

Republic of Iraq  
Federal Supreme Court  
Ref. 30 / federal /state order/2022



Kurdish text

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The Federal Supreme Court (F S C) has been convened on 12/10/2022 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Hayder Jaber Abid, Khalef Ahmed Rajab, 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: Raid Fawzi Kareem – his agent the barrister Hussam Al-Deen Abdul Lateef.

Who requested to issue the State Order against: the Minister of Oil/ being in this capacity.

### **First: Abstract of the Request**

Raed Fawzi Karim, requesting the issuance of the state order, through his agent, with its regulation dated 29/9/2022, for which the legal fee was met on the same date and recorded in the number (30/federal/state order/2022) submitted to the Federal Supreme Court, requesting the issuance of an urgent state order that includes: ((Withdrawal of the hand of the applicant to issue the state order against him (Minister of Oil / being in this capacity) from his position currently held as Minister of Oil, until the resolution of the case in the number (169/Federal/2022) filed by him before this court in which the verdict is claimed to be invalid Decisions on the nomination, approval, and appointment of the person against whom the state order is required (Minister of Oil/being in this capacity), and removing him from his position and obliging him to return all salaries and payments to him of all kinds of allocations, wages and expenses of dispatches and the privileges he enjoyed due to his

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assumption of office and returning them to the State Treasury for the reasons detailed in the petition, for the reasons referred to in the request, the conclusion of which is as follows: ((The existence of a lawsuit in the Integrity Commission against the applicant against whom the state order is issued (Minister of Oil/being in this capacity), regarding the administrative and financial corruption attributed to him, has not yet been resolved, and for the purpose of ensuring a fair investigation away from political pressures and interference, and in order to preserve public funds, especially since the request to issue a state order against him continues with his work tasks and the conclusion of contracts tainted by administrative and financial corruption, and based on the approach of this court, which has always done so, to preserve public funds, and in order to strengthen the request for the issuance of the state order and its support, the plaintiff provided a CD containing videos, meetings and reports to prove the damage caused by the wanted state order against him and the unlawful waste of public money)). Therefore, based on the provisions of Articles (151 and 152) of the Code of Civil Procedure No. (83) of 1969 as amended and Article (39) of the Bylaw of the Federal Supreme Court No. (1) of 2022, the application was submitted for the issuance of an urgent state order following the detail referred to above.

### **Second: The Decision**

Upon scrutiny and deliberation from the Federal Supreme Court, it was found that the applicant for the issuance of the state order, due to his filing of the lawsuit in the number (169/Federal/2022) before this court, requested by its regulation dated 29/9/2022, the issuance of an urgent state order, which includes: ((Withdrawal of the hand of the

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applicant to issue the state order against him (Minister of Oil / being in this capacity) from his position, which he currently holds as Minister of Oil, until the resolution of the case above), the demands under it (ruling on the invalidity of the decisions of nomination, approval and appointment of the requested to issue the state order against him (Minister of Oil / Add to the status of the lawsuit against him (Minister of Oil / being in this capacity), and to remove him from his position and oblige him to return all salaries and payments to him from all kinds of allocations and the wages and expenses of the dispatches and the privileges he enjoyed due to his assumption of office and return them to the state treasury)), for the reasons detailed in the petition, the Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicit in the constitutional proceedings before it has not been addressed, nor has it been addressed in the Federal Supreme Court Law No. 30 of 2005 as amended by Law No. 25 of 2021, nor the Bylaw of the Federal Supreme Court No. 1 of 2022 published in the Iraqi Gazette of Facts No. 4679 on 13/6/2022, and is therefore subject to the provisions referred to above. Articles (151 and 152) of the Code of Civil Procedure No. (83) of 1969 as amended, to the extent commensurate with the nature and specificity of the constitutional lawsuit 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 applications for summary justice and orders on petitions in accordance with the provisions stipulated in the Code of Civil Procedure No. (83) of 1969 as amended or any other law that replaces it" and in the sense of Article (36) thereof, which stipulates that "the decisions of the Court are firm and binding on all authorities and persons and shall not accept an

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appeal by any means of appeal..) 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 to be met for its issuance referred to in the Code of Civil Procedure, for the conclusiveness of the decisions issued by this Court and their non-subjection to the methods of appeal, which lies in the submission of a request in two copies including facts, grounds and documents, the availability of urgency, and the non-entry into the origins of the right and its decision, and since the scrutiny of the request for the issuance of the state order by this court has proved the absence of urgency in it nor the state of extreme necessity that requires its issuance, in addition to the above, responding to its content means entering the origin of the right and giving a prior opinion on the constitutional case filed before this court in the number (169/Federal/2022), and that this is contrary to judicial norms. Stable 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 field based on the provisions of the Constitution and the laws in force, 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 for what has been issued in words or deeds, and therefore the decision on the request of the applicant for the issuance of the state order must be rejected for two reasons: the first: is the absence of urgency, and the second: it lies in the fact that deciding on it means entering the origin of the right and giving a prior opinion on the case before this court in the number (169/Federal/2022), according to the detail referred to above, and for the foregoing, the Federal Supreme Court decided to reject the application. Accordingly, the FSC decided

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to reject the request. The decision has been made unanimously, final and binding for all authorities according to the provisions of articles (94) of the Republic of Iraq for 2005 and article (5/2<sup>nd</sup>) of the FSC's Law No. (30) for 2005 which was amended by Law No. (25) for 2021. The decision has been edited in the session dated 15/Rabee Al-Awal/1444 Hijri coinciding with 12/October/2022 AD.

**Signature of**  
**The president**  
**Jasem Mohammad Abbood**