



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: AA/09450/2011**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14 October 2015**

**Decision and Reasons  
Promulgated  
On 14 October 2015**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**M A  
[ANONYMITY ORDER MADE]**

Appellant

**and**

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

Respondent

**CASE MANAGEMENT**

**ORDER AND DIRECTIONS**

1. This appeal concerns the risk on return to Pakistan for the appellant. On 14 September 2011, First-tier Tribunal Judge Wellesley-Cole accepted his account that he was an Ahmadi but rejected the rest of his core account of his treatment in Pakistan before he left the country in 1989. Permission to appeal was granted by the Upper Tribunal, not in relation to the negative credibility finding, but limited to the First-tier Tribunal Judge's failure to consider the Upper Tribunal's earlier decision in *MT*

(Ahmadi - HJ (Iran)) Pakistan [2011] UKUT 277 (IAC) which was reported, not as country guidance, but for the proposition that;

*“Where it is found that an Ahmadi will be “discreet” on return the reasons for such discretion will need to be considered in the light of HJ (Iran) [2010] UKSC 31.”*

2. The attention of the parties is drawn to the Upper Tribunal’s subsequent country guidance decision in *MN and others* (Ahmadis - country conditions - risk) Pakistan CG [2012] UKUT 00389 (IAC) which considered more fully the post-*HJ* position for Ahmadis in Pakistan.
3. At a hearing on 14 March 2012 before Deputy Upper Tribunal Judge Holmes, the respondent conceded that the credibility findings by the First-tier Tribunal were inadequately reasoned and unsafe, and that no findings of fact should be preserved.
4. The hearing of the appeal was then adjourned to be listed for mention before me on the first available date after 1 August 2012. Unfortunately, no such hearing took place because the decision in *MN and others* was not promulgated until November 2012. The appellant had filed further evidence and wished to give oral evidence at the resumed hearing. The parties were given liberty to apply to vary the directions, but no such application has been made.
5. The appellant’s solicitors wrote to the Upper Tribunal on 11 September 2013 and were told that the appeal was awaiting listing in the Upper Tribunal. By an administrative error, it was not listed. On 17 July 2015, the appellant’s solicitors wrote again seeking a hearing. They stated that:

*“The applicant has to put his life on hold, he is now married in the United Kingdom and is expecting his first child next month. He is unable to take any employment due to the restrictions imposed upon him by the Home Office and is therefore unable to support his family.”*

6. That letter has been brought to my attention today and I have considered how best to proceed to resolve this long outstanding appeal. It seems that the appellant’s factual position has changed significantly, and I note that no findings of fact or credibility have been preserved. It is open to the appellant to make further submissions to the respondent in relation to his changed circumstances, if he has not already done so, or for the respondent to reconsider this appeal of her own motion, given the change in the country guidance and the length of time which has elapsed. That is a matter for the parties.
7. Fresh findings of fact and credibility will need to be made in this appeal and then considered in the light of the country guidance in *MN and others*. The appellant may wish to give further oral evidence, in which case he will need to bring his witness statement up to date. I note that he had an interpreter originally but given that he has not lived in Pakistan since 1989, it may be that the appellant is able to give his

evidence in English. That will be a matter for him to consider with his representatives.

8. I consider that the appropriate course is to remit this appeal to the First-tier Tribunal for a full rehearing and for the decision to be remade afresh.

### **DIRECTIONS**

- (1) This appeal shall be listed before the First-tier Tribunal on the first available date with a time estimate of 2 hours. If either party considers such time estimate to be insufficient, they may apply to the First-tier Tribunal for a longer time on receipt of the hearing notice, giving reasons.
- (2) No interpreter will be booked for such hearing unless within 14 days of the sending to him of the notice of hearing, the appellant applies for an interpreter, giving reasons.
- (3) All other directions in relation to the resumed hearing shall be made by the First-tier Tribunal.



Date: 28 April 2016

Signed:  
Upper Tribunal Judge Gleeson