



The Federal Supreme Court (F.S.C.) has been convened on 23.7.2013 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen whom are authorized in the name of the people to judge, they made the following decision:

The Plaintiff:

Araibi Shnien Muhamad Al-Zamily / advocate.

The defendant:

The President of the Board of Commissioners in the Independent High Electoral Commission (I.H.E.C.) – in addition to his post.

The claim:

The plaintiff claimed that the I.H.E.C. on 13.3.2013 approved Seats Distributing System no. (12) of 2012 to be implemented in the election of the governorates Councils in 2013, as the mechanism of distributing the seats on the winner candidates is contrary to the Constitution and law, the lists that won one seat severely affected the method of calculating

Athraa



the women's quota, as it was mentioned in the third step of the seat distribution steps paragraph (heh) (to replace the candidate who obtained the majority of votes in the list that obtained one seat in one electoral circle with female candidate of the same list who obtained the highest number of votes between woman in the same list), what occur in Wasit governorate in the method of calculating (woman quota) causes huge injustice and unfairness. As the list that he belong to has won one seat, and that seat was granted to the woman despite that he obtained the higher number of votes in the list, he had (1477) votes of (8420) and he was replaced with female candidate of the same list who obtained (519) votes. He requested to call upon the defendant for argument, and to rule to amend third step of Seats Distribution System no. (12) of 2012 of calculating (the woman quota) no. (12) of 2013 in way that ensure justice and equity between participants. The defendant\ in addition to his post was informed with the case petition, he replied with the draft dated 2.6.2013 which included that woman quota is exception of the origin stipulated in article (14) of the Constitution, and that the plaintiff didn't present something new. As the Constitution stated in article (49/4) that the elections law shall aim to achieve a percentage of representation for women of not less

Athraa



than one-quarter of the members of the Council of Representatives, the F.S.C. ruled in 31.7.2007 in the lawsuit no.(13/teh/2007) that the mentioned constitutional text is to be implemented on the governorate Council, therefore the Committee is obligated to achieve representation percentage of woman in the governorate Council not less than one quarter, the Seats Distribution System no. (12) of 2013 came in accordance with the requirement of justice to achieve percentage of woman representation in accordance with the Constitution, as the law of electing the governorates Council failed to set the method of achieving the representation percent of woman it just referred to article (13/2nd) that should be a woman at the end of every three winners regardless of the male winners, and because the law referred to the (Saint-Lego) method that leads to the victory of multiple lists with one or two seats. Therefore, the system for distributing seats in accordance with the law and the constitution has been put in place. Paragraph (heh) of the system came in consistent with the requirements of justice and fairness, and it was drawn up after discussions in the presence of United Nations experts. The committee finds that the list that get two seats under (Saint-Lego) method has obtained more votes than the list that get one seat, it came at

Athraa



the bottom of the ladder in the descending order of the three-fold winning lists. The plaintiff (Aeraibi Shnien Muhamad Al-Zamily) is candidate from the list of the Civil Democratic Alliance in Wasit and got (1477) votes and was given to the women to the candidate (Hanan Jassim Salman Muhammad) who got (519) votes instead of the plaintiff based on the clause (2nd/d) of the third step of the seat distribution system No.(12) for 2013 by the allocation of a seat for women to lists that won one seat from the same list. The plaintiff has already challenged that before the Judicial Body for Elections and was dismissed. After registering the lawsuit and completing the required procedures according to article (2/2nd) of the F.S.C. bylaw no. (1) for 2005, the court convened on the argument day and call upon the parties, the plaintiff and the agent of the defendant has attended, the plaintiff repeated the case petition and requested to rule according to it adding that the court is competent to consider it, the defendant' agent repeated the answering draft requesting to dismiss the case. whereas nothing left to be said, the argument is closed, the decision issued publicly.

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 48 / federal / 2013



Kurdish text

The decision:

During scrutiny and deliberation by the F.S.C., it found that the plaintiff requesting the F.S.C. to amend third step of Seats Distributing System no.(1) of 2013 of calculating (quota of women) in the governorates Councils, as the Jurisdictions of the F.S.C. are stipulated in paragraph (93) of the Constitution of 2005, and article (4) of its bylaw no. (30) for 2005, it didn't includes what the plaintiff requested of amendment, therefore deciding the plaintiff request is out of its jurisdictions, accordingly it decided to dismiss the lawsuit for the aspect of jurisdiction, and to burden the plaintiff the expenses and advocacy fees for the defendant agent amount of (one hundred thousand) IQ.D. ((according to article (63) of the Advocacy Law no.(173) of 1965, and the Council of Ministers' decision no.(220) of 2013)), This decision has been issued in presence, unanimously, and final according to article (94) of the Constitution, issued publicly on 23.7.2013.

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