



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

File No: MLG672/2022

ASX22
First Applicant
ASZ22
Second Applicant
ATA22
Third Applicant
ATB22
Fourth Applicant
ATC22
Fifth Applicant

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

First Respondent
IMMIGRATION ASSESSMENT AUTHORITY
Second Respondent

ORDER

BEFORE: REGISTRAR VAN DER WESTHUIZEN
DATE: 05 July 2023
MADE AT: MELBOURNE (In Chambers)

THE COURT ORDERS BY CONSENT THAT:

1. The name of the first respondent be amended to “Minister for Immigration, Citizenship and Multicultural Affairs”.
2. A writ of certiorari issue directed to the second respondent quashing the decision of the second respondent dated 21 February 2022.
3. A writ of mandamus issue directed to the second respondent requiring it to determine the review of the decision of a delegate of the first respondent dated 6 October 2021 according to the law.
4. The first respondent pay the applicants’ costs fixed in the amount of \$4,189.38.




THE COURT NOTES THAT:

The first respondent accepts that the application must be allowed on the basis that the second respondent failed to have regard to, or overlooked, relevant country information contained within the review material when it found (at [126]) that “*there is no evidence before me to indicate access to mental health services is selective or applied in a discriminatory manner*”. Specifically, the second respondent failed to have regard to, or overlooked the US State Department Country Report on Human Rights Practices for Sri Lanka, published on 29 March 2021 (**2021 US State Department report**) cited in the delegate’s decision record (at p 17) about Tamils reportedly suffering “*long-standing systematic discrimination in university education, government employment, housing, health services, language laws, and procedures for naturalization of non-citizens*”.

Accordingly, the first respondent concedes that, the second respondent committed a jurisdictional error by overlooking cogent, and corroborative evidence relating to the first applicant’s claim that he would be denied access to mental health treatment for reasons of race and membership of a particular social group as a Tamil living in the east of Sri Lanka: *Minister for Immigration and Citizenship v SZRKT* (2013) 212 FCR 99 at [112].

By the Court

DATE ENTERED: 5 July 2023



Registrar