



Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD957/2023

SFPH
Applicant

**MINISTER FOR IMMIGRATION, CITIZENSHIP AND MULTICULTURAL
AFFAIRS** and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE STEWART

DATE OF ORDER: 03 November 2023

WHERE MADE: Sydney

BY CONSENT, THE COURT ORDERS THAT:

1. The application be allowed.
2. A writ of certiorari issue be directed to the Administrative Appeals Tribunal quashing the decision of the Administrative Appeals Review Tribunal dated 29 August 2023 according to the law.
3. A writ of mandamus issue be directed to the Administrative Appeals Tribunal requiring it to determine the application made to it for review of the decision of a delegate of the first respondent dated 25 January 2021 according to the law.
4. The first respondent is to pay the costs of the applicant as agreed or taxed.

THE COURT NOTES THAT:

- A. The first respondent accepts that the application must be allowed on the basis that the second respondent (**the Tribunal**) failed to comply with cl 8.3(1) of Ministerial Direction No. 99. The applicant advanced representations about the considerable emotional hardship his mother and siblings would face in the event of a non-revocation decision, and the practical hardship his mother would face in the event of non-revocation decision, and the Tribunal failed to consider those representations. The error was material and was therefore jurisdictional.



Date that entry is stamped: **03 November 2023**

Sia Lagos
Registrar



Schedule

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Second Respondent ADMINISTRATIVE APPEALS TRIBUNAL