



The Federal Supreme Court (F.S.C.) has been convened on 27.11.2013 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen whom are authorized in the name of the people to judge, and it issued the following decision:

The Plaintiff:

(Sen. Kaf. Ra'.) – his agents the attorneys (Ha'. Alf. Ra').

The Defendants:

Chairman of the Board of the Independent High Electoral Commission/being in this post _ his agent the legal official (Alf. Ha'. Ain.).

The Claim:

The agent of the plaintiff claimed in his lawsuit No. (93/federal/2013) before the F.S.C that On 9/7/2013 in session No. (2)/minutes (118), the Independent High Electoral Commission issued a decision according to which amendments



were made to the seat distribution system to implement the Federal Supreme Court Decision No. (36 / Federal / 2013), and the amendment decision was unfair and affects his client (the plaintiff) for the following reasons:

1. The decision of the Federal Supreme Court was clear, as it stipulated that the third step (calculating the quota for women) of the system of distributing seats for councils, districts and sub-districts was unconstitutional. The text was not mentioned on the two-seat list exclusively.
2. The list with two seats and the allocation of a seat for women from it has been implicitly mentioned, and after when we run out of other steps, and one of these steps is for the commission to start processing the calculation of the (women's quota) from the most to the least lists, and not the opposite. So that the entity's contribution to achieving the women's quota is directly proportional to the correct votes to achieve the percentage stipulated by the law, but the Independent High Electoral Commission did not pay any attention to that, which made the replacement of his client (the plaintiff) with a woman so that the percentage became (50%), and this is against the law and contradicts the



decision of the esteemed court No. (36 / federal / 2013) in which it took into account the aspect of justice and the fulfillment of the will of the voter and this is what the constitution stipulated in Article (14) thereof, which stipulated the principle of equality in rights and duties among the Iraqi people and Article (16) Which stipulated that equal opportunities are guaranteed to all Iraqis.

3. The amendment decision whereby his client was replaced is not consistent with the Federal Supreme Court Decision No. (36 / Federal / 2013), as the aspect of justice was not taken into account in the proportion of the distribution of women's seats, as the percentage is found in some of the larger lists (25%), so these lists were supposed to be included With the amendment that was approved, then the opinion is made to the two-seat lists, according to the percentage obtained by each list.
4. It was revealed through the decision of the Independent High Electoral Commission that it did not seek the assistance of experts from the specialists, as its decision was tentative and does not conform to the decision of the Federal Supreme Court, noting that it



had previously sought help from experts in the mechanism of the seat distribution system No. (12) for the year 2013 and this is clear from it answers submitted to the Federal Supreme Court in a session (5/15/2013) in the case numbered (36/Federal/2013).

5. The amendment adopted by the High Electoral Commission was diligent, where the exact aspect of calculating (women's quota) in order to achieve justice to achieve the legal ratio, which the Federal Supreme Court worked through its decision to remove the injustice of the candidate and achieve justice, since the commissioners adopted a new method of calculating (women's quota) on all lists large or small, where it did not take into account the contribution of the entity and the amount of the correct votes for it, which made its decision contrary to the decision of the Federal Supreme Court.

Therefore, from the aforementioned, he submitted a request to the Federal Supreme Court to rule to revoke the decision of the Commission according to which his client was replaced by a woman and charged him with fees, expenses and advocacy fees. And after registering the case with this court in accordance with Paragraph (third) of Article (1) of the Federal Supreme Court

Republic of Iraq
Federal Supreme Court
Ref. 93/ federal /media/ 2013



Kurdish text

Bylaw No. (1) for the year 2005 and after the court completes the required procedures in accordance with Paragraph (Second) of Article (2) of the Federal Supreme Court Bylaw aforementioned, a date has been set for the pleading, and the attorney of the plaintiff (Ha'. Alf. Ra'.) According to the proxy linked in the case have attended on behalf of the plaintiff and the legal representative of the defendant the legal official (Alf. Ha'. Ain.) has also attended on behalf of him under the official power of attorney linked to the case file, and the public in present pleading began.

The plaintiff's attorney repeated what was mentioned in the lawsuit's petition and requested the judgment according to it, and the defendant shall be charged with the lawsuit fees and attorney fees.

The court reviewed the response list dated (10/9/2013) submitted by the Chairman of the Board of Commissioners, in which he requested to dismiss the lawsuit because the Commission made its decision based on the implementation of the Federal Supreme Court Decision No. (36 / Federal / 2013) It has been stipulated that (and that it includes taking the women's quota from the lists that won more than one seat, including the lists that won two seats, and when the required percentage of women is not met after taking the seats from the lists that got



more than one seat, the becoming of the lists that got One seat), which is exactly what the Commission did when it amended the seat distribution system No. (12) for the year 2013 based on what was mentioned in the aforementioned text in the esteemed court's decision, which took the women's seat first from the lists that got more than three seats, then the three-seat lists Then the two-seat lists and finally the list that has only one seat.

And that the Commission formed a specialized committee to submit its recommendations to amend the system of distributing seats in line with the decision of the Federal Supreme Court referred to above, and that the plaintiff had previously appealed for the same reason before the Judicial Authority for Elections, and the aforementioned commission rejected the appeal, and the court also reviewed the text of the Board of Commissioners' decision No. (2) / Ordinary Minutes (118) dated (7/9/2013) attached to the case file.

Each of the parties repeated their previous statements and requests.

Whereas nothing left to be seed, the argument is closed, the decision issued publicly.



The decision:

During scrutiny and deliberation by the F.S.C., it found that the plaintiff attorney requests in his lawsuit petition from the Federal Supreme Court to rule to revoke the Commission's Board Decision Under which his client was replaced by a woman when distributing seats among the winners of the candidates for the provincial council, as the jurisdiction of the Federal Supreme Court is defined in Article (93) of the Constitution of the Republic of Iraq for the year 2005 and in Article (4) of the Federal Supreme Court Law No. (30) of 2005 and not from among them are considering the request of the plaintiff's attorney requesting the ruling to veto the decision of the Board of Commissioners in the Independent High Electoral Commission regarding the distribution of seats among the winning candidates in the elections for the provincial councils, as this is within the jurisdiction of the Independent High Electoral Commission and that its decision is subject to appeal before the cassation commission formed in the Federal Court of Cassation. Therefore, the plaintiff's lawsuit is outside the jurisdiction of the Federal Supreme Court, and then it is ruled to be rejected from the non-jurisdiction side. Therefore, the Federal Supreme Court decided to dismiss the case from the non-jurisdiction side with charging the plaintiff all the case's expenses with the advocacy fees for the defendant agent the legal official (Alf. Ha'. Ain.) Amount of

Republic of Iraq
Federal Supreme Court
Ref. 93/ federal /media/ 2013



Kurdish text

(one hundred thousand) IQ.D. This decision has been issued decisively based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and by agreement and was publicly understood on 27/11/2013.