

Republic of Iraq
Federal Supreme Court
Ref. 9 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 29/1/2023 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, Abdul-Rahman Suleiman Ali, and Munthir Ibrahim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Requestor of Issuing the State Order: Laith Mustafa Humood – his agent the Barrister Kamal Abdul Qadir Faraj.

Who Requested to Issue the State Order Against: The Speaker of the ICR/ being in this capacity.

First: Abstract of the Request

The applicant for issuing the state order submitted to this court, through his representative, the statement of claim dated 17/1/2023, for which the legal fee was collected on the same date and registered in number (9/Federal/2023), according to which ((the judgment to annul the parliamentary order No. (5) on 15/1/2023, which includes the termination of his membership from the Iraqi Council of Representatives based on the resignation organized by the applicant for issuing the state order in violation of the provisions of the law and the removal of the legal effect resulting from it for violating the provisions of the Constitution of the Republic of Iraq of 2005 and the laws in force)), in it, he also demanded the issuance of an urgent state order ((to

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stop the procedures for the work of Parliamentary Order No. (5) on 15/1/2023 in order to preserve his rights from the impact of its application and the consequent nomination of an alternative)), until the case is resolved, for the reasons detailed in the lawsuit petition, including that this resignation was organized by the plaintiff under the pressure exerted on him by the defendant at the end of the previous (fourth) session and before the elections of the Iraqi Council of Representatives for the current (fifth) session and at the request of the defendant in addition to his position from the members of his party led by (Taqadum Party), of which the plaintiff was one of the members by signing his resignation requests in advance and without a date, as well as signing a white paper justifying his request to ensure financial support for the plaintiff's election campaign, since after winning the parliamentary seats, many Representatives move from one parliamentary bloc to another, and that his signature was in good faith, in view of the foregoing, and based on the provisions of Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, and Article (39) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, a request was submitted to issue an urgent state order in accordance with the aforementioned details.

Second: the decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for issuing the state order, due to his filing of lawsuit No. (9/Federal/2023) before this court, requested according to its regulations dated 17/1/2023 to issue an urgent state order, which includes: ((Suspending the procedures for the work of the parliamentary order No. (5) on 15/1/2023 in order to preserve his rights from the impact of its application and the consequent nomination of an

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alternative)), until the lawsuit is resolved, for the reasons detailed in the lawsuit petition, and the Federal Supreme Court finds that issuing an order An urgent state based on an independent request or implicit in the constitutional cases filed before it has not been addressed, nor has it been addressed in the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021, nor the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, and 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 commensurate with the nature and privacy of the constitutional case, based on the provisions of Article (39) of the Court's Rules of Procedure 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 Procedures Law No. (83) of 1969 as amended or any other law replacing 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 an appeal by any means of appeal ...) based on the foregoing, the issuance of an urgent state order by 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 consist in submitting an application in two copies including the facts, evidence and documents, and the availability of urgency, and not to enter into the original right and decide on it, and since the scrutiny of the request for the issuance of the state order by this court has proven that it does not have the urgency or the state of extreme necessity that requires its issuance, in addition to the foregoing, responding to its content means entering into the origin of the right and

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giving a prior opinion on the constitutional lawsuit filed before this court No. (9/Federal/2023) under which it is demanded ((the ruling to annul the parliamentary order No. (5) on 15/1/2023, which includes the termination of his membership from the Iraqi Council of Representatives based on the resignation organized by the applicant for issuing the state order in violation of the provisions of the law and the removal of the legal effect resulting from it)), based on his violation of the provisions of the Constitution of the Republic of Iraq of 2005 and the laws in force, for the reasons detailed in The petition of the lawsuit, and that this contradicts the established judicial customs in the constitutional districts of Arab and foreign countries and with what the Iraqi judiciary has settled on in both its constitutional and ordinary parts and what is included in the well-established judicial applications in this 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, whims, arbitrariness, and flattery. There is no blame for what was said or done, and therefore deciding on the applicant's request to issue the state order must be rejected for two reasons: the first: it is the absence of urgency in it, and the second: it lies in the fact that deciding on it means entering into the origin of the right and giving a prior opinion on the lawsuit filed before this court in number (9/federal/2023), according to the detail referred to above. Accordingly, the FSC decided to reject the request, and the decision has been issued with a majority, final, and binding according to the provisions of article (94) of the Constitution of the Republic of Iraq for 2005 and article (5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. It has been edited on the session dated 6/Rajab Al-Akhira/1444 Hijri coinciding 29/January/2023 AD.

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Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court