



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

No: NSD1197/2023

VZSJ
Applicant

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

ORDER

JUDGE: JUSTICE STEWART

DATE OF ORDER: 09 January 2024

WHERE MADE: Sydney

BY CONSENT, THE COURT ORDERS THAT:

1. The application for judicial review filed on 22 October 2023, as amended on 26 November 2023, be granted.
2. A writ in the nature of certiorari issue directed to the second respondent quashing its decision dated 20 October 2023.
3. A writ of mandamus issue directed to the second respondent requiring it to determine according to law the application for review made on 10 April 2022.
4. The first respondent pay the applicant's costs of the proceeding, to be assessed if not agreed.

THE COURT NOTES THAT:

- A. The first respondent concedes that the decision of the second respondent dated 20 October 2023 is affected by a material jurisdictional error in the form of a failure by the second respondent to comply with a mandatory consideration under paragraph 8.4(4)(f) of *Ministerial Direction No. 99 – Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA*, on the basis that the second respondent failed to consider the known views of the child when assessing the best interests of minor children in Australia. In particular, the first respondent concedes that the second respondent erred in failing to consider



the views of Miss IW, Master JP and Miss AP, as set out in the Application Book filed in these proceedings at pages 529-533, and 1944-1945, 1946 and 1993-1994.

Date that entry is stamped: **09 January 2024**

Sia Lagos
Registrar



Schedule

No: NSD1197/2023

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Respondent ADMINISTRATIVE APPEALS TRIBUNAL