



## HIGH COURT OF AUSTRALIA

7 September 2012

PLAINTIFF S10/2011 v MINISTER FOR IMMIGRATION AND CITIZENSHIP & ANOR;  
KAUR v MINISTER FOR IMMIGRATION AND CITIZENSHIP & ANOR; PLAINTIFF  
S49/2011 v MINISTER FOR IMMIGRATION AND CITIZENSHIP & ANOR; PLAINTIFF  
S51/2011 v MINISTER FOR IMMIGRATION AND CITIZENSHIP & ANOR

[2012] HCA 31

Today the High Court dismissed four applications for declaratory relief and the issue of certiorari and constitutional writs against the Minister for Immigration and Citizenship ("the Minister") and the Secretary for the Department of Immigration and Citizenship.

Sections 48B, 195A, 351 and 417 of the *Migration Act 1958* (Cth) ("the Act") confer powers upon the Minister to intervene with respect to the granting of visas under the Act. The powers may only be exercised by the Minister personally and the Minister cannot be compelled to exercise them. Each of the plaintiffs in these proceedings had sought to invoke the exercise by the Minister of those powers after having unsuccessfully sought merits review and, in some cases, judicial review of a decision to refuse to grant a visa.

The plaintiffs submitted that in deciding whether or not to consider the exercise of the relevant powers, or deciding whether or not to exercise those powers, the Minister was obliged to afford natural justice or procedural fairness to the plaintiffs.

The High Court dismissed the plaintiffs' applications, finding that the distinct nature of the powers conferred on the Minister by the Act meant that the exercise of the powers is not conditioned on the observance of the principles of procedural fairness.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*