022



Kurdish text

To issue an urgent state order to assign a competent committee to administrate the Iraqi federation of chambers of commerce and the Iraqi chambers of commerce financially and administratively from the general secretariat of the council of ministers until holding the elections following the law and deciding the lawsuit filed before this court in No. (252/federal/2022).

The Request:

The plaintiff, Azhar Abd al-Razzaq Muhammad Jawad filed a lawsuit before this court against the defendants (the Secretary-General of the Council of Ministers, the Minister of Commerce, the President of the Federation of Iraqi Chambers of Commerce, and the President of the Karbala Chamber of Commerce/ in addition to their posts), and it was registered in the number (252/federal/2022) after the legal fee was paid on 9/11/2022, the lawsuit petition included, among its requests, a request to issue an urgent state order to assign a specialized committee to manage the Federation of Iraqi Chambers of Commerce and the Iraqi Chambers of Commerce administratively and financially from the General Secretariat of the Council of Ministers and until the elections are held in accordance with

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the law and until deciding on the aforementioned case for the reasons referred to in detail in the petition of the case, the summary of which lies in the following ((The electoral cycle for the elections of the Council of the Federation of Iraqi Chambers of Commerce and the Board of Directors of Iraqi Chambers of Commerce that took place in 2018 and ends on 11/8/2022 according to the provisions of the internal system of the Federation of Iraqi Chambers of Commerce No. (43) for the year 1989, as amended, since the period specified for it has expired, therefore the third and fourth defendants/ In addition to their functions, should have called for elections at least two months before the scheduled date for the elections based on the provisions of Article (30) of the bylaws of the Federation of Chambers of Commerce described above, and where this was not done, which makes their remaining in their positions at the end of the period invalid from the legal point of view, and based on the foregoing, he filed a lawsuit to demand that the required person should call for elections and setting a date for that based on the provisions of the internal system of the effective Federation of Iraqi Chambers of Commerce and charging them with expenses and fees)), also requested by the petition of the lawsuit to issue the state order, based on the provisions of Articles (151 and 152) of

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the Civil Procedure Law No. (83) of 1969 as amended in light of Articles (36 and 39) of the bylaw of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette newspaper, issue (4679) on 13/6/2022.

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that the applicant's for the issuance of the state order, request summary included (issuing an urgent state order to assign a specialized committee to manage the Federation of Iraqi Chambers of Commerce and the Iraqi Chambers of Commerce administratively and financially from the General Secretariat of the Council of Ministers and until the elections are held following the law and until the case is decided Before this court in number (252/Federal/2022) for the reasons referred to in detail in his petition). The Federal Supreme Court finds that the issuance of a state order under a request separated or included in the constitutional lawsuit filed before it was not mentioned or stipulated in the Law of the federal supreme court No. (30) for the year 2005 amended by Law No. (25) for the year 2021, nor the Bylaw of the Federal Supreme Court No. (1) for the year 2022 published in the Iraqi Gazette No. (4679) on 6/13/2022, and thus

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it is subject to the provisions referred to in Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969 amended and to the extent commensurate with the nature and specificity of the constitutional case, based on the provisions of Article (39) of the aforementioned bylaw of the Federal Supreme Court, 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 the amended year 1969 or any other law that replaces it) and in the context of Article (36) thereof, which stipulates (the decisions of the court are final and binding on all authorities and persons and do not accept appeal in any way of appeal...), and on the basis of the foregoing, the issuance of a 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 Civil Procedure Law, due to the finality of the decisions issued by this court and not being subject to methods of appeal, which lie in submitting an application in two copies containing the facts, evidence and documents, and the availability of the capacity of urgency, and not entering the origin of the right and deciding on it, and since the examination of the request for the issuance of the state order by this court has proven that there is no

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urgency in it, nor the case of extreme 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 lawsuit filed before this court with the number (252/federal/2022) under which the request to (commit the required to issue the state order against them / in addition to their posts calling for elections and setting a date for them based on the provisions of the internal system of the Federation of Iraqi Chambers of Commerce in force and to charge them with expenses and fees) for the reasons referred to in detail in the petition of the lawsuit, and that this contradicts the established judicial customs in the constitutional cases of Arab and foreign countries and with what the Iraqi judiciary settled on in its constitutional and ordinary parts and what was included in the well-established judicial applications in this field based on the provisions of the Constitution and the laws in force, which are based on realizing the right and achieving justice and fairness away from inclinations, whims, arbitrariness and flattery. By that deciding the request of the applicant is binding to be dismissed for two reasons first: The lack of urgency in it, and second: It lies in the fact that deciding on it means entering the origin of the right and giving a prior opinion on the lawsuit filed before this court in

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number (252/federal /2022), according to the aforementioned details, and for the aforementioned, the Federal Supreme Court decided to reject the request, the decision was issued by agreement, final and binding based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5/ Second) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and issued in the session dated 27 Rabi' al-Akhir 1444 AH corresponding to 11/22/2022 AD.

Signature of

The president

Jasem Mohammad Abbood

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