



**IN THE FEDERAL CIRCUIT and  
FAMILY COURT OF AUSTRALIA (DIVISION 2)  
AT MELBOURNE**

[REDACTED]

[REDACTED]

**MINISTER FOR IMMIGRATION, CITIZENSHIP AND MULTICULTURAL  
AFFAIRS**

First Respondent

**ADMINISTRATIVE APPEALS TRIBUNAL**

Second Respondent

**ORDER**

**BEFORE:** Judge Edwards

**DATE:** 17 June 2026

**MADE AT:** Melbourne

**APPEARANCES:** pursuant to rule 23.07 and sub-rule 24.08(4)(c) of the *Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2025 (Cth)* being considered in chambers and there being no appearances required of the parties.

**THE COURT ORDERS BY CONSENT THAT:**

1. The first applicant is appointed as the litigation guardian of the third and fourth applicants, who are each persons who are taken to need a litigation guardian in relation to the proceeding pursuant to r 9.25(2) of the *Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2025 (Cth)* (the **Rules**).
2. Pursuant to r 1.10 of the Rules, the requirements in r 9.28 and r 9.30 of the Rules be dispensed with.
3. The name of the first respondent to be amended to Minister for Immigration and Citizenship.



4. A writ in the nature of certiorari issue directed to the second respondent quashing the decision of the Administrative Appeals Tribunal dated [REDACTED] (AAT case number [REDACTED]).
5. A writ of mandamus issue directed to the second respondent requiring it to determine according to law the application for review made by the applicants on [REDACTED].
6. The first respondent pay the applicants' costs of the proceeding, as assessed or agreed.

**THE COURT NOTES THAT:**

- A. The first respondent concedes that the Tribunal fell into error by diverting its task of determining whether there would be a real chance that the applicant would be persecuted if he returned to [REDACTED], by focusing instead on an assumption of how the risk of persecution might be avoided. This is because the Tribunal found that first applicant would not attend political rallies, and there would therefore be little reason for the [REDACTED] state to be concerned about his political activities, without considering why the first applicant would not attend rallies and his evidence that he would be harmed if he did so. See *S395/2002 v Minister for Immigration and Multicultural Affairs* (2003) 216 CLR 473, [35] (McHugh and Kirby JJ) and [88] (Gummow and Hayne JJ); *Minister for Immigration and Border Protection v SZSCA* (2014) 254 CLR 317, [17] (French CJ, Hayne, Kiefel and Keane JJ) and [37] (Gageler J).
- B. The first respondent concedes that the error was material because there is a realistic prospect that the Tribunal could have made a different decision if the error had not been made: *LPDT v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2024] HCA 12 at [14]-[16].

**By the Court**

**DATE ENTERED:** 17 June 2026

Registrar