

Republic of Iraq  
Federal Supreme Court  
Ref. 7/ federal/state order /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 13/3/2024 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 Munther Ibrahim Hussain who are authorized in the name of the people to judge and they made the following decision:

The Requestor of Issuing the State Order: Nihro Mahmud Kadir  
His agent the barrister Ahmed Majid Ahmed.

Who Requested to Issue the State Order Against:

1. Prime Minister/ being in this capacity.
2. Secretary General of the Council of Ministers/ being in this capacity.
3. Minister of Oil/ being in this capacity.
4. Petroleum Products Distribution Company.

### **The Request:**

The applicant for the issuance of the state order submitted to this court his list dated 10/3/2024, for which the legal fee was collected and registered in the number (7 / federal / state order / 2024), which stated that ((after the court obligated in its decision number (224 and its unified / federal / 2024) all relevant authorities to adopt the principle of equality in the distribution of wealth among all citizens, whereas Article (14) of the Constitution includes the obligation to achieve equality among Iraqis without discrimination for any reason, this is what the court confirmed in its aforementioned decision (that the application of this must be actual and not theoretical in order to create a correct national belonging among all the Iraqi people), it also stressed (obliging

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the competent federal and regional authorities to take the necessary means for citizens to enjoy these rights and freedoms and remove all obstacles to their enjoyment...) ,it also affirmed that (the enjoyment of economic, social and cultural rights in accordance with Articles 22-36 of the Constitution... ), however, what is required to issue the state order against them did not comply with that, because they continued to supply (white oil) product to the governorates of the Kurdistan region of Iraq at a different price from the rest of the governorates, according to what was stated in the decision of the Council of Ministers Office No. (23726) for the year 2023, therefore, this court was asked to issue a state order to suspend the work of the Council of Ministers Resolution No. (23726 of 2023 - which includes setting the price of white oil product at (250) dinars)), any previous decision contrary to the current pricing contained in the letter of the Petroleum Products Distribution Company No. (102/7216 on 18/2/2024), which determined the price of the aforementioned crown (150 dinars) until the resolution of the lawsuit (42/Federal/2024 concerning the appeal against the invalidity of the decision required to be suspended), the required issuance of the state order against them and the Petroleum Products Distribution Company is required to work according to the principle of equality in the pricing and processing of petroleum products, as stated in the aforementioned letter of the Petroleum Products Distribution Company, in which the selling prices of petroleum products are fixed (150 dinars) approved for all citizens in stations spread throughout the country, considering that citizens are equal in all governorates, including the Kurdistan region of Iraq, based on Article (14) of the Constitution and the court's decision No. (224 and its unified / federal / 2023)). After reviewing the application and completing its scrutinies, the court issued the following decision:

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### **The Decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for the issuance of the state order, due to his filing of the lawsuit No. (42/Federal/2024) before this court, requested, according to his regulation dated 10/3/2024, to issue an urgent state order that includes ((suspending the work of the Council of Ministers Resolution No. (23726) for the year 2023, which includes setting the price at (250 dinars) and any previous decision different from the current pricing contained in the letter of the Petroleum Products Distribution Company No. (102/7216) on 18/2/2024 (150 dinars), And oblige the required issuance of the state order against them to work with equality in the pricing and processing of petroleum products, as stated in the letter of the Petroleum Products Distribution Company No. (102/7216) on 18/2/2024, in which the selling prices of petroleum products (150 dinars) approved for all citizens in stations spread throughout the country are fixed, considering that citizens are equal in all governorates, including the Kurdistan region of Iraq), Until the lawsuit filed before this court is resolved in the number (42/federal/2024), for the reasons referred to therein, and the Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicitly in the constitutional lawsuits filed before it has not been addressed, it was also not addressed in the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, nor the internal regulations of the Federal Supreme Court No. (1) of 2022, published in the Iraqi Gazette No. (4679) on 13/6/2022, thus, it is subject to the provisions referred to in Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, and to the extent

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commensurate with the nature and privacy of the constitutional lawsuit, based on the provisions of Article (39) of the rules of procedure of the Federal Supreme Court referred to above, which stipulated that (the court may consider requests for summary judgment and orders on petitions in accordance with the provisions stipulated in the Civil Procedure Law No. (83) of 1969 as amended or any other law that replaces it) and in accordance with Article (36) thereof, which stipulated that (court decisions are final and binding on all authorities and persons and do not accept appeal by any means of appeal..), On the basis of the foregoing, the issuance of an urgent state order from the Federal Supreme Court is governed only by the controls and conditions that must be met for its issuance referred to in the Civil Procedure Law, for the finality of the decisions issued by this court and not being subject to the methods of appeal, which lies in submitting a request in two copies including the facts, evidence and documents, and the availability of urgency, and not to enter the original right and decide on it, Whereas the audit of the request for the issuance of the state order from this court has proven the lack of urgency or the state of necessity that requires its issuance, in addition to the above, responding to its content means entering the origin of the right and giving a prior opinion of the lawsuit filed before this court No. (42/Federal/2024) under which the ruling is claimed (the invalidity of the Council of Ministers' decision No. (23726) for the year 2023 on 20/12/2023, And oblige the required issuance of the state order against them to adopt the principle of equality when providing services throughout Iraq),for the reasons referred to in the petition, and that this contradicts the judicial norms established in the constitutional districts of Arab and foreign countries, and with what was settled by the Iraqi judiciary in both constitutional and ordinary parts and what was included in the established judicial applications in this

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field based on the provisions of the Constitution and the laws in force, Based on the realization of the right and the achievement of justice and fairness away from tendencies and whims and arbitrariness and flattery, there is no blame for the appropriate in what was really issued from the word or deed, and thus the decision to request the issuance of the state order, the duty of rejection for two reasons: The first: is the absence of urgency in it, and the absence of the character of necessity that requires its issuance, and the second: that deciding on it means entering into the origin of the right and giving a prior opinion of the lawsuit filed before this court No. (42/Federal/2024), according to the detail referred to above, In view of the above, the Federal Supreme Court decided to reject the request to issue an urgent state order submitted by the applicant for the issuance of the state order, Nehru Mahmoud Qadir. The decision has been issued with majority, final and binding according on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005, and Article (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 made clear on 2/Ramadan/1445 A.H. corresponding to 13/3/2024 A.D.

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

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