

Republic of Iraq  
Federal Supreme Court  
Ref 6/ federal /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 3/3/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Hayder Jaber Abid, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, Dyar Mohammed Ali, and Munther Ibrahim Hussain, who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Abdul Kazim Karim Jalil – Nabni alliance .

The Defendant: Asaad Abdul Ameer Abdul Ghafar Al edani /Tasmeem alliance – his agent the barrister Ahmed Mohammed salih.

**The Claim:**

The plaintiff claimed in the petition that the defendant ran for the 2023 provincial council elections (Basra Provincial Council) within the list headed by (Tasmeem) and currently holds the position of Governor of Basra, and for committing violations related to attracting voters through illegal electoral propaganda, which affected the validity of the election results, rights and freedoms, and respect for legality. Through the exploitation of the buildings of state institutions for propaganda and electoral activities, the use of functional influence and state resources and means for electoral propaganda, and the granting and promise of material gains with the intention of influencing the results of the elections, which led to his obtaining the votes of voters illegally and in violation of the law, therefore, the plaintiff asked this court to annul the defendant's membership from the Basra Provincial Council, cancel all the results he obtained in the 2023 Basra Provincial Council elections,

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and issue a state order to stop announcing the final results of the Basra Provincial Council elections and not to believe them until the lawsuit is resolved. After registering the case with this court No. (6/Federal/2024), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1<sup>st</sup> and 2<sup>nd</sup>) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, his agent replied in the answering draft dated 14/2/2024, its conclusion: The plaintiff's request has no base in the law, as he had previously filed a complaint with the same subject matter of the lawsuit based on Articles (19 and 20) of the Independent High Electoral Commission Law No. (31) of 2019, as amended, before the authorities specified in the law above. Decisions have been issued that have acquired the final degree after being challenged before the judicial body competent to hear cases and complaints relating to elections in the Federal Court of Cassation, and all the final results has been approved by the Independent High Electoral Commission after the expiry of the legal deadlines for complaints and appeals, The results of the ratification were announced on 21/1/2024 in accordance with the aforementioned law after reject of the appeals submitted by the plaintiff and their acquisition of the final degree after the Commission investigated them in accordance with its jurisdiction and legal powers in this regard, so the judgment requested to reject the lawsuit and the plaintiff charged the fees and expenses. After completing the procedures required by the court's internal regulations, a date was set for the consideration of the case without pleading in accordance with Article (21/3<sup>rd</sup>) thereof, in which the court was formed and the case was considered, the court scrutinized the plaintiff's requests and his basis and the defenses of the defendant's agent, and after the court

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completed its scrutinies, 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 claim is to demand a judgment to write off all the results obtained by the defendant Asaad Abdul Amir Abdul Ghaffar Al-Aidani in the 2023 Basra Provincial Council elections, And to revoke his membership in the Basra Provincial Council, and also requested the issuance of a state order to stop announcing the final results of the Basra Provincial Council elections and not to ratify them until the case is resolved, and to notify the Independent High Electoral Commission thereof, Having reviewed the petition, its attachments, the parties' defenses and requests, and the absence of a state of urgency or necessity, in the plaintiff's request to issue a state order, the court decided to reject the request by decision (6/Federal/state Order/2024) in 8/1/2024, Through scrutiny of the plaintiff's requests contained in the petition to cancel the results obtained by the defendant in the elections of the Basra Provincial Council and to annul his membership in the Council, the court found that his requests fall outside the jurisdiction of this court contained in Article 93 of the Constitution of the Republic of Iraq for the year 2005, and that the consideration of such requests of the competence of the Independent High Electoral Commission and the competent judicial authority of the Federal Court of Cassation, this court has nothing to do with the provincial council elections or the challenge of their results, and therefore the case must be reject, in view of the foregoing , the Federal Supreme Court decided as follows:

First: reject the lawsuit of the plaintiff Abdul Kazem Karim Jalil Al-Kinani for lack of jurisdiction.

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Second: The plaintiff shall bear the fees, expenses and fees of the defendant's agent, lawyer Ahmed Muhammad Saleh, an amount of one hundred thousand dinars.

The decision has been issued unanimously, final and binding according to the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (4 and 5/2<sup>nd</sup>) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021. The decision has been edited in the session dated 21/Shaabab/1445 A.H. corresponding to 3/3/2024 AD.

**Judge**  
**Jasem Mohammad Abbood**  
**President of the Federal Supreme Court**

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