



**The Upper Tribunal  
(Immigration and Asylum Chamber)  
IA/07508/2015**

**Appeal number:**

**THE IMMIGRATION ACTS**

**Heard at Birmingham**

**Decision & Reasons  
Promulgated**

**On March 9, 2016**

**On March 29, 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**MRS KANCHAN RAMA  
(NO ANONYMITY DIRECTION)**

Respondent

Representation:

Appellant

Mr Diwnycz (Home Office Presenting Officer)

Respondent

Mr Sharma (Legal representative)

**DECISION AND REASONS**

1. The respondent in these proceedings was the appellant before the First-tier Tribunal. From hereon I have referred to the parties accordingly so that for example reference to the respondent is a reference to the Secretary of State for the Home Department.

2. The Appellant is a citizen of India. The appellant entered the United Kingdom on June 20, 2014. On November 3, 2014 she applied for a residence card, as the spouse of an EEA national exercising treaty rights, pursuant to Regulation 17 of the Immigration (European Economic Area) Regulations 2006. The respondent refused her application in a decision dated February 19, 2015.
3. The appellant appealed this decision on February 26, 2015 under section 82(1) of the Nationality, Immigration and Asylum Act 2002 and Regulation 26 of the 2006 Regulations.
4. The appeal came before Judge of the First-tier Tribunal Colyer on June 17, 2015 and in a decision promulgated on July 2, 2015 he allowed the appeal under Regulation 15 of the 2006 Regulations.
5. The respondent lodged grounds of appeal on July 7, 2015 submitting the First-tier Judge had erred by allowing the appeal under the wrong Regulations. In doing so he had given the appellant permanent residence as against a residence card.
6. Judge of the First-tier Tribunal Grant-Hutchinson gave permission to appeal on this point.
7. The matter came before me on the above date and I asked the appellant's representative whether he opposed the application. He confirmed he did not and accepted the Judge had erroneously granted permanent residence under Regulation 15 as against simply granting a residence card under regulation 17.
8. In the circumstances I found there had been an error in law to the extent that the appeal had been allowed under the wrong provision. Mr Diwnycz did not argue the decision to grant a residence card.
9. The First-tier Tribunal did not make an anonymity direction and pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 I make no order now.

### **DECISION**

10. The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law. I set aside the First-tier Tribunal's decision and I remake allowing the appeal under Regulation 17 of the 2006 Regulations.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis

**FEE AWARD**

I make no amendment to the fee award awarded.

Signed:

Dated:

A handwritten signature in black ink, appearing to read "SPAL" with a flourish underneath.

Deputy Upper Tribunal Judge Alis