

Republic of Iraq
Federal Supreme Court
Ref. 4 / federal /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 30/3/2022 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 Plaintiff: President of the Iraqi Swimming Federation / being in this capacity – his agents the Barristers Ala'a Shoon Hussein and Mohammed Shihab Ahmed.

The Defendant: Minister of Youth and Sports/ being in this capacity – his agent the official jurist Laith Hazim Abdul Razzak.

The Claim

The plaintiffs (President of the Iraqi Swimming Federation/being in this capacity, Sarmad Abdul Ilah Mohammed, and Raed Fadhil Abid) claimed by their agent that on 10 November 2018, the elections of the Iraqi Swimming Federation were held and resulted in the election of the administrative body headed by the first plaintiff, president of the Iraqi Swimming Federation/ being in this capacity, and those elections were ratified and admitted in accordance with the provisions of the article (6-3-Alif) of the Federations Law No. (16) of 1986 under the letter of the Iraqi National Olympic Committee. (2389) dated 14 November 2018, and in accordance with the provisions of article (6.2.Alif) of the above-mentioned law, members of the administrative bodies continue to serve for four years, and the defendant's office/ being in this capacity and contrary to Law No. 25 of 2011 and Law No. (16) of 1986 adopted (Khaled Abdul Wahid Kabyan) in financial transactions in his capacity as President of the

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Federation according to its letter numbered (1002) dated 2/6/2020 which produced the dispensing of the government grant which dedicated for the years 2020/2021 and listed within the allocations of the sporty federations according to the Federal Budget Laws which estimated by one-billion Iraqi dinars, and to grant the discretion for individuals contrariwise the law. The third plaintiff addressed the defendant's department to clarify the reasons for handing over the government grant to illegal persons, confirming its letter number (12405) of 17 August 2020, the adoption of Khaled Abdul Wahid Kabayan representing the Federation in administrative, financial and legal dealings and on the basis of the first plaintiff's communications in addition to his post to the Parliamentary Youth and Sports Committee, the President of which corresponded the Federal Integrity Commission with the letter of the Iraqi Council of Representatives number (467) to demand an investigation to pay the government grant to illegal persons, waste public money, violation of the State Employees Discipline Law No. (14) of 1991 and its amendments to the Federal Budget Law No. (1) of 2019. The actions issued by the Defendant's Department/ being in this capacity of disbursing the government grant allocated to national sports federations and their erroneous application of federal laws are contrary to articles (1, 5, 13, 22, 27, 36, and 130) of the Constitution of the Republic of Iraq for 2005. Therefore, the plaintiffs requested the Federal Supreme Court to judge that the proceedings of the defendant's office/ being in this capacity to disburse the government grant to the national sports federations for 2021-2020 were unconstitutional and borne by the legal consequences and charging the defendant fees, expenses and the advocacy fees. The case was registered with this court in number (4/Federal/2022) and the legal

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fee for it was completed in accordance with the provisions of article (1/3rd) of the Bylaw of the Federal Supreme Court No. (1) of 2005 and notifying the defendant with its petition and documents in accordance with the provisions of article (2/1st) of the same Bylaw, his agent answered by an answering draft summarized that the competent Court of trying such cases is the Sport Dispute Court and the rules of the jurisdiction is public order, its violating requires to reject the case. The plaintiff Sarmad Abdul Ilah Mohammed has already filed the numbered case (78/Sports/2021) to oblige the defendant's chamber to prevent his opposition to the presidency of the Iraqi Swimming Federation and then annulled the case by the decision of the Court of Sports Disputes on 23 December 2021, in addition to the previous adjudication of the case under the decision of the Karrada Court of Investigation dated 26 January 2020, which is certified appealingly by the Court of Criminal Court of Al-Rusafa in its appealing capacity (309/Teh2020) on 12 February 2020 as previously adjudicated Court (CAS). The blessings of the International Swimming Federation, the Asian Swimming Federation, and the Arab Swimming Federation are a sign of international recognition of the legitimacy of the presidency of Khaled Abdul Wahid Kabyan the Swimming Federation, Under articles 3 and 4 of Law No. 25 of 2011, his client's department has the right to pursue youth and sports affairs in accordance with the state's objectives. In its decision of 1416/civil/2022 sequence (1238), the Federal Court of Cassation on 10 February 2022 overturned the court's ruling on sports disputes in the numbered case (77/sports/2021) filed by plaintiff Sarmad Abdulala Mohammed against defendant Khaled Abdul Wahid Kibyan, and for the reasons for requesting the dismissal of the case and to burden the plaintiffs'

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expenses and advocacy fees. After completing the procedures in accordance with the provisions of the Bylaw mentioned above, a date was set for the argument based on an article (2/2nd) of the Bylaw above, and the parties were informed, and on the appointed day the court was formed, and the first and second plaintiffs attended in particular and lawyer Mohamed Shihab Ahmed attended as the plaintiffs' agent, and the defendant (minister of youth and sports/ in being in this capacity) did not attend or his agent and the public in presence argument proceeded, the agents of the plaintiff what was listed in the petition and requested to judge in accordance with what listed in it, he added that he requests to reject the case of his two clients the second and the third. Therefore, the Court decided to consider the petition of the case of the first, second, and third plaintiffs void according to the provisions of the article (88/1) of the civil procedures law No. (83) for 1969 amended and to burden them all the advocacy fees. The Court noticed the answering draft presented by the agent of the defendant which included the request of rejecting the case for the reasons listed in it. Whereas the Court completed its scrutinies, and nothing left to be said. The end of the argument 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's case included a request for a ruling that the proceedings issued by the Defendant's Department, the Minister of Youth and Sports, as well as his job to disburse the government's financial grant to national sports federations for years (2020-2021) and to burden him with fees, expenses, and advocacy fees. As

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defined by item (1st) of Article (93) of the Constitution of the Republic of Iraq (2005) and article (4) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of the Year (2021), the jurisdiction is about the constitutionality of the laws and regulations in force, and the appeal in question was based on the unconstitutionality of the proceedings issued by the Defendant's Office/ being in this capacity of disbursing the financial grants of sports federations for years (2020 and 2021) the appeal was not focused on law or system in force as indicated by item (1st) in the articles referred to above, so the consideration of the appeal in question is outside the jurisdiction of this court as described above and the plaintiff's case shall be due to the above lacking of its substantiation of the Constitution and should be rejected. Accordingly, the Federal Supreme Court decided to reject the plaintiff's case and to burden him with all judicial expenses, including the advocacy fees of the agent of the plaintiff, the official jurist Laith Hazim Abdul Rahman, a sum of 100,000 dinars distributed in accordance with the law. The decision has been issued unanimously according to the provisions of the articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear on 26/Shā'aban/1443 Hijri coinciding 30/March/2022 AD.

Signature of
The president
Jasem Mohammad Abbood

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