



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Numbers: IA/04947/2013
IA/04957/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 19 February 2014**

**Sent on
On 3 April 2014**

Before

UPPER TRIBUNAL JUDGE STOREY

Between

**MR KARAMAT HUSSAIN
MRS FAREEZA BI**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

NOTICE OF WITHDRAWAL OF CASE UNDER RULE 17

1. On 4 February 2014 the respondent wrote stating that she was now satisfied the appellants met the relevant requirements of the Immigration Rules and wished, in consequence, to withdraw her case under Rule 17(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008. She added that she believed that the case had become academic. On 13 February 2014 the appellants' representatives wrote to say that the respondent had confirmed she would be making a grant of ILR to the appellants and hence they agreed with the respondent's request that the case be withdrawn.
2. In *SM (withdrawal of appealed decision: effect) Pakistan* [2014] UKUT 64 (IAC) the Tribunal reviewed the proper construction of Rule 17(2) with particular regard to

when it would be appropriate for the Tribunal to proceed with a case notwithstanding a request for withdrawal. At [59] the Tribunal stated:

“What, then, should we derive from these High Court and AAC cases on ‘academic’ proceedings, bearing in mind the somewhat different statutory context in which the Immigration and Asylum Chamber must operate? There are two main points. The first is the principle of restraint, most strongly expressed in the requirement that there must be exceptional features before a court will proceed to adjudicate substantively on an issue that, as between the parties, has become academic. The second is that, in deciding whether a case is exceptional the court will consider if there is an issue to resolve, that will have direct relevance in other cases, thereby potentially saving time and expense in litigating future disputes, and which is not fact-sensitive.”

3. The Tribunal concluded at [72] as follows:

“Section 86 of the 2002 Act does not purport to prescribe the way in which matters raised as grounds of appeal must be determined. In re-making a decision in an appeal, pursuant to section 12(2)(b)(ii) of the 2007 Act, where the respondent's decision has been withdrawn, the Upper Tribunal may make a formal disposal of the appeal if, in all the circumstances, having regard to the overriding objective and the matters mentioned below, that appears to be the most the appropriate way of dispose of the proceedings. In such cases, the Tribunal would decline to hear argument and need not reach a substantive, reasoned determination. The formal disposal will normally be to dismiss the appeal, unless the issue of costs, coupled with the reasons underlying the respondent's withdrawal of the appealed decision, point towards allowing the appeal. In either case, the formal disposal of proceedings will preserve the appellant's position, pending the fresh decision of the respondent.”

4. Having considered the matter I am satisfied that I should accept the request for withdrawal and that it would be inappropriate to proceed further with the case. Whilst the grounds did raise issues of interpretation that remain unresolved, the state of the arguments prior to the respondent's request to withdraw was somewhat diffuse and in the absence of nay further input from either party it is difficult to say that there would be an important point of principle which would emerge in the course of further deliberations.

5. I formally dismiss the appeal, noting that the appellants’ position is reserved pending the promised fresh decision of the respondent to grant them ILR.

Signed

Date

Judge of the Upper Tribunal