



IAC-AH-LEM-V1

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

Appeal Number: OA/15310/2013

**THE IMMIGRATION ACTS**

**Heard at Centre City Tower, Decision & Reasons Promulgated  
Birmingham  
On 11<sup>th</sup> August 2015**

**On 21<sup>st</sup> August 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE FRENCH**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT  
(ON BEHALF OF ENTRY CLEARANCE OFFICER MUMBAI)**

Appellant

**and**

**ASHIYA IBRAHIMBHAI GHANTI  
(NO ANONYMITY ORDER MADE)**

Respondent

**Representation:**

For the Appellant: Mr N Smart, Senior Home Office Presenting Officer  
For the Respondent: None

**CONSENT TO WITHDRAWAL OF THE APPELLANT'S CASE (PURSUANT TO  
RULE 17(2) OF THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES  
2008 AS AMENDED**

1. The Respondent's application for entry clearance had been refused by the ECO Mumbai. Her appeal against that decision was heard at Birmingham by Judge of the First-tier Tribunal Rose. In a decision promulgated on 30<sup>th</sup> July 2014 the appeal was allowed. The essence of the issue in question

was whether the Respondent's Sponsor met the maintenance requirements of the Immigration Rules as set out in Appendices FM and FM-SE to those Rules.

2. The Secretary of State sought to appeal that decision on the basis of the interpretation put by Judge Rose upon paragraph 13(a)(i) of FM-SE. Permission to appeal was granted to the Secretary of State on 18<sup>th</sup> August 2014 and the matter was subsequently listed to be decided in the Upper Tribunal and on this basis came before me.
3. However in the meantime it is apparent from correspondence from the Respondent's solicitors that she made a further application for entry clearance which was duly granted. Her solicitors applied to withdraw the appeal before the Upper Tribunal but were correctly informed that only the Secretary of State could withdraw the appeal, which had been made at her instigation. The appeal thus remained listed.
4. At the hearing before me Mr Smart, on behalf of the Secretary of State, said that although it was clearly arguable that on the basis of the Rules in place as at the date of decision under appeal that the point was arguable, in the light of further amendments to the Rules he was not seeking to pursue the appeal. He therefore applied to withdraw the case pursuant to Procedure Rule 17(2). It was apparent from the correspondence from the Appellant's solicitors that she consented to withdrawal (which she herself had sought).
5. I accordingly consented to withdrawal of the Secretary of State's case in its totality. There is now no issue to be decided by the Upper Tribunal and these proceedings are therefore at an end.

No anonymity direction is made.

Signed

Date 19 August 2015

Deputy Upper Tribunal Judge French