



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: IA/43971/2014

THE IMMIGRATION ACTS

Determined at Field House

**Decision and Reasons
Promulgations**

On: 26 August 2015

On 28 August 2015

Before

UPPER TRIBUNAL JUDGE O'CONNOR

Between

Secretary of State for the Home Department

Appellant

and

Muhammad Farooq

Respondent

NOTICE OF DECISION

1. The Secretary of State brings an appeal to the Upper Tribunal against the decision of FTTJ Hagan, allowing Mr Farooq's appeal against a decision refusing him leave to enter. Permission to appeal to the Upper Tribunal was granted on the 22 June 2015.
2. However, prior to this, on 2 May 2015, the Secretary of State granted Mr Farooq leave to remain. Mr Farooq's section 82 appeal is to be treated as abandoned pursuant to section 104(4A) of the Nationality, Immigration and Asylum Act 2002, at the point in time that the grant of leave was made. This has a number of possible consequences. It seems to me that as a consequence of such abandonment the Upper Tribunal had no jurisdiction to grant permission and such grant is to be treated as a nullity. That brings these proceedings to an end, and the determination of the First-tier Tribunal remains standing.

3. If I am wrong in treating the appeal before the Upper Tribunal as a nullity then, in any event, Mr Walker sought to withdraw the Secretary of State's appeal thereto. Insofar as is necessary, and for reasons which are obvious, I consent to this course. As such the Secretary of State's case before the Upper Tribunal is withdrawn and the First-tier Tribunal's determination remains standing.

Signed:

Upper Tribunal Judge O'Connor
Date: 27 August 2015