



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

**Appeal Numbers: IA/47874/2014
IA/48009/2014
IA/48010/2014**

THE IMMIGRATION ACTS

**Heard at Field House
On 13 January 2016**

**Decision and Reasons Promulgated
On 2 February 2016**

Before

DEPUTY JUDGE DRABU CBE

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**Mr ARSALAN SHAKEEL
MUHAMMAD AZHER TAYAB
WAJEEHA AKHTER AZHER**

Respondents

Representation

For the Appellant: Mr P Duffy, Senior Presenting Officer
For the Respondent: Mr P Richardson of Morgan Malik Solicitors

DECISION AND REASONS

1. This appeal has been brought by the Secretary of State. The respondents are citizens of Pakistan. Their appeal against the appellant's (the Secretary of State) decision refusing to vary leave to remain and to remove by way of directions under Section 47 of Immigration, Asylum and Nationality Act 2006 was allowed by Judge Cohen for reasons given in the determination promulgated on 3 July 2015 following a hearing on 18 June 2015 at Taylor House. For what follows in this determination, recitation of relevant facts is not necessary.
2. At the hearing before me Mr Duffy in his submissions invited me to find that the First Tier Judge Cohen had been misled by the appellant's reasons for refusal letter and had therefore allowed the appeal as a consequence. He asked that the appeal be allowed and remitted to the appellant to enable her to make a decision in accordance with the Law and the rules.

3. Mr Richardson for the respondents agreed with the submission made by Mr Duffy and agreed that the relief sought by him was in accord with the relevant case law on Fairness. He cited the case of Mushtaq 2015 UKUT 44 as well as the principles on fairness set out in decisions in Naved and Patel.
4. In the light of agreement by parties and my own view of the relevant facts, I allow this appeal of the Secretary of State and direct her to make a fresh decision that accords with the Law and rules.

K Drabu CBE
Deputy Judge of the Upper Tribunal.
23 January 2016