

(Translated From Arabic)

In The Name Of God The Most Gracious, Most Merciful

Republic Of Iraq

Federal Supreme Court (Emblem)

(Kurdish Text)

Ref: 51/Federal/Media/2016

The Federal Supreme Court has convened in 20.12.2016, headed by the Judge Medhat Al-Mahomood and the membership of the Justices Jaefar Naser Hussain , Akram Taha Mohamed , Akram Ahmed Baban , Mohamed Saeb Al-Naqshabnde , Mekaeel Shamshon Qis Qourqis , Hussain Abbass Abo Al-timen and Mohamed Rajeb Al-kobaese who are authorized to judge in the name of the people and it issued the follow decision:

The Plaintiff: (Fae'. Hae'. Khae') – The Council Of Representatives member ,his agent's the lawyers (Aen. Aen. Hae'. Aen) and (Hae' . Fae'. Aen).

The Defendant:

1_ The speaker of The Council Of Representatives being in this post his agent the legal officials (Seen. Tae'. Yae') and (Ha'. Meem. Seen).

2_The Council Of Representatives member (Zad. Noon. Seen. Meem. Aen).

THE CLAIM:

The agent of the plaintiff claims that the second defended the Representative (Zad. Noon. Seen. Aen) had previously and publicly on the media praised The (Dissolved) Arab Baath Socialist Party, then the deputy participated in the legislative elections in 2010, but the Accountability And Justice Commotion on its decision no.(323) in 18.10.2010 had issued it decision to prevent him from being nominated, so he led the objection on the mentioned decision before the Cassation Commotion which is specified to view the appealing on the decisions of the Accountability And Justice Commotion, the Commotion issued it decision no.(382/Hae'_Zay/2010) in 11.2.2010 to reject the objection.

According to that decision the representative was prevented from participating in the election of 2010 according to article (7) of the Constitution, and in the election of 2014 the second defended participated in it after the Accountability And Justice Commotion granted him (no

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objection) to participate in the election in spite that this violates the law. As the procedures of Accountability And Justice Commotion had been deactivated by the ICR, therefore the plaintiff requests to judge the void of the membership of the representative (Zad. Noon. Seen) from The ICR and to prevent the representative from being nominated again to The ICR for the representative had been previously member in The (Dissolved) Arab Baath Socialist Party.

As registration the case and setting the date for proceeding, in the appointed date, the agent of the plaintiff and the agent of the first defended attended while the second defended did not. The Court moved in the case in the absence of the second defended as his challenge do not leave any trace in the case according to the article (4) of Civil Proceeding Code.

The agent of the plaintiff repeated his sayings and requisition and requests to judge according to the case petition, the agents of the first defended repeated their sayings and requests and requested to reject the case for the reasons mentioned in the answering draft, As the Court completes its investigation announced the end of the proceeding and the decision made clear.

After the decision announcement the second defended attended and informed of the decision content.

THE DECISION:

In the deliberation and discussion the FSC found that the plaintiff challenge in the truth of the membership of the representative (zad. Noon. Seen) in The ICR, because he has previously praised The (Dissolved) Arab Baath Socialist Party. Basing on that he was prevent from being nominated for the election cycle for 2010 by The Accountability And Justice Commotion which it decision accompanied with the authentication of The Specified Cassation Commotion on it.

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However, The Accountability And Justice Commotion granted him again (no objection) to participating in the election on 2014, as the procedures of Accountability And Justice Commotion had been deactivated by The ICR, therefore the plaintiff requests to judge the void of the membership of the representative (Zad. Noon. Seen) from The ICR and to prevent the representative from being nominated again to The ICR as he previously had been a member in the (Dissolved) Arab Baath Socialist Party.

The FSC found that the court has no capacity to judge in this case, and clarified that the looking in the authenticate of membership of The ICR members is done by The ICR based on the members objection, and The Council Shall decide in it within 30 days from the date of registration the objection with the majority of two-thirds of its members.

The Constitution allow the appealing on the Council decision before the FSC within 30 days from the date of its issuance, this is what the article (52) of the Republic Of Iraq Constitution of 2005 stipulates, where as the plaintiff did not follow the pursue according to this article, so his claim lacks a constitutional base and requires to be rejected for the its out of competences.

Based on that the judgment was made to reject the plaintiff case because the request is out of the court competences, and decided to burden him the expenses of the case and the fees of the agents of the first defended amount of (100000) one hundred thousand Iraqi dinar to be divided among the agents of the first representative in half, the decision was made unanimous and made clear in 20.12.2016.