



CO/2681/2023 LONDON

AC-2023-LON-002209

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IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

B E T W E E N :

JERSEY HEMP LIMITED

Claimant

v

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

AND

MINISTER FOR HEALTH AND SOCIAL SERVICES (GOVERNMENT OF JERSEY)

Interested Party

UPON the Defendant in its Detailed Grounds of 16th October 2023 conceding Grounds 1 and 2 of the Claimant's claim;

AND UPON the Defendant's application for transfer to the King's Bench Civil List dated 16th January 2024;

AND UPON considering the documents lodged by the parties and the court file.

Order by the Honourable Mr Justice Eyre

1. The statement made to the Claimant and or the advice given to the Government of Jersey by the Defendant's Drugs and Firearms Licensing Unit on 19th April 2023 that the Claimant's CBD oil products do not constitute an "exempt product" within the meaning of regulation 2 of the Misuse of Drugs Regulations 2001 is quashed.
2. Ground 3 and the claim for damages at paragraph 39.3 of the Statement of Facts and Grounds is transferred to the KB Civil List in the Central Office of the King's Bench Division, to proceed as a Part 7 claim.

3. By 4.00pm on 15th March 2024 the Claimant shall:
 - 3.1. File and serve Part 7 particulars of claim in respect of the transferred matters (including a fully particularised schedule of loss); and
 - 3.2. Apply for a Costs and Case Management Conference to be listed before a Master on the first available date after 13th May 2024 to consider the future management of the Part 7 claim.
4. The Defendant shall file and serve a Defence by 4.00pm on 12th April 2024.
5. The Claimant shall (if so advised) file and serve a Reply by 4.00pm on 3rd May 2024.
6. The Defendant shall pay the Claimant's costs of the claim incurred prior to 18th October 2023 to be assessed on the standard basis in default of agreement. Costs incurred after the said date are reserved to the trial of the Part 7 claim.

This order has been made without a hearing. Any party affected by this order may apply within 7 days of the service of this order on that party to have it set aside, varied, or stayed.

REASONS

1. Both sides are agreed that it is appropriate for there to be a holistic determination of the remaining issues. They differ as to the appropriate venue for that determination.
2. I am satisfied that the KB Civil List is the appropriate venue.
3. The core issues now remaining are the alleged breach of the Claimant's Article 1 Protocol 1 rights and the consequent claim for damages. The remaining areas of dispute underlying grounds 1 and 2 can only be relevant in so far as they impinge on those issues. Those remaining elements of grounds 1 and 2 appear also to have the potential to involve matters of fact. Thus para

8 of Sarah Ellson's witness statement suggests that there is likely to be a need for factual analysis of those matters.

4. Such factual analysis and holistic determination could be undertaken in the Administrative Court. However, they are best addressed in the context of part 7 proceedings with the provision for the collation and testing of evidence for which that procedure is suited. Such public law elements as remain are capable of being considered in the KB Civil List. In that regard I fail to understand the basis on which it is said that this could be to the detriment of the Claimant.
5. I have, therefore, ordered transfer but have modified the terms of the order proposed by the Defendant.

Stephen Eyre

Signed:

BY THE COURT