



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

Appeal Number: AA/05283/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 22 February 2016**

**Decision & Reasons Promulgated
On 26 February 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE MAHMOOD

Between

**N P Z
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Akinbolu, Counsel instructed by ROCK Solicitors

For the Respondent: Ms S Sreerahman, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This matter comes before me pursuant to permission having been granted by First-tier Tribunal Judge McDade dated 20 January 2016. The appeal relates to a decision by First-tier Tribunal Judge Khawar whereby a Decision was promulgated on 14 December 2015. The Judge at the First-tier Tribunal had dismissed the appeal on asylum and all other grounds.
2. The Appellant had appealed against the First-tier Tribunal Judge's decision and relied on, in reality, grounds which can be encompassed and summarised as follows:

- (1) The Judge had failed to place the Appellant's claim in the context of the background evidence; and
 - (2) The Judge had taken into account irrelevant matters.
3. In readiness for this appeal the Respondent had lodged a Rule 24 reply dated 3 February 2016.
 4. At the hearing before me today after brief submissions from Ms Akinbolu, Ms Sreeraman said she relied on the Rule 24 Reply and had no more to add.
 5. The Appellant's skeleton argument in readiness for this hearing highlights that there was an expert report from Dr Kakhki. That was a specific and detailed report but it was only at the end of the decision, once adverse credibility findings had already been made, that the Judge then considered the expert report. The dismissal of the report in this manner by the Judge is said to be an error of law because in fact the report corroborated the Appellant's account of a risk on return of forced marriage and more generally in respect of the plausibility of the account.
 6. In so far as Ground Two was concerned the Judge had taken irrelevant matters into account, such as the Appellant having been able to take weekend trips into account in his decision making.
 7. The Respondent's Rule 24 Reply submits that the Judge had looked at the evidence and that it was not likely that the Appellant's father would force the Appellant into an unsuitable marriage for his own financial gain. The Appellant's father was wealthy was evidence from the Appellant herself. The findings were open to the Judge it was said and her claim was found to run contrary to the background evidence.
 8. I can understand why the stance taken by the Respondent during the hearing before me was taken. In my judgment it is quite clear that the expert report in this case was a specific and relevant piece of evidence that should have been used as a tool in assessing the Appellant's credibility and that it was not sufficient to reject the expert report after the fact finding had been virtually completed. I agree with the Appellant's submission that it means that the Judge's decision and reasons are fundamentally flawed. Even if that was not the only error of law, the assumptions made that wealthier Iranians would not apply tradition, culture or that they would not follow more orthodox views about the marriage of women does indeed appear to have been impermissible findings well beyond what was raised in the expert report and beyond a proper reading of the background material.
 9. Accordingly I conclude that the grounds of appeal are made out. I therefore set aside the Judge's decision. The parties had jointly submitted that the appropriate course, if I had found there to be a material error of law, was for the matter to be remitted to the First-tier Tribunal for it to be re-heard by a different Judge.

Notice of Decision

The decision of the First tier Tribunal Judge contains material errors of law and is set aside.

The appeal shall be re-heard at the First-tier Tribunal.

An anonymity direction is made.

Signed

Date: 22 February 2016

Deputy Upper Tribunal Judge Mahmood