



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

Appeal Numbers: PA/13664/2018  
PA/13665/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 7 June 2019**

**Decision & Reasons Promulgated  
On 26 June 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ESHUN**

**Between**

**G N  
N G C  
(ANONYMITY DIRECTION MADE)**

Appellants

**and**

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

Respondent

**Representation:**

For the Appellants: In Person

For the Respondent: Mr S Whitwell, HOPO

**DECISION ON ERROR OF LAW**

1. The appellants are mother and daughter born on 20 July 1980 and 25 May 2013 respectively. The second appellant is dependent on the first appellant.
2. The first appellant appeals against the decision of First-tier Tribunal Judge French dismissing her appeal against refusal to grant her asylum in the UK and leave to remain on human rights grounds.

3. The judges' decision that the appellant and her daughter are nationals of Malawi was upheld by UTJ Dawson who stated that he was not persuaded that there was any arguable merit in the challenge to the finding that the appellants are nationals of Malawi as adequate reasons were given by the judge.
4. Permission to appeal Judge French's decision was granted by UTJ Dawson because he was of the view that the cursory treatment of the second appellant's circumstances and best interests do raise the possibility of an arguable error.
5. The first appellant's evidence recorded at para 1 of the judge's decision was that there had been concerns about [N]'s social and communication difficulties and she had been referred for assessment. The judge noted that in a letter dated 22 August 2018 from a Paediatric Consultant, it was commented that she had recently made good academic progress. The judge said it was not clear that there had been a formal diagnosis that [N] was on the autistic spectrum, but even if she had been, it was a wide spectrum, and some children were less affected by that condition than others. The judge said that interestingly in a support plan that had been produced by Coventry SEND, there was reference to a household including not just the child and her parents, but a cousin who was not mentioned elsewhere.
6. Towards the end of para 9, the judge finds that the first appellant had claimed that her younger daughter had medical needs which could not be met in either in Zimbabwe or Malawi, but he was satisfied that there were adequate medical services available.
7. Mr Whitwell accepted that the judge had made an error of law by giving cursory treatment to the second appellant's circumstances. I find in addition that there was no express consideration of the child's best interests.
8. Accordingly, I find that the judge's decision cannot stand. The appellants' appeal is remitted to Birmingham for rehearing by a judge other than First-tier Tribunal Judge French.
9. The hearing is limited to the Article 8 appeals of the appellants.

**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

Date: 20 June 2019

Deputy Upper Tribunal Judge Eshun