

In the name of God most Gracious most Merciful

Republic of Iraq
Federal supreme court
Ref. 72/federal/media /2013



Kurdish text

The Federal Supreme Court (F S C) has been convened on 25. 2. 2014 headed by Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges and Hussein Abbas Abu AL-Temman who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (feh. ta. feh.) attorney's agent (heh. ain. ain.).

The Defendant: Speaker of House of Representatives- being in this capacity- his jurists (sin. ta. yeh.) as manager. (ha. mim. sin.) as legal advisor.

Third Pearson: President of the Independent High Electoral Commission/ being in this capacity his jurist (alif. ha. ain.).

Third Pearson: President of the Coalition for the Unity of Iraq/ Mr. (jim. beh.) .

Third Pearson: deputy (theh. alif. dha.)

The Claim:

The prosecutor claimed before the FSC in case No. (72/federal/2013) that the defendant/ being in this capacity decided at the hearing No. (9) on 28/1/2013 Mr. (theh. alif. ain.) was sworn in as a member of the House of Representatives instead of the martyr Mp (ain. sin. ain.) and since the deceased is a member of the Alliance for the Unity of Iraq and from the (Sahwa) bloc his seat was vacant because of his martyrdom and since his client belongs to the same bloc and the same province as he was legally entitled to the seat in question, this was his client's entitlement on the basis of article (14) of Law No. (16) of 2005. In accordance with the arrangement in the special list of the final results of the 2010 elections, the defendant/ being in this capacity was challenged, requesting that the membership of (theh. alif. dha. ain.) be invalid on the basis of article (52/1st) of the Constitution. He issued his decision at the session (6) on 8/7/2013, which included ((Voting has not yet been approved on membership withdrawal (theh. alif. dha))). Therefore, he asked the FSC after the necessary procedure to rule that the decision of the House of Representatives taken at the session No. (6) on 9/7/2013, which included disapproval of the withdrawal of the membership of Mp (theh. alif. dha) and the ruling on the attributable to his client because he is legally entitled to it. The defendant/ being in this capacity was informed of the petition and answered by his agent in the editorial written draft on 20/8/2013 in which he discussed the plaintiff's requests and requested that the case be rejected with the plaintiff charged all expenses because the decision of the House of Representatives challenged by the plaintiff's agent was correct and impeccable. The court asked the parties to the case to indicate the bloc to which the late MP (ain. sin. ain.) belongs and the bloc to which the Mp (theh. alif. dha) belongs this is based on the provision of Second Article, paragraph (2nd) of the House Of Representatives Replacement Act No. (6) of 2006, which stipulated that (if the vacant seat is within the provincial seats specified by the electoral law, it shall be replaced by the bloc to which the replacement member belongs

on the list of the province...) The court has included the president of the Independent High Electoral Commission / being in this capacity and the President of the Alliance of Iraqi Unity Mr. (jim. beh.) and Mp (theh. alif. dha) third people in the case to verify these bodies, the third person was present as the President of the Independent High Electoral Commission / being in this capacity as his deputy, the jurist (alif. ha. ain.), who stated that he had not been able to know the bloc to which the plaintiff belonged and the bloc to which the third person (theh. alif. dha) belonged, where they were only installed (Alliance). The third person, (theh. alif. dha), replied that he belonged to the Iraqi Sahwa Conference, which is the same entity as martyr (ain. sin. ain.), but for the plaintiff (feh. ta. feh.), he belongs to an entity (National Bloc for Iraqi Students and Youth). The third person, (jim. beh.), said that the principle that prevailed in the previous elections in 2010 was the adoption of alliances and that the coalition he headed was the Alliance for The Unity of Iraq and a number of personalities have joined him not by their party or bloc affiliations but by their personalities in that area and that he does not know who belonged to Mp (theh. alif. dha) and the plaintiff, and that the seat was originally for Dr. (sin. dal.) after occupied as a minister fill the position by (kha. feh.) Dr. (sin. dal.) was independent and the deceased, according to his information, belonged to the entity (National Charter) and after his death he assigned the position to (ain. sin. ain.), who is from the (Iraqi Sahwa Conference) and does not know the bloc to which the plaintiff belongs. The court instructed the prosecutor to prove that his client, Martyr (ain. sin. ain.), replied that his client was present outside the courtroom and appealed to him, he appeal passed and he came and was assigned to do so, because he was unable to prove his claim and each party repeated its previous statements and requests and requested the judgment under it and therefore where there is nothing left to say the end of argument has been made clearly, the decision had made clear public.

The Decision:

After scrutiny and deliberation by the FSC found that the plaintiff (feh. ta. feh.) he had lodged an appeal to the House of Representatives on 3/2/2013, objecting to the work of Mp (theh. alif. dha), a member of the House of Representatives, in place of Mp martyr (ain. sin. ain.) of the Alliance for The Unity of Iraq for Anbar Province. In the session (6) of the House of Representatives, on 8/7/2013, a vote was taken on the validity of the membership of Mp (theh. alif. dha) and because the plaintiff was not satisfied with that, he appealed the decision to the FSC, requesting that the membership of Mp (theh. alif. dha) and assigning the parliamentary seat he holds to him because he is eligible to fill this seat based on the text of article (52/2nd) of the Constitution, and since the plaintiff's agent was unable to prove that his client belonged to the same block as the Mp martyr (ain. sin. ain.) and the third persons were unable to appoint the bloc to which the plaintiff belonged. Since compensation for the vacant seat shall be from the bloc to which the replacement member belongs in the province's list, therefore, the provisions of paragraph (2) of article (2nd) of the Law on the Replacement of Members of the House of Representatives No. (6) of 2006 are not available in the plaintiff's request for the work of the vacant seat mentioned above. The FSC decided to reject the plaintiff's case while charging him with the costs of the lawsuit and the fees of the plaintiffs' agents/ being in this capacity to his jurists (sin. ta. yeh.) and (ha. mim. sin.) amount one hundred thousand Iraqi dinar between them and the decision was immanence decisively according to the article (94) of the Constitution and had made clear public on 25/2/2014.