

Appellant (plaintiff): Adviser Sami Taha Taher Sarsour
Chief Justice/ Head of the High Judicial Council
Represented by lawyer:

Respondent (defendant): President of the State of Palestine, Mahmoud Abbas
Head of the Palestine Liberation Organization's Executive Committee
Head of the Palestinian National Authority

Subject of contestation: the decision issued by the defendant on 12/10/2016 containing the so-called "undated" request for resignation submitted by the plaintiff and delivered to him on the same date, according to official letter no. 2856, issued by the Presidential Office and signed by its Chairman.

"Contestation brief"

- 1- The plaintiff is the Chief Justice/ Head of the High Judicial Council, appointed on 20/1/2016 upon the recommendation of the High Judicial Council in its session no. 1/2006, held on 13/1/2016, following decision no. 10/2016 issued by the defendant on 20/1/2016, according to the provisions of the 2003 Amended Basic Law and its amendments, and the provisions of Judicial Authority Law No. 1 for the year 2002, and pursuant to Article (18) of this law. The appointment decision was published in Issue no. 117 of the Palestinian gazette, to be put into force as of the date of its issuance, and the provisions of which to be adhered to by the competent authorities.
- 2- By issuing a decision to what he called an approval of a resignation request submitted by the plaintiff, the defendant violated the law. The plaintiff did not submit a resignation after his appointment as Chief Justice and after taking the oath before the defendant, pursuant to Article (21) of the Judicial Authority Law, but rather commenced to work as Chief Justice and continued to do so until the date of issuing the challenged decision, without submitting any resignation requests.
- 3- According to Paragraph (1) of Article (33) of the Judicial Authority Law, which addresses the proceedings related to the resignation of judges, *"The resignation of a Judge shall be deemed accepted two weeks after its submission to the President of the High Judicial Council. A decree from the Minister of Justice shall be issued accepting the resignation effective as of that date"*. Accordingly, any resignation submitted beyond the operative text of this Article shall be considered illegal.
- 4- The challenged decision indicates removal from post, which represents a violation of Article (27) of the Judicial Authority Law, stating that *"Judges are irremovable except according to the conditions indicated in this law"*, which is also stated in Article (2/99) of the Basic Law.

The addressed paper/sheet, on which the defendant wrote "approved, and thanks for your services" on 13/10/2016, did not include any information indicating a request to resign from the post of Chief Justice. At that time, the plaintiff was not even appointed as Chief Justice. The paper/sheet was

prepared prior to the date of issuing the appointment decision and taking the oath before the defendant. The paper, titled "Presidential Office", did not include any text which indicates the resignation from the post of Chief Justice/ Head of the High Judicial Council.

Furthermore, the paper was prepared in the following context:

- 1- The signing of this paper was previously requested by the legal adviser to the defendant; a request that was denied by the plaintiff. However, the plaintiff was asked the same request by the Director of the Palestinian Intelligence Service, Major General Majid Faraj, who insisted that the plaintiff should sign the paper under the pretext that this is the usual procedure for appointing the Head of the High Judicial Council, and that the person to be granted this position should express his allegiance and chastity in writing, as the mentioned post is a responsibility and a service for the country. The content of this paper was dictated by Major General Majid Faraj, who informed me that the President is expecting to receive this paper prior to the issuance of the official appointment decision and taking the oath.

The legal justification for the contestation is as follows:

- 1- The challenged decision represents a grave breach of the Basic Law, the Judicial Authority Law, and the principle of judicial independence.
- 2- The defendant has no authority to accept a resignation that was submitted by a Judge. This action does not fall within the line of his authority.
- 3- The challenged decision entails abuse of power.
- 4- The challenged decision entails a failure to adhere to jurisdictions.

Authority: your esteemed court may look into this contestation in accordance with the provisions of the law.

Request: the plaintiff seeks the acceptance of the contestation in form and substance, and the cancellation of the challenged decision and any of its consequences.

The plaintiff seeks the issuance of a decision to suspend the enforcement of the challenged decision, including its consequences, until a decision is made regarding the contestation.

Attachments:

- A copy of the decree to appoint the plaintiff as Chief Justice/ Head of the High Judicial Council.
- A copy of the two official letters no. 2856 issued by the Presidential Office on 12/10/2016.
- Other documents will be provided when received.

Plaintiff's representative

Plaintiff

Adviser Sami Sarsour, Chief Justice/ Head of High Judicial Council