



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: PA/07115/2017

**THE IMMIGRATION ACTS**

Heard at Field House  
On 30<sup>th</sup> August 2018

Decision & Reasons Promulgated  
On 5<sup>th</sup> September 2018

Before

UPPER TRIBUNAL JUDGE RIMINGTON

Between

M S H.  
(Anonymity Direction Made)

Appellant

and

The Secretary of State for the Home Department

Respondent

**Representation:**

For the Appellant: Ms F Clarke instructed by Fadiga and Co Solicitors  
For the Respondent: Ms J Isherwood, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal against the decision of First-tier Tribunal Judge Chana promulgated on 21<sup>st</sup> February 2018 and in which she dismissed the appeal of the appellant against the refusal of his asylum, humanitarian protection and human rights claim.
2. The grounds for permission to appeal contended that nowhere in the decision was there mention of the country expert report prepared by Professor Christopher Bluth, and therefore failed to approach the credibility findings with anxious scrutiny, and failed to consider the sur place claim properly, failed to assess the terrorist threat in

Pakistan and the UKPNP and the intertwining of these agencies. Further the judge failed to factor in the expert report when assessing risk on return. There were also errors of fact (the appellant was not arrested working but arrested at home).

3. Permission was granted on the basis that expert report was not considered.
4. At the hearing Ms Isherwood produced a Rule 24 response which conceded that there was indeed an error of law in the decision. The Secretary of State asserted however that the findings of the judge in relation to the false documentation submitted by the appellant at [22-24] of the determination had not been challenged in the grounds of appeal, and that these findings were sustainable.
5. I find there was indeed a material error of law. Nowhere in the decision of the First-tier Tribunal Judge was there any reference to the expert report. This report was said to be of fundamental importance and would impinge on the issues raised in the grounds for permission to appeal. There was limited reference by the expert to the authenticity of the documentation (and on which there is said to be a Document Verification Report confirming that the FIR was false [22] of the decision), but without full cognisance of the expert report by the judge, when arriving at her findings overall, preservation of those findings would be unsafe. The expert report would have an effect on the credibility findings and thus impinge on the findings as to the documentation as a whole. That is not to state that another judge may not come to the same conclusion but in the meantime the decision is set aside in its totality.
6. The Judge erred materially for the reasons identified. I set aside the decision pursuant to Section 12(2)(a) of the Tribunals Courts and Enforcement Act 2007 (TCE 2007). Bearing in mind the nature and extent of the findings to be made the matter should be remitted to the First-tier Tribunal under section 12(2) (b) (i) of the TCE 2007 and further to 7.2 (b) of the Presidential Practice Statement.

### **Direction**

Both parties are to file and serve any further evidence at least 14 days prior to the fresh hearing in the First-tier Tribunal.

### **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 his 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

*Helen Rimington*

Date 30<sup>th</sup> August 2018

Upper Tribunal Judge Rimington