



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

Appeal Number: VA/10640/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 11 June 2014**

**Determination**

**Promulgated**

**On 30 July 2014**

**Before**

**THE HONOURABLE MRS JUSTICE SIMLER  
UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**MOHAMMAD MUKIT MIAH**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DETERMINATION AND REASONS**

1. This is an appeal before the Upper Tribunal by Mr Mohammad Mukit Miah who is an individual from Bangladesh who has applied for entry clearance as a visitor to the United Kingdom. His application was refused on 29 April 2013 and his appeal then came before Judge Napthine sitting at Hatton Cross in February 2014. Judge Napthine allowed the appeal under the Immigrations Rules.
2. The grounds of appeal brought by the Entry Clearance Officer were granted permission by Judge Levin on 11 April. In short, the permission

should never have been granted or the appeal pursued. I say that for this reason. The appeal raised questions of jurisdiction of the Tribunal in relation to the appeal of Mr Miah. The assertion in the grounds is that Mr Miah was coming to visit a non-qualifying relative, namely his uncle, in the United Kingdom and therefore unless he was able to show that the decision was unlawful by reference to the race relations or under the Human Rights Act, he could not succeed in that appeal.

3. The background is that Mr Miah's application form showed, at 8.4, two qualifying family members whom he was intending to visit, namely his uncle and also Sunar Bibi, his grandmother. She is described as British and as his grandmother; she would qualify under the 2012 Family Visitor Regulations as a relative, a visit to whom would give rise to an appeal to the First-tier Tribunal.
4. The question of whom the appellant was intending to visit was raised by an Entry Clearance Officer as part of the refusal of entry clearance. The assertion was made that only the uncle was the sponsor of the visit; no mention was made of the grandmother and the Entry Clearance Officer said "I am not satisfied that such evidence such as evidence of a UK passport was sufficient evidence to demonstrate your grandmother is aware of the proposed visit and has agreed to sponsor any part of your proposed visit". Now that was a matter which was not aired whatsoever before the judge sitting in the First-tier Tribunal and the reason for that is perhaps obvious from another document before us, that is the review of the refusal carried out by the Entry Clearance Manager in Bangladesh. Under the heading 'the appeal' it is written as follows:

It is conceded that as Appellant 2, (and here they are referring to Mr Miah) indicated that he intended to visit his grandmother, the sister of Appellant 1 and as a copy of her British passport was provided that his application should have been assessed as a family visitor

It is perhaps obvious, in the light of that document that the judge did not engage with that part of the refusal at all in his determination. It also means that in the light of that clear concession, that this ground of appeal to this Tribunal cannot succeed.

5. There was no other challenge to what the First-tier Tribunal Judge has said and there is nothing obvious about the remainder of his determination which would indicate that he found error of law of any kind. In those circumstances we dismiss the Entry Clearance Officer's appeal.

Signed

Date 11 June 2014

Upper Tribunal Judge Clive Lane