

In the Name of Allah, the Most Merciful, the Most Compassionate



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In the name of the people

In its public session held on Sunday, 1 March 2015 A.D., corresponding to 10 Jumaada-ul-Awwal 1436 A.H.;

Under the chairmanship of Chancellor Anwar Rashad El-‘Assy **First Vice-President of the Court;**

In the membership of chancellors Abdel-Wahab Abdel-Razeq, Dr. Hanafy Ali Gebaly, Mohamed Khairy Taha Al-Naggar, Saied Mar’ey Amr, Dr. Adel Omar Sherif, and Ragab Abdel-Hakim Selim..... **Vice-Presidents of the Court;** and

In the presence of Chancellor Mahmoud Mohamed Ghoneim, **Chairman of the Board of Commissioners,** and Mohamed Nagy Abdel-Samee’, **Secretary;**

The Supreme Constitutional Court (SCC) has hereby issued the following ruling:

On lawsuit No. 18 for the Judicial Year 37 “Constitutional” listed in the Supreme Constitutional Court (SCC) Roll between the following litigants:

Plaintiff

Mohamed Saad Abdel-Razeq, who filed an application requesting the accessory intervention of the below-mentioned people:

- 1- Mohamed Salah Al-Din Mohamed Ahmed; and
- 2- Shamel Abdul Aziz Abdullah

Defendants

- 1- President of the Republic;
- 2- The Prime Minister;
- 3- Minister of Transitional Justice and National Reconciliation;
- 4- Minister of Justice;
- 5- Minister of Interior; and
- 6- Head of the High Elections Commission (HEC).

Proceedings

On February 5, 2015, the plaintiff brought the present lawsuit before the SCC and requested that the Presidential Decree Law #202/2014 on the Boundary Delimitation for the House of Representatives Elections Constituencies be ruled unconstitutional since Article (3) thereof as well as the tables and the explanatory note attached thereto violate the Constitution.

In this regard, the State Lawsuit Authority submitted two defense briefs, originally requesting that the SCC refuse to accept the said lawsuit and alternatively requesting that the SCC reject the same.

Having prepared the lawsuit, the Board of Commissioners submitted a report stating the opinion thereof.

The lawsuit was considered as illustrated in the minutes of the session and the SCC decided to rule thereon in today's session.

Court

Having reviewed relevant documents and conducted appropriate deliberations;

Whereas the presented lawsuit and all papers thereof reveal that the plaintiff filed Lawsuit No. 26447 for the Judicial Year 69 against the defendants before the Administrative Justice Court, requesting that an immediate ruling be issued to entirely suspend the enforcement of HEC Decree # 1/2015 on the Conduct of Elections, especially the provisions thereof which stipulate that elections be held in Al-Darb Al-Ahmar and Al-Sayida Zeinab constituencies during April 25-26, 2015, until the SCC rules on the constitutionality of the Presidential Decree Law #202/2014 on the Division of the House of Representatives Elections Constituencies and decides on the annulment of the said Decree No. 1/2015. Whereas the plaintiff claimed that the abovementioned decree law is unconstitutional and whereas the SCC took such allegation seriously, it authorized the plaintiff to file a constitutional lawsuit. Hence, the plaintiff filed the presented lawsuit.

Whereas, in the session dated 25/02/2015, Mohamed Salah Al-Din Mohamed Ahmed and Shamel Abdul Aziz Abdullah requested to be added to the lawsuit as interveners (Accessory Intervention) to uphold the demands raised by the plaintiff in the present constitutional lawsuit.

Whereas, according to Article (126) of the Code of Civil and Commercial Procedure, a third party may only be admitted to a lawsuit to uphold the demands of the plaintiff (Accessory Intervention) if they have a direct personal interest in the subject-matter of the lawsuit. In the context of constitutional lawsuits, the interest of the nonparty requesting to intervene in the lawsuit shall be linked to the interest of the original litigant or to this of the nonparty admitted to the lawsuit in which allegations are made concerning the constitutionality of the said decree law. Moreover, the ruling issued on the allegation made by the intervener shall be of an impact on the ruling issued on the allegations made by the main litigant in the relevant lawsuit brought before the Court. Hence, and whereas the two parties requesting to join the present lawsuit are not main litigants therein nor interveners in the lawsuit filed by the plaintiff, and since they do not qualify for a litigant status such that they cannot be considered significant parties in the constitutional lawsuit, they do not have a genuine interest in the said lawsuit and their intervention shall be turned down.

Whereas Article (2) of the Presidential Decree Law #202/2014 on the Division of the House of Representatives Elections Constituencies says: "The Arab Republic of Egypt shall be divided into 237 constituencies allocated for the individual system, and into four constituencies for the list system".

Whereas Article (3) of the same law stipulates that "the range, components, and the number of seats of each constituency, as well as the number of seats assigned to each

governorate, shall be determined according to the attached tables, taking into consideration fair representation of population, governorates and voters.”

Whereas the State Lawsuit Authority objected to the acceptance of the lawsuit on the grounds of the two following justifications: **1)** there is no connection between the subject matter of the constitutional lawsuit and the demands raised before the Court. In addition, the plaintiff did not submit any document proving that they ran for the elections of the House of Representatives (HoR), hence they are not covered by the provisions of the contested law in the first place; and **2)** The plaintiff brought the present lawsuit to the Court and requested that the said law be deemed entirely unconstitutional without determining which legislative provisions violate the Constitution. Hence, such lawsuit is incomplete since it does not mean the requirements laid down by Article (30) of the Supreme Constitutional Court Law No. 48/1979 (SCC Law).

Whereas a party shall only be deemed to have a direct personal interest in the constitutional lawsuit if their interests are linked to the interest inherent in the subject matter of the lawsuit, such that the ruling on the constitutional matter shall be of an impact on the demands raised in connection thereto before the Court. Such concept may only apply if two requirements are met as follows: **1)** the plaintiff shall, within the limits of their objection against the contested provision, present evidence proving that a serious harm was inflicted upon them, rather than an imaginary, theoretical, or unknown harm; **2)** Such harm shall be attributable to the contested legislative provision, i.e. there must be a cause-effect relationship between the harm and the said provision. Hence, if such provision does not even apply to the party claiming that such provision violates the Constitution, or if such party is not covered by such provision or is not affected by the alleged denial of certain rights, that shall mean that such party has no direct personal interest since the annulment of the legislative provision, in any and all forms, will not result in any real benefit to the plaintiff and will not change their legal status regardless of the content of the ruling issued on the lawsuit.

Whereas the judicial control exercised by the SCC over the constitutionality of laws and regulations is mostly, and above all, about lawfulness, and the foundations of such lawfulness shall be laid down and further instilled with each passing day and year. Even though the SCC, together with all State authorities, are responsible for enhancing the constitutional foundations upon which such legitimacy rests, this responsibility shall also be borne by each citizen since such legitimacy ensures the safety and security of citizens and help them fulfill their high aspirations, hence bringing about benefits to all citizens and their families and serving the interests of the entire Egyptian society.

Whereas the present 2014 Constitution lays great importance on the notion of “citizenship”, emphasizing in its first article that the democratic republican system is based on citizenship and rule of law and affirming in its fourth article that “Sovereignty belongs only to the people who shall exercise and protect it. The people are the source of powers, and safeguard their national unity that is based on the principles of equality, justice and equal opportunities among all citizens”. Whereas Constitutional Article (87) states that the “participation of citizens in the public life is a national duty and says that every citizen has the right to vote, run for elections, and

express his/her opinion in referendums. To do so, the State shall insert the name of each citizen in the voters' database without request therefrom provided that he/she satisfies the conditions for voting.”

Based on the above, and in light of Article (87) which states that “the State shall enter the name of each citizen in the voters' database without request therefrom provided that he/she satisfies the conditions for voting”, the plaintiff is an eligible voter since he is a citizen and the papers constituting the present lawsuit do not, in any way, imply that the plaintiff no longer enjoys the voter status for any reason whatsoever. Such papers do not state any impediment preventing the plaintiff from exercising his political rights. The plaintiff brought a lawsuit before the said Court, challenging HEC Decree #1/2015 and requesting that an immediate ruling be issued to suspend and annul the decree in order to prevent the conduct of HoR elections, especially the elections to be held in Al-Darb Al-Ahmar and Al-Sayida Zeinab, which are two constituencies under the individual electoral system. Furthermore, the plaintiff filed the present constitutional lawsuit, requesting that the Decree Law #202/2014 be deemed unconstitutional since Article (3) thereof and the tables attached thereto allegedly violate Constitutional Articles (4), (9), and (102). The plaintiff justified such allegation on the grounds that the division of HoR election constituencies, as provided by such tables, deprives him and all his peer citizens in the said constituency from the right to fair representation. The plaintiff, also, claimed that the provisions regulating constituencies, provided for in Table (I-Individual System) attached to the law referred thereto, affect his legal status in his capacity as a voter and influences his rights since, according to the law, a constituency represents the spatial and geographical framework within which the right to elect and to be elected shall be exercised. Hence, in this lawsuit, the plaintiff does have a direct personal interest qualifying him to challenge Article (3) of the aforementioned Presidential Decree Law #202/2014, within the limits of the provisions related to the individual electoral system and Table (I- Individual System) attached thereto. The scope of the present lawsuit shall only be restricted to such limits since the constitutional matter in question has a definite cause-effect relationship with the demands raised by the plaintiff in his lawsuit and is directly related to the provisions stated within these limits, unlike the remaining provisions. On the other hand, attached to the present lawsuit is the wording of the legislative provision which is allegedly unconstitutional. The lawsuit, also, illustrates the constitutional provisions which are allegedly violated by such legislative provisions and states such violations as previously mentioned, in accordance with Article (30) of the said SCC Law. Accordingly, neither one justification from the two justifications on the grounds of which the State Lawsuit Authority requested that the present lawsuit be rejected is well-founded.

Whereas the plaintiff claims that the contested provision violates Constitutional Articles (4), (9), and (102) since such provision does not ensure that each HoR representative is representing an equal number of voters in each of the constituencies assigned for the individual electoral system, hence depriving the plaintiff and all his peer citizens in the said constituency from the right to fair representation of voters, population, and governorates. Based on such, the contested provision discriminates among voters without any objective justification even though they all enjoy the same legal status, hence violating the principle of equal opportunities and equal suffrage.

Whereas, according to Article (94) of the Constitution, the State shall exercise the powers thereof, regardless of the functions of purposes thereof, under the rule of law and shall be put back on the right track if it ever flouts the law. The legal rules constituting the framework of the State and the limits out of which it may never deviate shall be interpreted in light of the democratic principles on which the system of governance is based, according to Articles (1), (4), and (5) of the Constitution.

Whereas the power used by the legislator to regulate the rights enshrined in the Constitution is a discretionary power in the first place, since the legislator compares between different available alternatives in connection with the subject-matter that needs to be regulated and selects the alternative that can best meet the desired outcomes and serve the most significant interest. In exercising such power, the legislator is governed by no authority unless the Constitution had enshrined certain controls in this regard. Furthermore, in this context, the legislator is not required to stick to rigid forms that cannot be altered or changed. Rather, it is left to the discretion of the legislator to compare between different available forms to use the one that best suits each situation, in light of the circumstances under which the right in question is exercised and in a manner ensuring that such right is not lost.

Whereas, according to Article (9) of the Constitution, “the State shall ensure equal opportunities for all citizens without discrimination”, knowing that the State can only ensure that citizens have equal opportunities when it determines those worthy of such opportunities and prioritizes them according to objective criteria laid down based on the nature, objectives, and requirements of such rights so that all citizens could have equal opportunities and be equal before the law since such rights shall grant them similar legal statuses in light of which the criteria defining which citizens are eligible to have such opportunities are determined. Hence, when a citizen is proven worthy of a certain right according to the outlined criteria, such citizen shall receive the same treatment received by those enjoying the same legal status since any discrimination shall, then, constitute an attempt to deprive such citizen from a right established by the Constitution.

Whereas the principle of equality before the law shall apply to all citizens without discrimination since it is the basis of justice, freedom, and social peace and since it mainly aims at protecting the rights and freedoms of citizens against all forms of discrimination. This principle, in essence, has become a tool used to ensure fair legal protection that goes beyond the Constitutional rights and freedoms and extends to include the rights granted by the legislator to citizens within the limits of the legislator’s discretionary power and in light of what the legislator deems as necessary for the greater good. Whereas the forms of discrimination violating the Constitution, as countless as they are, can be defined as any kind of segregation, limitation, favoritism, or exclusion that arbitrarily deprives someone of their rights and freedoms established by the Constitution or law, whether through denying, suspending, or undermining them in a way that prevents the holders of such rights from exercising them on an equal basis with other eligible citizens. Therefore, while the Constitution bans any form of arbitral discrimination, all legislative regulations aim at fulfilling certain legitimate purposes that serve the greater good, which is the ultimate aim of the legislator who uses the legal rules as a means to reach that aim.

Whereas such regulation uphold, rather than undermine, the principle of equality through introducing legislative regulations linking certain legal provisions to the desired legitimate outcomes; and whereas the explanatory note attached to the aforementioned Presidential Decree Law #202/2014 provides the objective justifications which led the legislator to ensure that the representation of border governorates in the HoR reflects the geographical importance thereof since such governorates serve as a national security fence and the first line of defense protecting the security of the country and citizens. Hence, such governorates are entitled to be an exception to the rule of the fair representation of voters, since, even though such exception entails a relative discrimination among the citizens of such governorates and their peer citizens in other governorates, it can still be an objective basis for dismissing all accusations alleging the presence of arbitral discrimination in the constituencies of such governorates. Hence, such discrimination, which is based on an objective foundation, is justifiable and shows that the division of the constituencies located within border governorates does not violate the principles of equal opportunities and equal voting rights.

Whereas the right to vote is a public right guaranteed to each citizen as stated in Article (87) of the Constitution, and the exercise thereof by citizens is also emphasized by the Constitution to ensure their contribution to the selection of their leaders and representatives who shall assume the responsibility of managing the affairs of the State and pursue public interest. Furthermore, the rights to elect and be elected in particular are considered complementary to each other, and no parliamentary life can thrive in the absence thereof, nor can public sovereignty be fully established whenever these rights are stripped of their essence in a manner preventing serious and effective exercise thereof. Therefore, such rights are of absolute importance to establish democracy in the manner described in the Constitution. To ensure that parliamentary councils constitute a true and honest representation of the public will, the provisions of Article (87) do not only emphasize each citizen's rights to elect, be elected and vote in referenda, but also the fact that citizens' participation in public life through exercising said rights is considered a national duty which they are required to perform, since the exercise of such rights is closely related to public sovereignty, a main component of all structures which rely on the will of the electorate. Since the Constitution entitled the legislator, as stated in the aforementioned article, to regulate the exercise of the aforesaid political rights, said legislator shall regulate these rights in a manner that would not restrict or undermine them. Moreover, a legislator shall, when regulating the exercise of said rights, lay down relevant rules which are nondiscriminatory, as such is prohibited by the Constitution, or contradictory to the principle of equal opportunity which the State applies to all citizens of different legal statuses. Generally speaking, the regulation of said rights by legislator shall not be contradictory to any of the Constitution's provisions and shall ensure that the voters' right to vote has no restrictions which could lead to the tampering, alternation and disproportionate impact of the votes thereof.

Whereas the provisions of Article (102) of the present Constitution imposed main controls on legislators which they should adhere to when dividing electoral constituencies, namely, fair representation of the population and governorates, thus ensuring that no governorates or population groups meeting the requirements and regulations set by the legislator and the Constitution are excluded from the division

process as well as ensuring that the rights thereof are not undermined in whatsoever form. Furthermore, the principle of equal opportunities shall be applied with regards to the proportional weight of votes and the number of population.

However, such principle does not mean that the number of persons represented by an HoR member at each constituency shall be arithmetically equal on an absolute basis, since such is practically impossible. Instead, to fulfill such principle, differences between such numbers and the general average of the number of voters represented by an HoR member at the state level shall be reasonable.

The average of citizens represented by an HoR member is approximately 168,000 citizens, which is the sum of the number of population: 86, 813, 723 plus the number of voters: 54,754,036 on the date of issuance of Decree Law #202/2014 referred to herein, divided by 2 then divided by the number of seats assigned to the individual electoral system: 420 seats. In light of aforesaid facts, and by reviewing the Table (I-Individual System) attached to Presidential Decree Law #202/2014 on the Division of the House of Representatives Elections Constituencies, it is revealed that legislators did not adhere to the principle of fair representation of population or equal representation of voters. Such is illustrated as follows:

- 1- Cairo Governorate: A representative in Helwan Constituency represents 220,043 citizens according to the aforementioned overall average, while a representative in Al-Gamalia Constituency represents 78,175 citizens and a representative in Al-Mokattam Constituency represents 111,360 citizens.
- 2- Qaliubiya Governorate: A representative in Tookh Constituency represents 228,226 citizens, while a representative in Qaliob Constituency represents 130,008 citizens.
- 3- Sharkia Governorate: A representative in Kafr Sakr Constituency represents 214,599 citizens, while a representative in Mashtol Al-Sook Constituency represents 149,154 citizens.
- 4- Damietta Governorate: A representative in Faraskor Constituency represents 205,991 citizens, while a representative in Al-Zarka Constituency represents 124,291 citizens.
- 5- Kafr El-Sheikh Governorate: A representative in Al-Hamool Constituency represents 234,493 citizens, while a representative in Beela Constituency represents 104,256 citizens.
- 6- Gharbia Governorate: A representative in Basyoon Constituency represents 235,970 citizens, while a representative in Kotoor Constituency represents 135,924 citizens.
- 7- Monufia Governorate: A representative in Berket Al-Saba' Constituency represents 230,341 citizens, while a representative in Al-Shohada Constituency represents 121,943 citizens.
- 8- Beheira Governorate: A representative in Kom Hamada Constituency represents 240,152 citizens, while a representative in Kafr Al-Dawar City Constituency represents 131,093 citizens and in Damanhour City Constituency represents 130,997 citizens.
- 9- Fayoum Governorate: A representative in Youssef Al-Seddik Constituency represents 255,941 citizens, while a representative in Abshway Constituency represents 141,491 citizens.

- 10- Beni Suef Governorate: A representative in Ahnasia Constituency represents 268,253 citizens, while a representative in Beni Suef Constituency represents 141,700 citizens.
- 11- Al-Minya Governorate: A representative in Al-Minya Constituency represents 249,040 citizens, while a representative in Al-Minya City Constituency represents 118,821 citizens.
- 12- Assiut Governorate: A representative in Al-Fateh Constituency represents 225,697 citizens, while a representative in Sadfa Constituency represents 103,617 citizens and in Abutig Constituency 111,893 citizens.
- 13- Sohag Governorate: A representative in Sohag City Constituency represents 199,127 citizens, while a representative in Dar Al-Salam Constituency represents 143,556 citizens.

Based on the aforementioned facts and since citizens, including those who meet the requirements for exercising the right to vote, despite their affiliation to different constituencies, are equally entitled to be represented, a uniform rule shall apply to all of them which guarantee nondiscrimination towards them with regards to their proportional representation. Such rule shall have as its ultimate goal the achievement of actual citizen representation, thus reflecting the principles mentioned in Article (4) of the Constitution stating that sovereignty belongs to the people who are the source of power, and greatly contributing to the country's political life. Such emphasizes the fact that while voting is perceived as a right that citizens hold, it is equally perceived as a duty they should fulfill since it is society's way of achieving its aspirations through guaranteeing the freedom of the citizens thereof to exercise their choice. Such freedom is clearly manifested in citizens' right to vote in parliamentary councils elections. Therefore, the legislative structure shall ensure that a voter's vote in one constituency is equally weighted as that of another voter in another constituency while taking into account the number of population. Such shall lead to the realization of the principles of equal opportunity and equality among citizens in terms of exercising their right to vote. In light of the aforementioned facts, any attempts to prevent, disregard or weaken the relative voting weight in a certain electoral constituency in comparison to their peers in other constituencies shall constitute a violation of the principles of equal opportunity and equality among citizens in terms of exercising their right to vote.

In light of the aforementioned points and since the article subject to appeal is not in line with the two principles of fair representation of the population and equal representation of voters as evidenced in the individual electoral system table attached herein showing an unequal weighting of votes in different electoral constituencies – as previously illustrated – without any reasonable justification for such inequality, and since such inequality constitutes a violation of the right to vote, a deviation from the purpose for which such right was enshrined by the Constitution, a violation of the principles of equal opportunity and equality among citizens in exercising such right and a violation, in turn, of the people's sovereignty being the source of power, said article is deemed contradictory to the provisions of articles (4), (9), (53), (87) and (102) of the Constitution, thus rendering such article unconstitutional.

Given the aforementioned reasons, the following was decided:

The SCC ruled that the provisions of Article (3) of Presidential Decree Law #202/2014 on the Division of the House of Representatives Elections Constituencies related to the individual electoral system and the Table (I- Individual System) attached thereto are unconstitutional. The fees arising from this lawsuit as well as an amount of EGP 200 shall be charged to the government as per the court ruling.

Secretary

First Vice-President of Court

In the name of the people

In its public session held on Sunday, 1 March 2015 A.D., corresponding to 10 Jumaada-ul-Awwal, 1436 A.H.;

Under the chairmanship of Chancellor Anwar Rashad El-'Assy **First Vice-President of the Court;**

In the membership of chancellors Dr. Hanafy Ali Gebaly, Mohamed Abdel Aziz Al-Shennawy, Mohamed Khairy Taha Al-Naggar, Saied Mar'ey Amr, Ragab Abdel-Hakim Selim and Boulus Fahmy Eskandar..... **Vice-Presidents of the Court;** and

In the presence of Chancellor Mahmoud Mohamed Ghoneim, **Chairman of the Board of Commissioners,** and Mohamed Nagy Abdel-Samee', **Secretary;**

The Supreme Constitutional Court (SCC) has hereby issued the following ruling:

On lawsuit No. 15 for the Judicial Year 37 “Constitutional” listed in the Supreme Constitutional Court (SCC) Roll between the following litigants:

Plaintiff

Ibrahim Fekry Ibrahim.

Defendants

- 1- President of the Republic;
- 2- The Prime Minister;
- 3- Head of the High Elections Commission (HEC).

Proceedings

On February 5, 2015, the plaintiff brought the present lawsuit before the SCC and requested that Article (25) of Presidential Decree Law #45/2014 on Regulating the Exercise of Political Rights, Article (10) of Presidential Decree Law #46/2014 on HoR and Presidential Decree Law #202/2014 on the Boundary Delimitation of HoR Elections be ruled unconstitutional.

In this regard, the State Lawsuit Authority submitted one defense brief, originally requesting that the SCC refuse to accept the said lawsuit since filing such lawsuit would not be in the interest of the plaintiff and alternatively requesting that SCC reject the same.

Having prepared the lawsuit, the Board of Commissioners submitted a report stating the opinion thereof.

The lawsuit was considered as illustrated in the minutes of the session and the SCC decided to rule thereon in today’s session.

Court

Having reviewed relevant documents and conducted appropriate deliberations;

Based on the lawsuit and other relevant documents, the plaintiff had previously filed lawsuit 24178 for the Judicial Year 69 before the Administrative Court of the State Council against the head of HEC, originally requesting to formally accept the lawsuit and requesting to suspend the enforcement of Decree # 1/2015 issued by the respondent inviting voters whose names are registered on the voter database for the election of the HoR members, with the ensuing consequences, particularly obliging the respondent to issue the Executive Regulations of Law 45 of 2014, and to issue a new decree inviting voters to vote, including dates for nomination for HoR election, third: refer the entire lawsuit to the Supreme Constitutional Court to decide on the constitutionality of laws 45, 46 and 202/2014, or permit the plaintiff to file a constitutional lawsuit appealing it, fourth: repeal the contested decision. The plaintiff claims that the contested decree violates the provisions of the Constitution and the law. In the 3/2/2015 session, the court decided to postpone hearing the case to the 10/2/2015 session, permitting the plaintiff to file constitutional lawsuit within 48 hours challenging the constitutionality of Article (25) of the Law Regulating the Exercise of Political Rights, Article (10) of the HoR Law, and Law 202/2014 on the division of HoR election constituencies, the plaintiff filed the current lawsuit.

Whereas Article (25) of the Law Regulating the Exercise of Political Rights issued by Presidential Decree by Law 45 of 2014 states that “the maximum election campaign spending per candidate in the individual system shall be set at EGP 500,000 setting the maximum limit for re-run spending at EGP 200,000.

The two mentioned limits shall be doubled for every 15 candidates included on one list”.

Article (10) of the HoR Law issued by Presidential Decree Law 46/2014 stipulates that “HoR candidates shall, in constituencies designated for individual election system, submit their HoR candidacy application to the election committee of the governorate where the person chooses to run, within the period specified by the High Elections Committee, provided it is no less than five days from the date of opening the door to application.

The candidacy application should be accompanied by the following documents:

A statement including the candidate’s curriculum vitae, particularly the candidate’s education and work experience.

.....

Receipt that proves the deposit of EGP 3,000 with the treasury of the concerned primary court as insurance

.....

Article (2) of the Presidential Decree Law #202/2014 on the Division of the House of Representatives Elections Constituencies states that “the Arab Republic of Egypt shall be divided into 237 election constituencies for election according to the individual election system, as well as being divided into four election constituencies for the list election system”.

Article (3) states that “the scope and components of each election constituency, and the number of seats allocated to each constituency, as well as to each governorate, shall be determined according to the attached tables in a way that observes the fair representation of the population, of governorates, as well as the equitable representation of voters.”

Whereas a party shall only be deemed to have a direct personal interest in the constitutional lawsuit if their interests are linked to the interest inherent in the subject matter of the lawsuit, such that the ruling on the constitutional matter shall be of an impact on the demands raised in connection thereto before the Court. Such concept may only apply if two requirements are met as follows: **1)** the plaintiff shall, within the limits of their objection against the contested provision, present evidence proving that a serious harm was inflicted upon them, rather than an imaginary, theoretical, or unknown harm; **2)** Such harm shall be attributable to the contested legislative provision, i.e. there must be a cause-effect relationship between the harm and the said provision. Hence, if such provision does not even apply to the party claiming that such provision violates the Constitution, or if such party is not covered by such provision or is not affected by the alleged denial of certain rights, that shall mean that such party has no direct personal interest since the annulment of the legislative provision, in any and all forms, will not result in any real benefit to the plaintiff and will not change their legal status regardless of the content of the ruling issued on the lawsuit.

Whereas Article (25) of the Law Regulating the Exercise of Political Rights addresses candidates, and the plaintiff had not acquired this capacity yet, thus the plaintiff has no direct and personal interest in challenging it, which dictates the decision to refuse this aspect of the lawsuit.

Whereas the present 2014 Constitution lays great importance on the notion of “citizenship”, emphasizing in its first article that the democratic republican system is based on citizenship and rule of law and affirming in its fourth article that “Sovereignty belongs only to the people who shall exercise and protect it. The people are the source of powers, and safeguard their national unity that is based on the principles of equality, justice and equal opportunities among all citizens”. Whereas Constitutional Article (87) states that the “participation of citizens in the public life is a national duty and says that every citizen has the right to vote, run for elections, and express his/her opinion in referendums. To do so, the State shall enter the name of each citizen in the voters’ database without request therefrom provided that he/she satisfies the conditions for voting.”

Based on the above, and in light of Article (87) which states that “the State shall enter the name of each citizen in the voters’ database without request therefrom provided that he/she satisfies the conditions for voting”, the plaintiff is an eligible voter since he is a citizen and the papers constituting the present lawsuit do not, in any way,

imply that the plaintiff no longer enjoys the voter status for any reason whatsoever. Such papers do not state any impediment preventing the plaintiff from exercising his political rights. The plaintiff brought a lawsuit before the said Court, challenging HEC Decree #1/2015 and requesting that an immediate ruling be issued to suspend and annul the same in order to prevent the conduct of HoR elections, then he filed the current constitutional lawsuit requesting a court ruling to the unconstitutionality of Article (10) of the HoR Law, and Decree Law 202/ 2014 on the grounds that it violates Articles (9), (53), (102) and (190) of the Constitution based on the fact that this text has wasted the principles of equal opportunity and equality among citizens, in addition to failing to observe formal conditions for issuing the mentioned laws as they were not submitted to the Legislation Department of the State Council in accordance with the provisions of Article 190 of the Constitution, and the provisions of the State Council Law; And as the mentioned contested text has to do with and impacts the legal position of the plaintiff in his capacity as a voter, therefore fulfilling the condition of the direct personal interest in the current lawsuit, the scope of which is determined in challenging the Article (10) of the HoR Law, namely the two paragraphs the first of which is related to: obliging the applicant for candidacy to submit a statement including the candidate's curriculum vitae, particularly his education and work experience, and the second of which is related to obliging candidates to submit a receipt of EGP3,000 as insurance, as well as Article (3) of the Presidential Decree Law #202/2014 on the Division of the House of Representatives Elections Constituencies and tables attached thereto.

Whereas verifying whether a legislative provision fulfills its formal requirements is a pre-condition to addressing their material defects; in addition to the fact that formal requirements, whether those related to suggesting, approving, issuing or enforcing the legal provision, are determined in the light of related enforced provisions of the Constitution at the time they were issued; and as the plaintiff had complained that the HoR and the Parliament Election Constituency Division laws as null on the grounds that they violate formal and procedural conditions as prescribed by provisions of Article (190) which dictates that laws be reviewed on part of the State Council Legislation Department, a formal aspect, thus the current Constitution text, in the light of the provisions of which the contested text was issued, shall be enforceable in this concern.

Whereas Article (190) of the Constitution states that "the State Council is an independent judicial entity, solely in charge of settling administrative disputes, and enforcement disputes related to all its provisions, as well as being in charge of settling disciplinary claims and appeals, solely in charge of issuing legal opinion on legal issues for entities determined by the law, as well as the revision and drafting of laws and decrees of a legislative capacity, revision of draft contracts that the State or one of its authorities are party to, and the law defines its other mandates."

And since official documents prove that the two draft laws that regulate the HoR and the division of the HoR election constituencies had previously been submitted to the State Council Legislation Department and reviewed, thus, claiming that the said laws violate Article (190) of the Constitution is contrary to the truth and to reality and should be discarded.

Whereas, according to Article (94) of the Constitution, the State shall exercise the powers thereof, regardless of the functions of purposes thereof, under the rule of law and shall be put back on the right track if it ever flouts the law. The legal rules constituting the framework of the State and the limits out of which it may never deviate shall be interpreted in light of the democratic principles on which the system of governance is based, according to Articles (1), (4), and (5) of the Constitution.

Whereas the power used by the legislator to regulate the rights enshrined in the Constitution is a discretionary power in the first place, since the legislator compares between different available alternatives in connection with the subject-matter that needs to be regulated and selects the alternative that can best meet the desired outcomes and serve the most significant interest. In exercising such power, the legislator is governed by no authority but the controls enshrined in the Constitution in this regard. Furthermore, in this context, the legislator is not required to stick to rigid forms that cannot be altered or changed. Rather, it is left to the discretion of the legislator to compare between different available forms to use the one that best suits each situation, in light of the circumstances under which the right in question is exercised and in a manner ensuring that such right is not lost.

Whereas, according to Constitutional Article (9), “the State shall ensure equal opportunities for all citizens without discrimination”, knowing that the State can only ensure that citizens have equal opportunities when it determines those worthy of such opportunities and prioritizes them according to objective criteria laid down based on the nature, objectives, and requirements of such rights so that all citizens could have equal opportunities and be equal before the law since such rights shall grant them similar legal statuses in light of which the criteria defining which citizens are eligible to have such opportunities are determined. Hence, when a citizen is proven worthy of a certain right according to the outlined criteria, such citizen shall receive the same treatment received by those enjoying the same legal status since any discrimination shall, then, constitute an attempt to deprive such citizen from a right established by the Constitution.

Whereas the principle of equality before the law shall apply to all citizens without discrimination since it is the basis of justice, freedom, and social peace and since it mainly aims at protecting the rights and freedoms of citizens against all forms of discrimination. This principle, in essence, has become a tool used to ensure fair legal protection that goes beyond the Constitutional rights and freedoms and extends to include the rights granted by the legislator to citizens within the limits of the legislator’s discretionary power and in light of what the legislator deems as necessary for the greater good. Whereas the forms of discrimination violating the Constitution, as countless as they are, can be defined as any kind of segregation, limitation, favoritism, or exclusion that arbitrarily deprives someone of their rights and freedoms established by the Constitution or law, whether through denying, suspending, or undermining them in a way that prevents the holders of such rights from exercising them on an equal basis with other eligible citizens. Therefore, while the Constitution bans any form of arbitral discrimination, all legislative regulations aim at fulfilling certain legitimate purposes that serve the greater good, which is the ultimate aim of the legislator who uses the legal rules as a ladder to reach that aim. Whereas such regulation uphold, rather than undermine, the principle of equality through introducing legislative regulations linking certain legal provisions to the desired

legitimate outcomes. Once evidence has been established that the legal text is separate from its aims, or the link between the means and objectives is poor, discrimination in such a case becomes arbitrary, constitutes an injustice and is constitutionally illegitimate.

Whereas such regulation uphold, rather than undermine, the principle of equality through introducing legislative regulations linking certain legal provisions to the desired legitimate outcomes; and whereas the explanatory note attached to the aforementioned Presidential Decree Law #202/2014 provides the objective justifications which led the legislator to ensure that the representation of border governorates in the HoR reflects the geographical importance thereof since such governorates serve as a national security fence and the first line of defense protecting the security of the country and citizens. Hence, such governorates are entitled to be an exception to the rule of the fair representation of voters, since, even though such exception entails a relative discrimination among the citizens of such governorates and their peer citizens in other governorates, it can still be an objective basis for dismissing all accusations alleging the presence of arbitral discrimination in the constituencies of such governorates. Hence, such discrimination, which is based on an objective foundation, is justifiable and shows that the division of the constituencies located within border governorates does not violate the principles of equal opportunities and equal voting rights.

Whereas the right to vote is a public right guaranteed to each citizen as stated in Article (87) of the Constitution, and the exercise thereof by citizens is also emphasized by the Constitution to ensure their contribution to the selection of their leaders and representatives who shall assume the responsibility of managing the affairs of the State and pursue public interest. Furthermore, the rights to elect and be elected in particular are considered complementary to each other, and no parliamentary life can thrive in the absence thereof, nor can public sovereignty be fully established whenever these rights are stripped of their essence in a manner preventing serious and effective exercise thereof. Therefore, such rights are of absolute importance to establish democracy in the manner described in the Constitution. To ensure that parliamentary councils constitute a true and honest representation of the public will, the provisions of Article (87) do not only emphasize each citizen's rights to elect, be elected and vote in referenda, but also the fact that citizens' participation in public life through exercising said rights is considered a national duty which they are required to perform, since the exercise of such rights is closely related to public sovereignty, a main component of all structures which rely on the will of the electorate. Since the Constitution entitled the legislator, as stated in the aforementioned article, to regulate the exercise of the aforesaid political rights, said legislator shall regulate these rights in a manner that would not restrict or undermine them. Moreover, a legislator shall, when regulating the exercise of said rights, lay down relevant rules which are nondiscriminatory, as such is prohibited by the Constitution, or contradictory to the principle of equal opportunity which the State applies to all citizens of different legal statuses. Generally speaking, the regulation of said rights by legislator shall not be contradictory to any of the Constitution's provisions and shall ensure that the voters' right to vote has no restrictions which could lead to the tampering, alternation and disproportionate impact of the votes thereof.

Whereas the provisions of Article (102) of the present Constitution imposed main controls on legislators which they should adhere to when dividing electoral constituencies, namely, fair representation of the population and governorates, thus ensuring that no governorates or population groups meeting the requirements and regulations set by the legislator and the Constitution are excluded from the division process as well as ensuring that the rights thereof are not undermined in whatsoever form. Furthermore, the principle of equal opportunities shall be applied with regards to the relative weight of votes and the number of population.

However, such principle does not mean that the number of persons represented by an HoR member at each constituency shall be arithmetically equal on an absolute basis, since such is practically impossible. Instead, to fulfill such principle, differences between such numbers and the general average of the number of voters represented by an HoR member at the state level shall be reasonable.

The average of citizens represented by an HoR member is almost 168,000 citizens, which is the sum of the number of population: 86, 813, 723 plus the number of voters: 54,754,036 on the date of issuance of Decree Law #202/2014 referred to herein, divided by 2 then divided by the number of seats assigned to the individual electoral system: 420 seats. In light of aforesaid facts, and by reviewing the Table (I- Individual System) attached to Presidential Decree Law #202/2014 on the Division of the House of Representatives Elections Constituencies, it is revealed that legislators did not adhere to the principle of fair representation of population or equal representation of voters. Such is illustrated as follows:

- 1- Cairo Governorate: A representative in Helwan Constituency represents 220,043 citizens according to the aforementioned overall average, while a representative in Al-Gamalia Constituency represents 78,175 citizens and a representative in Al-Mokattam Constituency represents 111,360 citizens.
- 2- Qaliubiya Governorate: A representative in Tookh Constituency represents 228,226 citizens, while a representative in Qaliob Constituency represents 130,008 citizens.
- 3- Sharkia Governorate: A representative in Kafr Sakr Constituency represents 214,599 citizens, while a representative in Mashtol Al-Sook Constituency represents 149,154 citizens.
- 4- Damietta Governorate: A representative in Faraskor Constituency represents 205,991 citizens, while a representative in Al-Zarka Constituency represents 124,291 citizens.
- 5- Kafr El-Sheikh Governorate: A representative in Al-Hamool Constituency represents 234,493 citizens, while a representative in Beela Constituency represents 104,256 citizens.
- 6- Gharbia Governorate: A representative in Basyoon Constituency represents 235,970 citizens, while a representative in Kotoor Constituency represents 135,924 citizens.
- 7- Monufia Governorate: A representative in Berket Al-Saba' Constituency represents 230,341 citizens, while a representative in Al-Shohada Constituency represents 121,943 citizens.
- 8- Beheira Governorate: A representative in Kom Hamada Constituency represents 240,152 citizens, while a representative in Kafr Al-Dawar City Constituency represents 131,093 citizens and in Damanhour City Constituency 130,997 citizens.

- 9- Fayoum Governorate: A representative in Youssef Al-Seddik Constituency represents 255,941 citizens, while a representative in Abshway Constituency represents 141,491 citizens.
- 10- Beni Suf Governorate: A representative in Ahnasia Constituency represents 268,253 citizens, while a representative in Beni Suf Constituency represents 141,700 citizens.
- 11- Al-Minya Governorate: A representative in Al-Minya Constituency represents 249,040 citizens, while a representative in Al-Minya City Constituency represents 118,821 citizens.
- 12- Assiut Governorate: A representative in Al-Fateh Constituency represents 225,697 citizens, while a representative in Sadfa Constituency represents 103,617 citizens and in Abutig Constituency 111,893 citizens.
- 13- Sohag Governorate: A representative in Sohag City Constituency represents 199,127 citizens, while a representative in Dar Al-Salam Constituency represents 143,556 citizens.

Based on the aforementioned facts and since citizens, including those who meet the requirements for exercising the right to vote, despite their affiliation to different constituencies, are equally entitled to be represented, a uniform rule shall apply to all of them which guarantee nondiscrimination towards them with regards to their proportional representation. Such rule shall have as its ultimate goal the achievement of actual citizen representation, thus reflecting the principles mentioned in Article (4) of the Constitution stating that sovereignty belongs to the people who are the source of power, and greatly contributing to the country's political life. Such emphasizes the fact that while voting is perceived as a right that citizens hold, it is equally perceived as a duty they should fulfill since it is society's way of achieving its aspirations through guaranteeing the freedom of the citizens thereof to exercise their choice. Such freedom is clearly manifested in citizens' right to vote in parliamentary councils elections. Therefore, the legislative structure shall ensure that a voter's vote in one constituency is equally weighted as that of another voter in another constituency while taking into account the number of population. Such shall lead to the realization of the principles of equal opportunity and equality among citizens in terms of exercising their right to vote. In light of the aforementioned facts, any attempts to prevent, disregard or weaken the proportional representation of voters in a certain electoral constituency in comparison to their peers in other constituencies shall constitute a violation of the principles of equal opportunity and equality among citizens in terms of exercising their right to vote.

In light of the aforementioned points and since Article (3) of the Presidential Decree Law No. 202/2014, is not in line with the two principles of fair representation of the population and equal representation of voters as evidenced in the individual electoral system table attached herein showing an unequal weighting of votes of voters in different electoral constituencies – as previously illustrated – without any reasonable justification for such inequality, and since such inequality constitutes a violation of the right to vote, a deviation from the purpose for which such right was enshrined by the Constitution, a violation of the principles of equal opportunity and equality among citizens in exercising such right and a violation, in turn, of the people's sovereignty being the source of power, said article is deemed contradictory to the provisions of Articles (4), (9), (53), (87) and (102) of the Constitution, thus rendering such article unconstitutional.

As the plaintiff claims that the party-list system violates principles of equal opportunities and equality before the law and does not take into account the proportional weight of votes.

Whereas the provisions included in Article (4) of HoR Law, and the inability of Articles (2) and (3) of Law 202/ 2014 referred to herein– in area of application on election system with lists –and the attached table regarding constituencies of, has chosen for election with lists system to divide the Arab Republic of Egypt into four (4) constituencies, two of them were allocated (45) seats each, the first of which consists of the sector of Cairo, South and Central Delta, which comprises (6) governorates, including 21,280,268 voters and its population is 31,826,460 citizens, and the second is the constituency of the sector of North, Central and South Upper Egypt which consists of (11) governorates, and has 19,715,314 voters and 33,321, 638 citizens. the legislator allocated for the other two constituencies (15) seats each, the first of which is the sector East of Delta (7) governorates, that has 6,729,018 voters and its population is 10,747,074 citizens, and the second is the sector of West Delta (3) governorates, that has 7,309,449 voters and its population is 10,918,551 citizens, Also the second paragraph of Article (4) of house of representatives law referred to, stated that the number of members elected for each constituency is to be in proportion of its population and voters, to take into account the equitable representation for population and governorates and equivalent for voters, it leads to that the preceded regulation has committed with the constitutional controls for dividing the constituencies and distribution of seats between them, and does not violate principles of justice, equality and equal opportunity, also does not contravene with any other provision in the constitution, that requires dismiss that part of the case.

Whereas claiming that Article (10) of House of Representatives law is in violation with the constitution provisions, as it contained obligation on the candidate to submit statement includes the biography of the candidate specially his/her scientific and practical experience, Article (18) of the current constitution states that "Citizen participation in the public life is a national duty, and each citizen has the right to vote and to be elected and give his/her opinion in the referendum, and the law regulates exercising these rights.....", and Article (102) states that ".....and it is required for the applicant for membership of house of representatives (parliament), to be Egyptian and enjoys his/her civil and political rights, and has a certificate of completion of basic education,.....and the law indicates the conditions for applying for the elections', learned from above, and the judge of this court – that citizen has the right to vote and to be elected and give his opinion in the referendum in accordance with the provisions of law, and his/her contribution in the general life is a national duty, and the two preceded mentioned provision entrusted the legislator to regulate the right to be elected and to indicate its conditions, to ensure achieving targets aimed by the constitutional legislator in deciding it, and that obliges the legislator to put a regulation based on objective foundations providing equal opportunities for the candidates, excretion for their superiors, and that is to ensure citizens' right to choose their representatives in parliaments, as the legitimate authority is imposed only by the voters, and these two rights (nomination and voting) are compulsory needed to activate democracy in its content that decided constitutionally, and to ensure that the parliaments are in fact revealing the people's will, and consequently may not to entrust this representation to whom are not performing correctly, so that not to be burden on

the parliament, but to enrich its works through creative effort that interacts with the responsibilities of the representatives of the people and that requires from the one that entrusted the honor of representing the Egyptian nation to have the moral, psychological, mental, scientific and practical properties, which means the need to weigh the competing candidates in the light of the best appropriate to entrust the task of legislation in the light of their adequacy, integrity, perseverance to work and their scientific and practical ability to bear the burden related to public affairs, and must always be the best elements of the society to assume the functions of general affair.

Whereas The choice – as considered – selective work – presumably in the broader circumstances – that the competing candidates of the seats of the HoR do not unify in their scientific and practical competence to assume it, and some of them has elements of excellence and preference that is to weigh one another, and that the assessment of these elements to determine between them who is more worthy and more deserving of selection, is an objective process not issued the body assuming it according to its desires, and does not express its whims, as the voters body has to compare between these elements in the light of facts, and to weigh each of them with the balance of right, justice and eligibility, so that its evaluation integrates with reality.

Based on the above, and whereas the legislator has considered within the discretionary authority granted by the constitution to him, to oblige the applicant for nomination, to attach with the nomination request a statement includes his biography, for his introduction, and specially his scientific and practical experience, to make available for each voter real ability to differentiate through it between the competing candidates on the representatives seats, and since the legislative decided this condition in general abstract rule, that all the candidates from membership of HoR stand equally in front of it, without including constraint or barrier to run for nomination, he does not go outside the limits determined by the constitution or deviated from principles of equality before the law and equal opportunities, or confiscate the freedom of the voter in this area that elevates his/her responsibility from just to express his/her opinion in an affair that reflects a special benefit for him, to efficient representation in the highest legislation bodies, and if the impugned provision does not violate the constitution in other manner, the court rejects this part of the case.

Whereas, Article (10) of the law of the house of representatives, has committed the applicant for nomination, to attach with the nomination request a receipt of deposit of an amount of three thousand pounds (EGP 3,000) to the treasury of the court of first instance as insurance for the applicant for candidacy in the constituencies allocated for election by the individual system and an amount of six thousand pounds (EGP 6,000) for the list allocated for it (15) seats, the purpose of this insurance, as set forth in Article (26) of the same law is to deduct from it the costs of removing the election posters and this amount or the remaining of it after deducting these costs to be refunded to the candidate during thirty days max. from date of declaration of the election result, and the legislator took into account in assessing the insurance the value of the actual cost to remove the posters, and the responsibility of that, and his evaluation in all of this was based on objective ground aiming to achieve objectives that there is no dispute about their legitimacy, and ensuring application to the identical legal positions that are not in excess of their requirements, if the plaintiff claimed that this in contrary to the constitution provisions, be misplaced really by wrap it up, and the court rejects this part of the case.

Given the aforementioned reasons, the following was decided:

The court ruled:

First: To dismiss the appeal on Article (25) of the law regulating the exercise of political rights issued by decision of the president of the republic by law No. 45 of 2014.

Second: The unconstitutionality of the text of the third article of the decision of the Presidential Decree Law #202/2014 on the Division of the House of Representatives Elections Constituencies, in the area of its application on the election by the individual system, and the table "(first) individual" attached to it.

Third: to reject all other requests

Forth: compel the government expenditures and the amount of two hundred pounds attorney fees

Secretary

First Vice-President of Court

In the name of the people

In its public session held on Sunday, 1 March 2015 A.D., corresponding to 10 Jumaada-ul-Awwal 1436 A.H.;

Under the chairmanship of Chancellor Anwar Rashad El-‘Assy **First Vice-President of the Court;**

In the membership of chancellors Dr. Hanafy Aly Gebaly, Mohamed Abdul Aziz Alshenawy, Essayed Abdul Moneim Hashish, Mohamed khairy Taha Alnajjar, Dr. Adel Omar Sherif and Paul Fahmy Eskander **Vice-Presidents of the Court;** and

In the presence of Chancellor Mahmoud Mohamed Ghoneim, **Chairman of the Board of Commissioners,** and Mohamed Nagy Abdel-Samee’, **Secretary;**

The Supreme Constitutional Court (SCC) has hereby issued the following ruling:

On lawsuit No. 16 for the Judicial Year 37 “Constitutional” listed in the Supreme Constitutional Court (SCC) Roll between the following litigants:

Plaintiff

Mr. Gamal Aly Zahran

Defendants

- 1- President of the republic
- 2- The Prime minister
- 3- HEC Head

Proceedings

On fifth of February 2015, the plaintiff filed this declaration in court clerks, requesting judgment against the unconstitutionality of the provisions of Articles (4), (6), (10) of the HoR law issued by Presidential Decree Law No. 46/ 2014, and Presidential Decree Law No. 202/2014 on the Boundary Delimitation for the House of Representatives Elections.

The State Lawsuit Authority submitted a memorandum requesting originally: rule not to accept the case for the absence of capacity and interest. And as alternate: not to accept the case for the text of the second paragraph of Article (6) of the House of representatives law referred to, and otherwise dismiss the case.

Having prepared the lawsuit, the Board of Commissioners submitted a report stating the opinion thereof.

The lawsuit was considered as illustrated in the minutes of the session and the SCC decided to rule thereon in today's session.

Court

Having reviewed relevant documents and conducted appropriate deliberations;

As the facts - on what turned out of the prosecute and other papers – that the plaintiff filed the prosecute No. 26992 for the Judicial Year 69 before the Administrative Court against the third defendant, requesting the court to stop the implementation and then cancel the High Elections Commission Decree No. 1/2015 for the invitation of voters to elect members of the House of Representatives 2015, as he claimed that this decision vitiated by a defect of legitimacy, and contrary to the provisions of the Constitution, and during the course of the proceedings the plaintiff claimed the unconstitutionality of the provisions of Articles (4), (6), and (10) of the House of Representatives law and the aforementioned Decree Law No. 202/ 2014, Recognizing the seriousness of this claim the court permitted the plaintiff to raise constitutional case, That is the case in hand.

Since the plaintiff requested in session dated 25/02/2015 a rule of unconstitutionality of the two laws by decrees challenging them not to contain a text of isolating members of the dissolved National Democratic Party and the Muslim Brotherhood, and the text of the Article (8) of the House of Representatives law does not include the condition of good character and reputation, and his claim of the non-constitutionality before the court of the subject has been limited to the provisions of Articles (4), (6), and (10) of the House of Representatives Law and the aforementioned Decree Law No. 202/ 2014, these are the provisions that the court deemed its challenge serious, and gave permission to the plaintiff to file a constitutional case, this case in this part is considered original constitutional case held in violation of the provisions of Article (29 / b) of the Act of this Court issued by Law No. 48/1979, which should rule not to accept the case for the preceded provision.

As decided in the judiciary of this court, that the legislator aimed with the provisions of Article (30) of the Court Act No. 48/1979 is that the referral decision or the prosecute to include the core data that reveal by itself the essence of the constitutional issue before the Supreme Constitutional Court to judge as well as its scope to make everyone informed of its different aspects, and made available to all of them - in the light of introducing them to the aspects of the constitutional question before them – to give their comments, responses and remarks on the dates set by the Articles (37) and (44 bis 1) of the Act of this Court amended by the President of the Republic Act No. 26 of 2014, so that the body of Commissioners to take up the issue before them and prepare a report of its opinion on the matter in accordance with the provisions of Article (40) of that Act.

Since the plaintiff does not claim in his prosecute the constitutional provision claimed to be in violation and aspects of violation in accordance with the provisions of Article (30) of the Code of this court, for the provisions of the election by the individual system contained the text of Article (4) of the House of Representatives law, and the provision of Presidential Decree Law No. 202/2014 referred to, and the accompanying

tables related to this system, which judges not to accept the case regarding these provision in the preceded limits.

Whereas Article (4) of the above-mentioned House of Representatives law states that: "The Arab Republic of Egypt shall be divided to a number of constituencies allocated for election by individual system, and (4) constituencies allocated for election by lists system, and allocated for the two constituencies (15) seats each, and allocated for the other two constituencies (45) seats each, and a special law sets number, scope and components of each of them.

.....”

Also, Article (6) of the same law provides that: "In order for the continuation of membership of House of Representatives that the member to remain on the basis of the capacity in which he was elected, so if he loses this capacity, or changed his affiliation partisan that has been elected on its base, or the independent to be partisan waived membership to be waived by a resolution of the House of representatives by a two-thirds majority of the members of the parliament.

In all cases, women membership does not fall unless changed partisan affiliation or independent that has been elected on its basis.

Article (10) states that "A written application for candidacy for membership of the House of Representatives, in the constituencies allocated for election by individual system, to be presented to the Commission for the governorate elections, that he chooses to run, within the period prescribed by the HEC provided to be not less than five days from the date of opening the door for nomination.

And nomination application to be accompanied by the following documents:

.....
.....

A receipt of deposit of an amount of three thousand pounds to the treasury of the competent court of first instance as insurance

.....

The provisions set forth in the preceding paragraphs apply on candidates of the lists, and the representative of the electoral list assumes doing the procedures of their nomination by an application on the form prepared by the Committee fresh elections, accompanied by the documents specified by the Commission to prove the feature of each candidate on the list, and a receipt of deposit of an amount of six thousand pounds for the list allocated for it 15 seats and increase that amount to three times for the list allocated for it 45 seats.

.....

Whereas Article (2) of the Presidential Decree Law #202/2014 on the Division of the House of Representatives Elections Constituencies says: “The Arab Republic of

Egypt shall be divided into 237 constituencies assigned for individual nominees, and into 4 constituencies for the party list system”. Whereas Article (3) of the same law stipulates that “the range, components, and the number of seats of each constituency, as well as the number of seats assigned to each governorate, shall be determined according to the attached tables, taking into consideration fair representation of population, governorates and voters.”

As scheduled in the juridical of this court that the condition of interest - and integrated in it the character - is one of the fundamental conditions that the constitutional case does not be accepted in its absence, and the strength that the judge in the constitutional issue to be required to settle the issue in totality or subsidiary that revolves around it the disagreement in whole or part of it in the substantive prosecute, and its concept is determined in the light of two components: the first: the plaintiff to present - In the limits of the capacity in which prosecuted the text Legislative contested - the evidence that an actual damage has been suffered, and damage should be direct, independent of its elements, possible to recognize and responded by the judiciary satisfaction, and not imagined harm, theoretical or unknown. And the second: the cause of this damage be attributed to the legislative text be contested, and if this text has not been applied originally on the plaintiff, or he was not addressed by its provisions, or had benefited from its advantages, or the prejudice to the rights claimed does not return on him, there is no direct personal interest, so that the revocation of the legislative text in all of these pictures, will not bring any practical benefit to the plaintiff that can change his legal position after deciding in the constitutional case, than before raising it.

Whereas Article (6) of the House of Representatives Law lays down the provisions to be followed should a membership be revoked following loss of title or change of partisanship from the status at the time of election, and whereas the plaintiff has not acquired membership of the House of Representatives, this Article shall not apply to him. Thus, there is no direct personal interest in this part of the case.

Whereas the present 2014 Constitution lays great importance on the notion of “citizenship”, emphasizing in its first article that the democratic republican system is based on citizenship and rule of law and affirming in its fourth article that “Sovereignty belongs only to the people who shall exercise and protect it. The people are the source of powers, and safeguard their national unity that is based on the principles of equality, justice and equal opportunities among all citizens”. Whereas Constitutional Article (87) states that the “participation of citizens in the public life is a national duty and says that every citizen has the right to vote, run for elections, and express his/her opinion in referendums. To do so, the State shall enter the name of each citizen in the voters’ database without request therefrom provided that he/she satisfies the conditions for voting”. Article (102) of the Constitution calls for a balanced representation of voters. In accordance with the rulings of this Court, it follows that the sovereignty of the people can only be achieved by providing the rights of all citizens to elect their leaders and representatives in charge of ruling the State, provided they fulfill voter conditions. Every citizen has the right to express his free opinion in elections and referenda. No citizen may be deprived of such constitutional right except if prevented of doing so by a temporary or permanent objective reason pertinent to the right to vote, such as not being of legal age to qualify to make sound choices or suffering a mental affection that may impair such ability.

The right of citizenship calls for equality of public rights and duties and may not be subject to derogation or limitation except under circumstances of objective impediment not representing per se any constitutional fraud.

Based on the above, and in light of Article (87) which states that “the State shall enter the name of each citizen in the voters’ database without request therefrom provided that he/she satisfies the conditions for voting”, the plaintiff is an eligible voter since he is a citizen and the papers constituting the present lawsuit do not, in any way, imply that the plaintiff no longer enjoys the voter status for any reason whatsoever. Such papers do not state any impediment preventing the plaintiff from exercising his political rights. The plaintiff brought a lawsuit before the said Court, challenging HEC Decree #1/2015 and requesting that an immediate ruling be issued to suspend and annul the same in order to prevent the conduct of HoR elections. The plaintiff has also filed in this current constitutional lawsuit for a ruling that Articles (4) and (10) of the HoR Law and Law 202/ 2014 are unconstitutional and breach Constitutional bylaws. This is based on the breach of the principles of equal opportunity and equality, since these Articles do not fulfill equality among listed candidates and jeopardize his legal status as voter. The plaintiff has filed the case for personal interest damage since Article (4) of the HoR Law allocates 15 seats to 2 constituencies and 45 seats for 2 other constituencies out of 4 constituencies for list electorates. In addition, Article (10) grants freedom to candidates to run for the governorate of their choice and determines the insurance value to be deposited at the Treasury of the candidate’s First Instance Court for 15-seat list electorates. Finally, Article (2) of Law 202 for 2014 and Article (3) of its bylaws fall short of its application to list electorates and its published list.

Thus, the plaintiff deplores the shortcomings of Article (4) of the HoR Law, Article (2) of Law 202/2014 and Article (3) of its bylaws and the breach of list electorates and associated published lists of principles of equality, justice and equal opportunity, given the unequal number of candidates among list electorates across the country.

With respect to provisions of Article (4) to guarantee principles of equality, justice and equal opportunity and rules regulating legislator authority on rights, freedom and public duties, the Rule of Law has supported such values in numerous articles (Articles 8, 27, 81, 93 and 99). However, it has failed in defining its structural and dimensional concepts – as has been the case with this Court – and is not a sustainable model that applies to the various streams of life. Thus, it fails to balance the obligations imposed by the legislator on citizens, seen by some as injurious and meant to be favorable, rendering the enforcement of such Law non-viable for tolerance, conflicting with principles of Justice and amounting to obsolete.

According to Articles (4), (9) and (27) of the Constitution, the legislator is to enforce the principle of equal opportunity among all citizens without discrimination. In accordance with the rulings of this Court, it encompasses all opportunities offered by the State, equally irrespective of enforcement obstacles of crowdedness and subject to constitutional immunity to deliver according to priority and objective principles of public interest.

The principle of equality provided by Articles (4) and (53) of the Constitution aims at – as stipulated by the rulings of this Court – the non-validity of the legislative or

executive authorities to implement their legislative competence stipulated by the Constitution in default of equal protection of rights for all, whether stipulated or not by Law. It takes into account that equal protection before the Law as stipulated by the Constitution is not regarded as an absolute concept. It regards the Law as an expression of a specific policy instituted by the statuses imposed by its problems. It enriches itself with content that guarantees self-achievement of its aims through mechanisms it has adequately determined. The variability of Law in different situations, statuses or individuals is not a challenge of the reality between them. Its evaluation is based on objective principles and is inspired by objectives bearing no doubt on their legality. It ensures the unity of the legal basis concerning individuals with similar circumstances and not exceeding its requirements. The law falls within the framework of the legislator's authority and is, therefore, not subject to any suspicion. The law comprises an understandable discrimination, which does not affect its constitutional right-to-be of equality that it favors and thrives to apply as perfectly as possible, without any enforcement affecting its standpoint or representing a breach.

The legislator enjoys a virtual authority on the choice of electoral system, according to Article (102) of the Constitution. Yet, this authority is not absolute, and is bound by limitations and guidelines set by the Constitution, the respect of rights and freedoms it pledges to guarantee, enabling public duties and their practice without limitation or burdens likely to affect them or any of their components. Among the limitations and guidelines is Article (102) of the Constitution, which legislators must take into account on determining and dividing conscriptions without neglecting any governorate or human settlements. This is done in accordance to terms and conditions laid out by the legislator and Constitutional guidelines, and may not affect statutory rights in any way. Furthermore, a balanced representation of voters has to be respected in order for an MP in any particular conscription to represent the same number of voters as in any other conscription. This is not meant to be an absolute arithmetic equality in every conscription, but the differences in numbers and the mean of all represented by an MP at the country level should be acceptable – whenever possible. Such provision should also respect Article (4) of the HoR Law, Articles (2) and (3) of Law 202/2014 – within its range of application – and the table of list conscriptions. The Arab Republic of Egypt is divided into 4 conscriptions, of which two are allocated 45 seats: the first 45-seat conscription of Cairo and mid- and southern Delta covers 6 governorates and 21'280'268 voters over a population of 31'826'460 inhabitants. The second covers 11 governorates of northern and mid-Upper Egypt, with 19'715'314 voters over a population of 33'321'638 inhabitants. The other two 15-seat conscriptions are as follows: the Eastern Delta conscription covers 7 governorates with 6'729'018 voters over a population of 10'747'074 inhabitants, and the Western Delta conscription covers 3 governorates with 7'309'449 voters over a population of 10'918'551 inhabitants. Article (4) of the HoR Law stipulates that the number of MPs elected for each conscription should be proportional to the number of voters and inhabitants. It also stipulates that the number of voters should be a fair representation of the respective population and governorates. The rules thus laid are in harmony with the constitutional guidelines for the number of seats per governorate. We are thus aware that the plaintiff of non-commitment to principles of justice, equality and equal opportunity in such legal provision is unfounded. Consequently, no conflict exists between these provisions and the Constitution and the Court is called upon to dismiss the case within such context.

Similarly, the plaintiff objects to the clause of “chosen for candidacy” in Article (10) of the HoR Law, claiming a contradiction with Article (102) of the Constitution. According to the lawsuit, the right of the candidate to choose the governorate contradicts the provisions of this Article, which stipulates that the candidate should be from the governorate, or born or working or dwelling in it.

Article (87) of Chapter (3) in the Constitution, on rights, freedom and public duties, stipulates the rights to run for candidacy and to vote for all citizens. Such rights – as also ruled by this Court – are mandated by the Constitution and are to be keenly practiced by citizens to guarantee their choice of leaders and representatives in charge of the administration, the HoR and public interest. Such rights are also complementary to each other and for parliamentary activity, since they are crucial for democracy in its constitutional form. They also guarantee that parliamentary bodies truly reflect the will of the people and are an honest expression of people’s will. Beyond this guarantee of the Constitution of these two citizen rights, the Constitution ensures their application in public life in its commitment as a national duty to enable the sovereignty of the people stipulated in Article (4) of the Constitution. Such sovereignty can only be achieved in full through such rights and their real and effective application by citizens, without limitations of their content, affection of their subsistence or reduction or forfeiture of their core values. In turn, Article (92) of the Constitution stipulates that rights and freedom of the citizen cannot be subjected to suspension or reduction. The same Article did not allow any room for legislators to limit its core values, as applied to the distribution of constituencies, according to Article (102) of the Constitution. This Article stipulates the fair representation of inhabitants and governorates as well as a fair and balanced representation of voters. Thus, legislators resort to paragraph 1 of Article (10) of the HoR Law on the right of candidates to choose their governorates. This aims at guaranteeing this right and freedom to practice it in achievement of its objective and constitutional frameworks. This is particularly important because it one of the main applications of citizens political rights and a democratic means to freedom of expression and their participation in public life. In this light, this legal text is in no contradiction with Articles (87) and (102) of the Constitution, nor with any other text included, which calls for the Court to reject this lawsuit.

Whereas the plaintiff deplors the difference between the amounts mentioned Article (10) of the HoR Law to be deposited in the Treasury of the competent Court of First Instance by the candidate in individual election constituencies and that of 15-seat slates, which represents an unjustifiable discrimination contravening principles of equality.

Whereas Article (10) of the HoR Law imposes an EGP 3,000 deposit receipt to be enclosed with each candidacy request, as proof of deposit of such amount at the Treasury of the competent Court of First Instance representing insurance for the candidate in individual system election conscriptions. This amount reaches EGP 6000 for 15-seat slates. As mentioned in Article (26) of the HoR Law, these insurance amounts are intended to cover costs of electoral billboards and will be redeemed in total or the remainder after deduction of such costs by the candidate within a maximum of 30 days from the announcement of election results. The legislator will estimate the insurance amount based on the actual cost of electoral billboard removal

and carry the legal responsibility of such. This estimate is based on objective grounds and aims at legal unobjectionable objectives. The implementation of such procedure falls on individuals of legal status who should not exceed their requests. Therefore, deploring the contravening of such text to the principle of equality by plaintiffs should be disregarded and, since such appeal does not contradict any other text in the Constitution, the Court should reject the case and dismiss it.

Given the aforementioned reasons, the following was decided:

The Court has ruled that the action be dismissed, bail confiscated, legal action fees collected from the plaintiff, along with attorney fees of EGP 200.

Secretary

First Vice-President of Court

In the name of the people

In its public session held on Sunday, 1 March 2015 A.D., corresponding to 10 Jumaada-ul-Awwal 1436 A.H.;

Under the chairmanship of Chancellor Anwar Rashad El-‘Assy **First Vice-President of the Court;**

In the membership of chancellors Abdel Wahab Abdel Razek, Mohamed Abdel Aziz Al-Shenawy, Al-Sayed Abdel Moneim Hashish, Said Marei Amr, Boulos Fahmy Eskandar, and Dr. Hemdan Hassan Fahmy..... **Vice-Presidents of the Court;** and

In the presence of Chancellor Mahmoud Mohamed Ghoneim, **Chairman of the Board of Commissioners,** and Mohamed Nagy Abdel-Samee’, **Secretary;**

The Supreme Constitutional Court (SCC) has hereby issued the following ruling:

On lawsuit No. 17 for the Judicial Year 37 “Constitutional” listed in the Supreme Constitutional Court (SCC) Roll between the following litigants:

Plaintiff

Mr. Mohamed Ibrahim Amin El-Sayed, in his capacity as Secretary of Education and Media at the Socialist Labor Party

Defendants

- 1- The President of the Republic, in his capacity
- 2- HEC Head, in his capacity

Proceedings

On February 5, 2015, the plaintiff had lodged an initiatory pleading to the Supreme Constitutional Court clerk's office. The original claim bore on the non-constitutionality of Laws 45 and 46 for 2014 issued by the Interim President of the Republic during the tenure of the new President of the Republic. The alternative claim bore on the unconstitutionality of Articles (2) and (4) of Law No. 46 for 2014 on the House of Representatives, and Articles (22) and (57) of law No. 45 for 2014 regulating the Exercise of Political Rights.

The State Lawsuit Authority has submitted a request to reject the original lawsuit and refuse the alternative lawsuit.

Having prepared the lawsuit, the Board of Commissioners submitted a report stating the opinion thereof.

The lawsuit was considered as illustrated in the minutes of the session during which the plaintiff attended in person. He submitted a legal pleading and a document

portfolio, containing a photocopy of the verdict of lawsuit no. 51701 for 1965 from the Administrative Court of Cairo and an official facsimile duplicate of the Social Labor Party Chief Decision no. 15 for 2014, dated December 3, 2014.

Court

Having reviewed relevant documents and conducted appropriate deliberations;

Whereas the facts – as indicated in the Statement of Claim and other documents – can be summed as follows: the plaintiff has lodged pleading no. 24174 for 1996 before the Cairo Administrative Court for an urgent original verdict to stop enforcement of the Higher Election Committee call for voters in House elections dated January 8, 2015. The Statement of Claim also calls for cancellation of the decision of the Higher Election Committee to call voters in elections of House members. The Statement of Claim similarly calls – as preventive ruling – to an appeal against Laws (45) and (46) for 2014 on the exercise of political rights and the House, either at the Supreme Constitutional Court or through a Constitutional pleading appeal by the plaintiff. The Statement of Claim also bears – as absolute preventive ruling – referral of Articles (2) and (4) of the HoR Law and Articles (22) and (57) of the Law of exercise of political rights, either at the Supreme Constitutional Court or through a Constitutional pleading appeal by the plaintiff. After thorough examination, the Court has filed for non-constitutionality of both aspects of the lodged preventive appeal and has informed the plaintiff in its verdict issued on February 3, 2015 to lodge a constitutional claim within 48 hours of its verdict, which he has done.

Whereas it is clear from the documents submitted, that the constitutional claim lodged was done in his capacity as Secretary of Education and Media at the Socialist Labor Party. It is also confirmed that the plaintiff has chosen premises of the Freedom Committee in the said party as official location, as confirmed by the document submitted during the pleading. The documents submitted also include a delegation of authority from the Head of the Party to lodge party legal claims before Egyptian courts of various competences on freedom and public opinion claims, which contradicts the objective claim lodged in his partisan and personal capacities.

Whereas Article (10) of Law (40) for 1977 on the organization of political parties states in Paragraph (1) that “the Head of the Party represents the Party in all legal matters before courts or any other party or in confrontations with others”. Paragraph (2) also states, “The Head of the Party may delegate one or more party leaders to exercise some competencies of the Head of the Party, in accordance with the internal bylaws”

Whereas Paragraph (1) of the previous Article implies the exclusive representation of the Party by its Head – and none other, including Party members – in all legal matters before courts or any other party or in confrontations with others. On the other hand, Paragraph (2) of the said Article allows the Head of the Party to delegate one or more party leaders to exercise some competencies of the Head of the Party – other than those mentioned in Paragraph (1) – in accordance with the internal bylaws.

Whereas Article (28) of the Law of the Supreme Constitutional Court issued in Law (48) for 1979 states, “except what was aforementioned in this Chapter, applies to

referral, lawsuit and claims presented to the Court, rulings by virtue of the Civil and Commercial Procedural Law without conflicting with the competence of the Court and statutes it witnesses”.

Whereas it has become clear to the Court that procedural statutes – whether proven by way of the Constitutional claim or by its lodging date – refer to the public status given its core value in the claim, with the legislator seeking preservation of public interest and organizing constitutional pleadings.

Whereas it is stipulated by law that virtual claim lodgers are part of the legal representation, it is thus a legal delegation of authority, with specific range and limitations and subject to its sources from Law. Similarly, legal representation and procedural status are conditions for proper legal procedures and any shortcomings in this respect lead to annulment of action.

Whereas, according to the above, the plaintiff in the constitutional claim lodged has not claimed to be the Head of the Socialist Labor Party and has not denied his status as Secretary of Education and Media in the Party. In addition, the Law has not allowed his representation of the Party before legal bodies, given that this is an exclusive competence to the Head of the Party, and none other. Furthermore, the plaintiff has reaffirmed in his Statement of Claim that the lawsuit is lodged in his personal capacity, whether as voter, nominee or candidate. These legal statuses carry personal interests, which warrant appeal on the constitutionality of jurisprudence of House elections and candidacy, in its set legal framework. Finally, the citizen status of the plaintiff during the hearing does not amend the procedural status of the claim after the expiry of the deadline set by the Court to lodge a constitutional claim, bringing Justice to refute the claim,

Given the aforementioned reasons, the following was decided:

The Court has ruled that the action be dismissed, bail confiscated, legal action fees collected from the plaintiff, along with attorney fees of EGP 200.

Secretary

First Vice-President of Court

Deposit No. at Dar El Kotob 65/2015

General Authority for Amiri Press
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