



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

Appeal Numbers: VA/00129/2013
VA/00120/2013
VA/00124/2013

THE IMMIGRATION ACTS

**Heard at North Shields
On 4th September, 2013**

**Determination Promulgated
On 30th September, 2013**

Before

Upper Tribunal Judge Chalkley

Between

ENTRY CLEARANCE OFFICER - NEW DELHI

Appellant

and

**RAJBEER SINGH ROUD
BIKRAMJIT SINGH ROUD
KAWALJEET KAUR ROUD**

Respondents

Representation:

For the Appellant:

Mr J King, a Home Office Presenting Officer

For the Respondents:

DETERMINATION AND REASONS

1. The appellant is the Secretary of State for the Home Department to whom I shall refer as "the claimant" and the respondent is Rajbeer Singh Roud, a citizen of India who was born on 15th July, 2010. The respondent's parents Bikramjit Singh Roud and

Kawaljeet Kaur Roud applied, with the respondent, for a visit visa under the provisions of paragraph 41 of HC 395 as amended, ("the Immigration Rules"). Their applications were all refused by the appellant. The respondent and his parents appealed and their appeals were heard by First-tier Tribunal Judge Cameron at North Shields on 18th July, 2013 and in a determination promulgated on 19th July, last. Judge Cameron allowed the appeals of the respondent's parents and purported to allow the appeal of the respondent.

2. The claimant appealed the decision to allow the respondent's appeal, but not the decision to allow the appeals of his parents. The grounds of the appeal point out that the respondent's application was dated 12th October, 2012, and that the respondent was accompanying his parents to visit his uncles.
3. On 9th July, 2012, the Immigration Appeals (Family Visitor) Regulations 2012 ("the Regulations") came into force, the effect of which is to re-categorise the class or description prescribed for the purposes of Section 88A(1)(a) of the Nationality, Immigration and Asylum Act 2002 ("the 2002 Act"). Under Section 88A(1)(a) of the Act, a person may not appeal under Section 82(1) against refusal of an application for entry clearance, unless the application is made for the purposes of:

“(a) visiting a person of a class or description prescribed by the Regulations for the purpose of this sub-Section.”
4. Under the Regulations, the respondent is a "family member" if he is visiting a spouse, civil partner, father, mother, son, daughter, grandfather, grandmother, grandson, granddaughter, brother or sister, father-in-law, mother-in-law, brother-in-law or sister-in-law, son-in-law or daughter-in-law or stepfather, stepmother, stepson, stepdaughter, stepbrother or stepsister. The Regulations do not give a right of appeal to someone who has applied for entry clearance to visit the United Kingdom for the purposes of a family visit to visit their uncle.
5. As a result, the respondent had no right of appeal and the First-tier Tribunal Judge therefore had no power to consider the respondent's appeal.
6. The First-tier Tribunal Judge erred in law. I set aside her decision. The respondent had no right of appeal.

Upper Tribunal Judge Chalkley