



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

Appeal Number: IA/18406/2012  
IA/18407/2012

**THE IMMIGRATION ACTS**

**Decided at : Field House**

**On : 9 July 2013**

**Determination**

**Promulgated**

**On : 10 July 2013**  
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**Before**

**UPPER TRIBUNAL JUDGE KEBEDE**

**Between**

**GURPREET SINGH  
MICHALA GUJDOVA**

Appellants

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DETERMINATION AND REASONS**

1. The first appellant is a citizen of India, born on 12 July 1986 and the second appellant is a citizen of the Czech Republic born on 28 December 1985. On 25 July 2012 the respondent refused to issue the second appellant with a Registration Certificate under the Immigration (European Economic Area) Regulations 2006 and on the same day refused to issue the first appellant with a Residence Card as the family member of his EEA national spouse.

2. The appellants' appeals against those decisions were formally dismissed by First-tier Tribunal Judge Majid on 5 March 2013 without any consideration of the merits, on the basis that they had made fresh applications on 13 August 2012 which had yet to be decided by the respondent.

3. The appellants applied for permission to appeal to the Upper Tribunal on the grounds that they had not made any such new applications and that the judge had failed to consider the merits of the appeals.

4. Subsequent to my grant of permission to appeal to the Upper Tribunal on 14 April 2013, which followed a failure by both parties to respond to my directions of the same date, I made the following directions on 20 May 2013:

"1. In the absence of any, or any adequate, response from either party, to the directions issued by the Upper Tribunal on 24 April 2013, and in the absence of any evidence of a further application having been submitted by the appellants on 13 August 2012 (the only acknowledgement of receipt of that date being in respect to the notice of appeal submitted in relation to the respondent's decision of 25 July 2012), the Tribunal is minded under rule 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (and compatibly with Practice Statement 7) to set aside the determination of First-tier Tribunal Judge Majid and to remit the appeal to the First-tier Tribunal to be considered afresh.

2. Any objection to this proposed course must be made to the Upper Tribunal in writing, giving reasons, not later than 14 days from the date these directions are sent out. In the absence of any reasonable response, within that time, the Upper Tribunal may then proceed to set aside the First-tier Tribunal's decision and remit the case to the First-tier Tribunal"

6. No response has been received from either party and thus there has been no objection by the respondent to the proposed course stated.

7. In the circumstances, for the reasons set out in the grant of permission and directions as referred to above, I set aside Judge Majid's decision and remit the case to the First-tier Tribunal.

## **DECISION**

8. The decision of the First-tier Tribunal is set aside. The appeal is remitted to the First-tier Tribunal, to be dealt with afresh, pursuant to section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(a), before any judge aside from Judge Jhirad and Judge Majid.

Signed  
Date

Upper Tribunal Judge Kebede