



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

Appeal Numbers: IA/10927/2013
IA/10928/2013

THE IMMIGRATION ACTS

Heard at Field House

**On 3 February 2014
Oral judgment**

**Determination
Promulgated
On 4 February 2014**
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Before

UPPER TRIBUNAL JUDGE COKER

Between

**MS CHANDI VIYANGA WIJESKARA ARACHCHIGE
MR SARBO DEVIN WELAPURA**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Bellara, Counsel

For the Respondent: Mr T Melvin, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The applicant had leave to remain as a Tier 1 (Post-Study Work) Migrant until 8 June 2012. On 24 September 2012 she made an application to

vary that leave to remain to Tier 1 (Entrepreneur) Migrant. That application was refused on 20 March 2013 and a decision was also made to remove her by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006.

2. Unfortunately it was not noticed until today that the decision refusing to vary leave to remain is a non-appealable decision as defined by Section 82 of the Nationality, Immigration and Asylum Act 2002. There is therefore no appeal against the decision dated 20 March 2013 to refuse to vary her leave to remain.
3. There was an appeal against the decision to remove her by way of directions under Section 47. That appeal was successful before the First-tier Tribunal in a decision dated 16 September 2013 and that decision therefore stands, namely that the decision to remove her in accordance with Section 47 was not in accordance with the law.
4. There is no error of law. The appeal before me is dismissed.

Signed

Date 4th February 2014

Upper Tribunal Judge Coker