

Republic of Iraq
Federal Supreme Court
Ref. 39 / federal /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 25/2/2024 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 Plaintiff: Rawnaq Khadhim Salih.

The Defendant: : Chairman of the Board of Commissioners of the Independent High Electoral Commission/ being in this capacity – his agent the legal counselor Ahmed Hasan Abid.

The Claim

The plaintiff claimed that she had previously been nominated in the provincial council elections for (Babil Governorate Madar Alliance), but she did not win because the votes obtained by the defendant / in addition to his job do not match the real number of voters for her, especially since the tapes of the results were lost from the polling stations, as well as the malfunction of some devices, and she had previously asked the Commission to recount and count the votes, but the Commission refused and refused to provide her with a copy of the decision to dismiss the appeal. Therefore, she asked this court to rule on obliging the defendant / being in this capacity to overturn the decision, and manual recounting and sorting due to tape loss and malfunction of some devices, after registering the case with this court No. (39/Federal/2024) and collecting the legal fee for it, and informing the defendant of its petition and

saady

Republic of Iraq
Federal Supreme Court
Ref. 39 / federal /2024



Kurdish text

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 with the reply regulation dated 11/2/2024, and requested the dismissal of the lawsuit, as the plaintiff had followed the legal path to challenge the decision of the Board of Commissioners to announce the results in accordance with the two articles (18 and 19) of the Independent High Electoral Commission Law No. (31) of 2019 as amended, and the Judicial Commission for Elections issued its decision No. (308/Judicial Election Authority/2024) on 8/1/2024 to dismiss the challenge. After completing the procedures required by the court's internal regulations, a date was set for the consideration of the case without pleading based on Article (21/3rd) thereof, in which the court was formed and the case was considered, the court checked the plaintiff's requests and grounds and the defenses of the defendant's agent, and after completing its scrutinies, the end of the minutes has been made clear and the court issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff filed a lawsuit before this court against the defendant, the head of the Independent High Electoral Commission / in addition to his position, to demand a judgment obliging him to recount and count manually. The Federal Supreme Court finds that the plaintiff's lawsuit must be dismissed for lack of jurisdiction, as the powers and competences of this court are exclusively stipulated in Articles (52 and 93) of the Constitution of the Republic of Iraq of 2005, and Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, and some other special laws, none of these

saady

Republic of Iraq
Federal Supreme Court
Ref. 39 / federal /2024



Kurdish text

competencies and powers gives the court jurisdiction to decide on the plaintiff's requests contained in the petition, especially since the plaintiff has followed the legal path to appeal the decision of the Board of Commissioners to announce the results in accordance with Articles (18 and 19) of the Independent High Electoral Commission Law No. (31) of 2019, as amended, and the Judicial Authority for Elections issued its decision No. (308/Judicial Authority for Elections/2024) on 8/1/2024, which includes the dismissal of the appeal, and that the decisions issued by the Judicial Authority for Elections are implemented For the provisions of Article (19/3rd) of the aforementioned Independent High Electoral Commission Law, it is not permissible to challenge it by any of the legally prescribed means of appeal, nor may it be challenged before this court or reconsidered by it, because the judgments that have acquired the degree of bits are evidence against all people, and it is not permissible to accept evidence that contradicts their authority based on the provisions of Articles (105 and 106) of the Evidence Law No. (107) of 1979, as amended, and for the lack of jurisdiction of this court in deciding on the plaintiff's requests contained in her lawsuit, so the Federal Supreme Court decided to rule as follows:

First: Dismissing the plaintiff's lawsuit Ronaq Kazem Saleh for lack of jurisdiction.

Second: The plaintiff shall be charged with the fees, expenses and attorney fees of the defendant's agent, the head of the Independent High Electoral Commission, being in this capacity, the legal adviser, Ahmed Hassan Abed, an amount of one hundred thousand dinars distributed in accordance with the law.

The decision has been issued unanimously, final, and binding for all authorities according to the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and Articles (4 and 5/2nd)

saady

Republic of Iraq
Federal Supreme Court
Ref. 39 / federal /2024



Kurdish text

of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited on the session dated 14/Shaaban/1445 Hijri coinciding 25/February/2024 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court