

THE HIGH COURT
JUDICIAL REVIEW

[2016 No. 834 J.R.]

BETWEEN

SHIV ANAND RAGHOO AND MARIE JOELLE MILEINE RAGHOO

APPLICANTS

AND

THE MINISTER FOR JUSTICE AND EQUALITY

RESPONDENT

JUDGMENT of Mr. Justice Richard Humphreys delivered on the 10th day of December 2019

1. The situation in this case is slightly unusual in the sense that, shortly before the hearing date of 10th December, 2019, the applicants were each given a two-year permission to remain in the State on 4th December, 2019 pursuant to the "*Special Scheme for students from 01/01/05 to 31/12/10*", which was a procedure that was put in place administratively following the Supreme Court decision in *Luximon and Balchand v. Minister for Justice and Equality* [2018] IESC 24 [2018] 2 I.R. 542.
2. The substantive relief sought in the judicial review is a claim for orders of *certiorari* quashing the two deportation orders dated 23rd September, 2016 against each of the applicants. That no longer arises since the applicants have now been given permission to remain, so the outstanding issue is one of costs.
3. Mr. Conor Power S.C. (with Mr. Ian Whelan B.L.) for the applicants applies for costs. Ms. Sylvia Martinez B.L. for the respondent says there should be no order as to costs.
4. In *M.K.I.A. (Palestine) v. International Protection Appeals Tribunal* [2018] IEHC 134 [2018] 2 JIC 2708 (Unreported, High Court, 27th February, 2018) I attempted to summarise the Supreme Court jurisprudence in relation to the costs of moot proceedings (*Cunningham v. President of the Circuit Court* [2012] IESC 39 [2012] 3 I.R. 222, *Godsil v. Ireland* [2015] IESC 103 [2015] 4 I.R. 535 and *Matta v. Minister for Justice and Equality* [2016] IESC 45 (Unreported, Supreme Court, 26th July, 2016) (Mac Menamin J.)). What we have in this situation is the proceedings becoming moot due to the act of the Minister in giving the applicants permission, which was essentially the objective they were driving at in the proceedings. There is a relatively close analogy here to *Godsil v. Ireland*, where the applicants have essentially succeeded in obtaining what they were looking for through the medium of litigation, and there does appear to be a sufficient nexus with the litigation in all the circumstances for the court to adopt the default order in such a situation of an order for costs against the party whose act has rendered the proceedings moot.
5. Consequently, the order will be an order for the applicants' costs, including reserved costs, against the respondent.