

Republic of Iraq
Federal Supreme Court
Ref. 5 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 12/2/2023 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, Dyar Mohammed Ali, and Munthir Ibrahim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Plaintiffs: 1- Mahmood Hussein Ridha Al-Akeeli/
Secretary-General of the Iraqi Umma Party
2- The Candidate Nihad Abbas Shihab

Their agent the
Barrister Yaamar
Tahir
Mohammed

The Defendant: President of the Supreme National Commission for Justice and Accountability/ being in this capacity – his agent the legal counselor Hanaa Mohammed Hussein.

The Claim

The plaintiffs claimed through their attorney that the second plaintiff, Nihad Abbas Shehab, had previously been nominated for the elections to the House of Representatives for the fifth session that took place on 10/10/2021 for the Iraqi Umma Party (electoral district 12 / Al-Mansour), but he was surprised by the decision to include him in the procedures of the Supreme National Authority for Accountability and Justice under its letter No. (1827) on 13/6/2021, while he is one of the dismissed politicians, The aforementioned decision was appealed to the (Federal Court of Cassation / Cassation Authority competent to hear appeals submitted to the decisions of the Accountability and Justice Commission) on 16/6/2021, and its decision No. (655 / Cassation Accountability and Justice / 2021) was issued to overturn the Commission's decision on 3/8/2021, that is, after approving the names

saady

Republic of Iraq
Federal Supreme Court
Ref. 5 / federal /2023



Kurdish text

of the candidates, due to the defendant's deliberate or negligence not to bring the file to the court until after the names have been approved, and for this reason, the party lost a seat in the elections, which was guaranteed, because the candidate has a mass and popularity in The nomination area, which caused moral and psychological damage to him and his family on the one hand, and to the party and its Jamahiriya on the other. Therefore, they requested the Federal Supreme Court to invite the defendant to appear before the court and to award him material and moral compensation, to rehabilitate the second plaintiff and the Iraqi Umma Party, and to charge him the fees and attorney's fees. The lawsuit was registered with this court with No. (5/federal/2023) and the legal fee for it was collected based on the provisions of Article (21/1st) of the Court's Rules of Procedure No. (1) of 2022, and it informs the defendant of its petition and documents in accordance with item (2nd) of the same article, his agent replied with the answering draft dated 25/1/2023 and requested the dismissal of the lawsuit due to the lack of jurisdiction of the court to hear it, and after completing the procedures required by the rules of procedure of the Federal Supreme Court, a date was set to consider the case without pleading based on Article (21/3rd) thereof, in which the court was formed and the case began to be heard, the court examined what was stated in the plaintiffs' lawsuit, the grounds and requests contained therein, and what was stated in the list of the defendant's attorney, and since the court completed its audits, the end of the minutes has been made clear and issued the following decision:

saady



The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiffs' lawsuit included a request to award them material and moral compensation and rehabilitation to the Iraqi Umma Party and its candidate, the second plaintiff, because the defendant deliberately delayed, in addition to his job, the submission of the second plaintiff's file until after the approval of the names of the candidates and caused the Iraqi Umma Party to lose a seat in the Council of Representatives for its fifth electoral session, whose elections took place on 10/10/2021, and then the defendant charged in addition to his job the expenses and advocacy fees. By checking the case dossier and documents and the draft of the defendant's agent/ being in this capacity, the court finds that the consideration of the merits of the plaintiff's lawsuit falls outside the jurisdiction of this court, as its competencies are defined under Articles (52 and 93) of the Constitution of the Republic of Iraq and Article (4) of the Federal Supreme Court Law No. (30) of 2005, as amended. Therefore, the Federal Supreme Court decided to dismiss the plaintiffs' lawsuits, Mahmoud Hussein Reda Al-Akili, Secretary General of the Iraqi Umma Party, and Nihad Abbas Shihab, and to burden them with all judicial expenses, including advocacy fees of the defendant's agent/ being in this capacity, an amount of one hundred thousand dinars. The decision has been issued unanimously, and final, according to the provisions of article (94) of the Constitution of the Republic of Iraq for 2005 and article (5/2nd) 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 20/Rajab/1444 Hijri coinciding with 12/February/2023 AD.

saady

Republic of Iraq
Federal Supreme Court
Ref. 5 / federal /2023



Kurdish text

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court