



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/04014/2015

**THE IMMIGRATION ACTS**

Heard at Manchester Civil Justice Centre  
On 14 June 2018

Decision & Reasons Promulgated  
On 22 June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

MISS NJSK  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms J Sachdev (Legal Representative) Bury Law Centre  
For the Respondent: Mr A McVeety, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant is a national of Bangladesh born on 29 December 1994. She arrived in the United Kingdom along with her former partner with leave as a Tier 4 Student on 27 February 2013. On 21 August 2014 she applied for further leave to remain on the basis of her family and private life but this application was refused on 21 October 2014. She appealed that decision but at the First-tier Tribunal appeal hearing on 19 May 2015 she advanced an asylum claim following which that appeal was adjourned and the Appellant claimed asylum on 26 June 2015.
2. The basis of her asylum application was that she would be at risk of persecution if returned to Bangladesh because she is an unmarried mother of two children and prior

to leaving Bangladesh her father and her maternal uncle had assaulted her having discovered that she was having a relationship outside marriage. She came to the United Kingdom with her former partner, however the relationship broke down due to domestic violence, but he maintained contact and a good relationship with the two children.

3. In refusing this application the Respondent expressly accepted at [17] of the refusal that the Appellant and her former partner had been in a relationship in Bangladesh. The Appellant appealed to the First-tier Tribunal and the appeal was heard on 5 October 2017. In a decision promulgated on 19 October 2017, the appeal was dismissed.
4. Permission to appeal was sought, in time, on the basis that the judge had erred materially in law in going behind the concession made by the Respondent in the refusal decision i.e. that the Appellant had been in a relationship with her former partner whilst living in Bangladesh. There were also a number of further grounds of appeal submitting that the Judge had made findings not open to him on the evidence and an issue of procedural fairness.
5. Permission to appeal was granted by Upper Tribunal Judge Rintoul in a decision dated 10 January 2018 on the basis that:

*“it is arguable that First-tier Tribunal Judge Alis impermissibly went behind a concession that the Appellant had been in a relationship with her former partner in Bangladesh – see refusal letter at [17]-[18] and [40].*

6. In a letter dated 2 February 2018 Ms A. Fijiwala wrote on behalf of the Respondent stating that the Respondent did not oppose the Appellant’s application for permission to appeal and invited the Tribunal to remit the matter back to the First-tier Tribunal.

#### *Hearing*

6. Despite the Respondent’s helpful concession that the decision of the First tier Tribunal was vitiated by error of law, the appeal came before the Upper Tribunal for hearing on 14 June 2018. At the hearing Mr McVeety maintained the position as set out in the letter of Ms Fijiwala. In light of the express concession by the Respondent that the First-tier Tribunal Judge had erred materially in law, I agreed to set that decision aside. The parties were agreed that there needed to be a full fact-finding exercise conducted and that this would be most appropriately done at a hearing *de novo* before the First-tier Tribunal. Ms Sachdev also indicated that she wished on the Appellant’s behalf to update the reports and statements from the Appellant.

#### **Notice of Decision**

7. I find a material error of law in the decision of First-tier Tribunal Judge Alis for the reasons set out in the first ground of appeal in respect of which permission was granted and which was conceded by the Respondent.

---

DIRECTIONS

---

1. I remit the appeal for a hearing *de novo* in the First-tier Tribunal.
2. The appeal is to be listed for two and a half hours. There is no requirement for an interpreter.
3. Any further evidence upon which the parties wish to rely should be submitted 5 working days prior to the hearing of the appeal.

**Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed *Rebecca Chapman*

Date 18 June 2018

Deputy Upper Tribunal Judge Chapman