

SPECIAL IMMIGRATION APPEALS COMMISSION

Monday, 8th October 2012

BEFORE:

MR JUSTICE MITTING

S1, T1, U1 and V1

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

MS S HARRISON and MS A WESTON (instructed by BPP) appeared on behalf of the Appellants.

MR RUPERT JONES (instructed by the Treasury Solicitors) appeared on behalf of the Respondent.

JUDGMENT

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MR JUSTICE MITTING:

1. Ms Harrison applies on behalf of the appellants for a stay of their appeal, pending their application for permission to apply for judicial review lodged last month in the Administrative Court.
2. The judicial review challenge is based on two fundamental propositions: first, that SIAC erred in its ruling in July of this year that it had no jurisdiction to determine an appeal against the making of a deprivation order, as opposed to a decision to deprive of citizenship, and, alternatively, that, if that decision was wrong, on the underlying procedural merits, there was no substance in the appellant's challenge. SIAC attempted to do a belts-and-braces exercise: if it got it right, then neither by judicial review nor by a statutory appeal would its decision be overturned; if it got it wrong, then there is a statutory appeal route and my anticipation is that the Administrative Court would hold that, in consequence, judicial review is not the appropriate remedy to challenge that decision. Accordingly, my current assessment of the appellant's prospects of obtaining permission to apply for judicial review of that element of the decision-making process is that the prospects are slim or even negligible.
3. There is, however, a second challenge, that is to the Executive decision of the Secretary of State not to revoke the deprivation order made or, alternatively, to facilitate the return of the appellants to permit them to conduct their appeals in person in the United Kingdom. My own view of the prospects of that challenge is that they are slim, but, ultimately, this is a question of the expenditure of taxpayers' money, because, if that view is wrong and permission to apply for judicial review is given and the challenge succeeds, substantively, then any proceedings undertaken by SIAC,

unless they resulted in a favourable outcome for the appellants, will have to be undertaken all over again. Mr Jones, for the Secretary of State, has taken instructions on that and is willing to take the risk on the chin. Given my own view about the prospects, I should give effect to that view in those circumstances, and I do. This application for stay is refused.
