



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

Appeal Numbers: IA/06367/2013
IA/06370/2013
IA/06375/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 28 July 2015**

**Decision & Reasons
Promulgated
On 19 August 2015**

Before

**THE HON. MR JUSTICE KNOWLES
DEPUTY UPPER TRIBUNAL JUDGE ALIS**

Between

**ALPA AMIT KANSARA
AMIT SUNIL KUMAR KANSARA
KHUSHI AMIT KANSARA
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Sharma, Counsel
For the Respondent: Mr P Nath, Home Office Presenting Officer

DECISION AND REASONS

1. This is a matter that has returned to the Upper Tribunal after a procedural course that included a period before the Court of Appeal. By order stamped on 27 October 2014 Lord Justice Underhill explored provisionally the potential relevance of paragraph 276ADE(iv) and the question of the

formulation of that paragraph at the time material for the purposes of this case. Ultimately by order stamped 1 June 2015 Lord Justice Underhill on the request of the parties remitted the matter to the Upper Tribunal for a substantive hearing.

2. Following that, Mr Sharma of Counsel has identified in addition the potential application of paragraph 276B to the case and in the result the course proposed both by the appellants and by the Secretary of State is that the Secretary of State should have the opportunity to reach a determination under both of these headings. That will be the first occasion on which the Secretary of State has had that opportunity. For reasons we need not go into paragraph 276ADE was not referenced during the earlier procedural history of this case, hence the engagement by Lord Justice Underhill with that paragraph.
3. We consider the proposed course a sensible one and so without reaching any determination on the merits we allow the appeal in order that the matter as a whole is remitted to the Secretary of State for the purpose of the determinations we have mentioned. In the event that once those determinations have been made they merit a challenge of any sort the appellants will have the remedies available to them in relation to that determination.

Notice of Decision

The appeal is allowed to the above extent.

Signed

Date 14.08.2015

Mr Justice Knowles