

THE HIGH COURT
JUDICIAL REVIEW

[2017 No. 719 J.R.]

BETWEEN

AMARDEEP SINGH, UNA KUMAR, ROWAN KUMAR (A MINOR SUING THROUGH HIS MOTHER AND NEXT FRIEND UNA KUMAR) & MAYA KUMAR (A MINOR SUING THROUGH HER MOTHER AND NEXT FRIEND UNA KUMAR)

APPLICANTS

AND

THE MINISTER FOR JUSTICE AND EQUALITY

RESPONDENT

[2017 No. 18 J.R.]

BETWEEN

YUNLONG LI

APPLICANT

AND

THE MINISTER FOR JUSTICE AND EQUALITY

RESPONDENT

(No. 2)

JUDGMENT of Mr. Justice Richard Humphreys delivered on the 8th day of October, 2019

1. In *Singh v. Minister for Justice and Equality (No. 1)* [2019] IEHC 537 (Unreported, High Court, 1st July, 2019) I dismissed the applicants' judicial review proceedings on a number of converging grounds:
 - (i) a challenge to a mere proposal is generally inappropriate;
 - (ii) an applicant cannot challenge a decision on the basis of a point not actually made; which was what was attempted here;
 - (iii) insofar as the applications related to the Immigration Act 2004, they were misconceived;
 - (iv) insofar as the applications relate to a process outside the 2004 Act, the applicants were not as yet disadvantaged;
 - (v) I would have refused the application in *Li* on discretionary grounds had it not failed on the merits; and
 - (vi) as regards discrimination or arbitrary application of the 2004 Act, inadequate evidence of such discrimination or arbitrary operation had been presented, but even if it had been that would not have given rise to an entitlement to the relief sought in the present proceedings.
2. The applicants now seek leave to appeal, and I have received helpful submissions from Ms. Leanora Frawley B.L. (with Mr. Mel Christle S.C.) for the applicants and from Mr. David Conlan Smyth S.C. for the respondents (with Mr. Anthony Moore B.L. in *Singh* and with Ms. Kilda Mooney B.L. in *Li*).

3. While the applicants have raised various inventive questions regarding s. 4 of the 2004 Act, the key issues regarding the interpretation of that Act have already been clarified at appellate level as set out in the substantive judgment, so there is no point in granting leave to appeal in this case.
4. Ms. Frawley has in oral submissions limited herself to the first question relating to the 2004 Act proposed in her written submissions, but the various judgments at appellate level discussed in the No. 1 judgment, while perhaps not addressing the question as so worded expressly, have the logical consequence that a person who at some period in the past had a s. 4 permission which has expired for more than a *de minimis* period cannot now seek to rely on s. 4 to circumvent the deportation process. In any event I should perhaps add that the convergence of a number of separate reasons for dismissal of the proceedings here also militates against the conclusion that the test for leave to appeal has been satisfied.

Order

5. Accordingly, the application for leave to appeal is refused.