

In the name of God most Gracious most Merciful

Republic of Iraq
Federal supreme court
Ref. 45/federal/media /2013



Kurdish text

The Federal Supreme Court (F S C) has been convened on 23. 10.2013 headed by Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges and Hussein Abbas Abu AL-Temman who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (ha. mim. alif.) his agents (yeh. kaf. sin.).

The Defendant: President of the Independent High Electoral Commission/ being in his capacity his agent.

The Claim:

The plaintiff's agents claimed that the Independent High Electoral Commission issued the system of distributing seats to facilitate the implementation of the law on the elections of the provincial, Sub-districted and districts councils No. (36) of 2008 the second section / the third step the calculation of the (quota of women) by paragraphs (dal , heh) of it, this was contrary to the provisions of the Constitution and massa membership of candidates and voters and the plaintiff and the words of his agent are challenging it because it constitutes a violation of articles (14, 16) which provide for the principle of equal rights, duties

and equal opportunities, as articles (20 and 38/1st) concerning the guarantee of freedom of expression of opinion, the plaintiff specified his request to rule the unconstitutionality of the above system in order to achieve the principles of justice by putting paragraph (jim) into effect after paragraph C and the annulled of paragraphs (dal and heh) and replacing them with the words (if the seats of women are not achieved from the above step, the seats from the single seat lists will be completed by replacing the man who won the lowest votes with the seat of women's quota). After setting a date for the argument, the plaintiff's agent repeated his requests and requested the judgment in accordance with the petition, and the defendant's agent/ being in his capacity requested that the case be dismissed for the reasons he listed on his list, and the court decided to end the argument clearly.

The Decision:

After scrutiny and deliberation by the FSC found that the plaintiff had nominated himself from the list of alliance, construction and peaceful coexistence in Salah al-Din province and after the announcement of the results, the seat allocated to the list of the plaintiff was granted to the female element despite the fact that he received the largest number of voters, this measure is contrary to the Constitution and in violation of articles (14, 16, 20, 38/1st of it), and in light of this, the plaintiff requests the ruling that the system of distribution of seats No. (12) of 2013 in order to achieve the principles of justice, by putting the fruit and implementation after paragraph (jim), and the annulled of paragraphs (dal and heh) and replacing them with the words (if the seats of women are not achieved from the above step, the seats from the single seat lists will be completed by replacing the man who won the lowest votes with the seat of women's quota). Since the impugned provision of the third step (calculating the quota of women) of system (12) of 2013 is no longer effective with the decision of the FSC No. (36/federal/2013) on 26/8/2013, which ruled that the third step (calculating the quota of

women) of the system of distribution of seats of provincial, district and district councils No. (12) of 2013 was ruled unconstitutional. The case of plaintiff (ha. mim. alif.) due to rejection from the jurisdiction because the FSC's specialties are limited to considering the unconstitutionality of the laws and regulations valid based on article (93/1st) of the Constitution. The court decided to reject the plaintiff's case and charge the defendant/ being in his capacity expenses and the fees of the plaintiff's agent the lawyer (yeh. kaf. sin.) a sum of (100,000) one hundred thousand Iraqi dinars because this case was established and the system is subject of the appeal was valid before the verdict in the case No. (36/federal/2013) the decision was unanimously issued and had made clear and public on 23/10/2013.