

In The Name Of God, Most Gracious, Most Merciful

**Republic of Iraq
Federal Supreme Court
Ref.68 /Federal/Media/2014**



Kurdish text

The Federal Supreme Court has been convened on 18/11/2014, headed by the judge Madhat Al-Mahmood and membership of judges Farouk Mohammed Al-Sami, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temman, and Aad Hatif Jabbarwho authorized in the name of the people to judge and they made the following decision :

The Plaintiff: the head of Wasit governorate's council/ being in this capacity- his agent the legal official (Mim.Nun.Yeh.)

The Defendants:

- 1) the prime minister/ being in this capacity- his agent the counselor (Ain.Ain.).
- 2) the minister of finance/ being in this capacity- his agent the acting general manager of the legal department (Mim.Ha.Mim)

The Claim:

The plaintiff agent claimed that the first defendant issue the decision No.(27) for 2012 included the disabling of the governorates' councils authorities of forcing, collecting, and spending taxes and fees. Furthermore, he disabled the law No.(1) for 2009 issued by the council of Wasit governorate (law of forcing taxes and fees and spending it for the garage of Badrah district), the law is for the local income collected by the council. The aforementioned law issued based on the legislative authority which was stipulated according to the provisions of the law of governorate incorporated int a region No.(21) for 2008 (amended). The second defendant based on his

letter No.(11371) on 21/6/2012 challenged the governorate council for issuing legislation of collection and making a fund where the collected money will be saved based on the local law, he claimed it violates the law of financial administration No.(95) for 2004. Based on that, the plaintiff requested from the court to annul the decision of the first defendant and the letter of the second defendant for violating the Constitution, the law, and the decision of the FSC. Also, he requested to oblige them to not disable the local laws issued by the governorates' councils according to law and constitution. The case had been registered, the defendants were informed by the case petition, so their answers received by the court. the court selected the day of the argument when the court heard the sayings of both parties and reviewed all the case documents. The court completed its investigations and made the end of the argument. The decision was understood publicly.

The Decision:

During the scrutiny and deliberation by the FSC, it found that the plaintiff challenges the decision of the first defendant No.(27) for 2012 included the disabling of the governorates' councils authorities of forcing, collecting, and spending taxes and fees, one of them is the law No.(1) for 2009 issued by the council of Wasit governorate (law of forcing taxes and fees and spending it for the garage of Badrah district) which was issued – based on the claim-according to the provisions of the law of governorate incorporated into a region No.(21) for 2008 (amended). Also, he challenges the letter of The second defendant No.(11371) on 21/6/2012 included the challenge against the governorate council for issuing legislation, he claimed it violates the law of financial administration No.(95) for 2004. The plaintiff challenges focused on that the order and the letter violate the Constitution, the law, and the decisions of the FSC. So he requested from the court to annul them and to oblige them to not disable the local laws issued by the governorates' councils according to law and constitution. whereas the FSC is incompetent-based on its competences which stipulated by the article (93) from the Constitution and the article (4) from the FSC Law No.(30) for 2005- to try for the validity of the administrative orders and decisions issued by employees and commissions in the government departments. The law formulated a method

to challenged them. For the above, the plaintiff case must be rejected from the competence point. The court decided to reject the case and to burden the plaintiff all the expenses and fees of the advocacy for the agents of the defendant (Ain.Sin.Ain) and (Mim.Ha.Mim.) amount of hundred thousand Iraqi dinars divided between them equally. The decision was issued decisive and unanimously based on the article (94) from the Constitution on 18/11/2014.