



**Upper Tribunal
(Immigration and Asylum Chamber)
Number: PA/12083/2019**

Appeal

THE IMMIGRATION ACTS

**Heard at: Manchester Civil Justice Centre
(remote)
On: 1st October 2021**

**Decision & Reasons
Promulgated
On: 24th November 2021**

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

**AS + 3
(anonymity direction made)**

and

Secretary of State for the Home Department

Appellant

Respondent

**For the Appellant: Ms Khan, Legal Justice Solicitors
For the Respondent: Mr McVeety, Senior Home Office Presenting
Officer**

DECISION AND REASONS

1. The Appellant is a national of Afghanistan born in 1992. His dependents are his wife and two children. They are all Sikhs.
2. On the 9th February 2021 Judge Siddiqi dismissed the linked appeals of the Appellants on protection grounds. Permission was granted by Designated Judge of the First-tier Tribunal Shaerf on the 13th April

2021, who considered it arguable that Judge Siddiqi erred in failing to have regard to a material fact that emerged 'post-CG' (the operative guidance being TG & Others (Afghans Sikhs persecuted) Afghanistan CG [2015] UKUT 595 (IAC)): that the population of Sikhs in Kabul had substantially and materially diminished in recent times so as to render the remaining members of that community ever more vulnerable.

3. Before me Mr McVeety accepted that this was indeed an error of law. The evidence before the Tribunal had indicated that the number of Sikhs in Afghanistan had dwindled to between 220 and 300 families as of May 2019; Dr Giustozzi further gave evidence that the remaining community members were making their way to India. Contrary to the reasoning at paragraph 53 of the First-tier Tribunal decision, the Secretary of State now accepts that this dramatic reduction in the size of the population was a fact which merited departure from TG. I was invited to set the decision aside on that agreed footing.
4. At the hearing in October Mr McVeety indicated that the most recent evidence on the position of the Sikh community in Kabul puts the number of families left there as low as 20. The Respondent accepts that if this is correct, it will obviously have an impact on any forward looking risk assessment. With that in mind he asked for some time to be able to review the refusals in this case, and to reassess the Secretary of State's position. Ms Khan was content for such an adjournment to be granted.
5. The hearing was relisted for the 18th November 2021. On the 17th November 2021 the Tribunal received correspondence from the parties to the effect that the Respondent now accepted that the Appellant and his family were refugees and that protection status was to be granted accordingly. The Respondent therefore withdrew her case before the Tribunal without objection from the Appellant, who invites me to allow the unopposed appeal.

Decisions and Directions

6. The determination of the First-tier Tribunal is set aside for error of law.
7. The decision in the appeal is remade as follows: the appeal is allowed on protection grounds.
8. Having regard to the fact that the Appellants re refugees I make the following direction for anonymity, pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and the Presidential Guidance Note No 1 of 2013: Anonymity Orders.

“Unless and until a tribunal or court directs otherwise, the Appellants are granted anonymity. No report of these proceedings shall directly or indirectly identify them or any member of their family. This direction applies both to the Appellants and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings”.

Upper Tribunal Judge Bruce
18th November

2021