

THE HIGH COURT
JUDICIAL REVIEW

[2016 No. 757 J.R.]

BETWEEN

IBIBA GIRLIE JACKS

APPLICANT

AND

THE MINISTER FOR JUSTICE AND EQUALITY

RESPONDENT

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

1. The applicant arrived in the state from Nigeria in July, 2008. She was given a student permission until 2nd December, 2013. When that ran out she did not leave the State as required, but instead applied for a Stamp 4 permission on 8th January, 2014. That was refused on 22nd October, 2014. The Minister did, however, give her a temporary extension of her student permission until 3rd December, 2014 to enable her to finalise her affairs in the State prior to departure.
2. During the period the applicant following expiry of her student permission worked unlawfully in the State. She was informed of the Minister's intention to make a deportation order on 16th February, 2015. She unsuccessfully made representations and was then the subject of a deportation order on 15th August, 2016.
3. The leave application in the present proceedings challenging that order was first moved on 10th October, 2016 and was then adjourned by MacEochaidh J. In the meantime, the applicant in fact left the State in November, 2016. Leave was ultimately granted on 16th January, 2017.
4. I received helpful submissions from Mr. Conor Power S.C. (with Mr. Ian Whelan B.L.) for the applicant and from Ms. Sylvia Martinez B.L. for the respondent.
5. The question presented by the proceedings is whether the Minister erred in his assessment of the applicant's private life rights. He did not so err: see *Harish v. Minister for Justice and Equality* (Unreported, High Court, 10th December 2019). This applicant was here as a student for five years, and a temporary three-month extension was offered to allow her to finalise her affairs. The rest of her presence has been unlawful.
6. Mr. Power submits that the exceptional circumstances that apply to the applicant are:
 - (i). She is a widow.
 - (ii). She was here for over five years lawfully.
 - (iii). She was here for eight years in total.
 - (iv). She is 62 and thus at a time in her life that moving around would be disruptive.
 - (v). Retirement is looming.

(vi). As one gets older health issues may come into it.

However, those do not amount to exceptional circumstances.

7. The non-settled nature of her presence here and the lack of exceptional circumstances were such that it was lawfully open to the Minister to conclude that deportation does not engage the operation of art. 8 of the ECHR, as applied by the European Convention on Human Rights Act 2003. That has already been determined by MacMenamin J. in *P.O. v. Minister for Justice and Equality* [2015] IESC 64 [2015] 3 I.R. 164, a decision cited in the analysis supporting the deportation order, which is reasoning that renders the decision lawful.

Order

8. The proceedings are dismissed.