

Republic of Iraq
Federal Supreme Court
Ref 299/ federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 14/1/2024 headed by Judge Sameer Abbas Mohammed and membership of Judges, 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 Plaintiff: Ahmed Khalifah Alawi – His agents the barristers Sarab Ali Abd Khalaf and Muataz Adil Karim and Husain Saad Ibrahim .

The Defendant: Head of The Independent High Electoral Commission- Chairman of the Board of Commissioners / being in this capacity, His agent Legal Advisor Ahmed Hasan Abd .

The Claim:

The plaintiff, through the mediation of his agents, claimed that on 11/10/2023, the Board of Commissioners issued its decision No. (4) of the extraordinary minutes (43), which included his exclusion from running in the provincial council elections due to the existence of a criminal record against him in accordance with the provisions of the third order / section six of the orders of the Coalition Provisional Authority (dissolved) (possession of weapons). It was included in the General Amnesty Law of 2008, since the general amnesty is issued by law and entails the expiry of the case, the erasure of the conviction, and the forfeiture of all ancillary and complementary penalties and precautionary measures, noting that this felony is not considered a crime

Zainab

Republic of Iraq
Federal Supreme Court
Ref 299/ federal /2023



Kurdish text

against honor and is not considered a crime of financial and administrative corruption, the plaintiff requested this court to order the Independent High Electoral Commission and its Board of Commissioners to re-include him in the electoral race. After registering the case with this court No. (299/Federal/2023), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1st and 2nd) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, his agent replied in the answering draft dated 12/12/2023, summing up: The competent authority to consider objections to the decisions issued by the Board of Commissioners is the Judicial Authority for Elections under Article (19) of the Independent High Electoral Commission Law No. (31) of 2019, The plaintiff has previously appealed to that body the decision of the Board of Commissioners to exclude him, decision No. (14/Appeal/2023) was issued to dismiss the appeal, so he requested to dismiss the plaintiff's lawsuit and charge him the expenses. After completing the procedures required by the Court's Rules of Procedure, a date was set for the consideration of the case without pleading in accordance with Article (21/3rd) thereof, in which the court was formed and the case was considered, the court scrutinized the plaintiff's requests and his grounds and the defenses of the defendant's agent, and after the court completed its scrutinies, the conclusion of the record has been understood and issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff Ahmed Khalifa Allawi filed this lawsuit before this court against the defendant, the President of the Independent High Electoral Commission - Chairman of the Board of Commissioners in

Zainab

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Federal Supreme Court
Ref 299/ federal /2023



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addition to his position, he requests a ruling to oblige the Independent High Electoral Commission and the Board of Commissioners of the Independent High Electoral Commission to re-include him in the electoral race. The Federal Supreme Court finds that its jurisdiction is defined by Articles 52 and 93 of the Constitution of the Republic of Iraq of 2005 and by Article (4) Federal Supreme Court Law No. 30 of 2005 as amended by Law No. 25 of 2021, None of these competencies are those contained in the plaintiff's requests in the petition. Therefore, the decision on this case falls outside the competence of this court. Therefore, the Federal Supreme Court decided to dismiss the lawsuit of the plaintiff Ahmed Khalifa Allawi for lack of jurisdiction and to charge him fees and expenses and the amount of (one hundred) thousand dinars agent's fees, the defendant's agent, legal Advisor, Ahmed Hassan Abed. The decision has been issued unanimously, final and binding according to the provisions of the articles (52, 93 and 94) of the Constitution of the Republic of Iraq of 2005, and Articles (4 and 5) of the Court Law of the Federal Supreme Court No. (30) of 2005 as amended by Law No. (25) of 2021. The decision has been made clear on 2/Rajab/1445 Hijri corresponding to 14/January/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

Zainab