



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

Appeal Number: AA/08294/2014

THE IMMIGRATION ACTS

Heard at Newport

On 10 June 2015

**Decision & Reasons
Promulgated
On 18 June 2015**

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

**DS
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr G Hodgetts instructed by McGarvey Immigration & Asylum Practitioners Limited

For the Respondent: Mr D Mills, Home Office Presenting Officer

REMITTAL AND REASONS

1. This appeal is subject to an anonymity order by the First-tier Tribunal pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (SI 2005/230). Neither party invited me to rescind the order and I continue it pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/2698).
2. The appellant is a citizen of Iran who was born on 22 March 1973. He arrived in the UK on 17 October 2013 and claimed asylum. On 23

September 2014, the appellant's asylum claim was refused and on 26 September 2014 a decision was made to refuse him leave to enter with removal directions proposed to Iran.

3. The appellant appealed to the First-tier Tribunal. The appeal was heard by Judge Andrew on 26 November 2014 and on 16 February 2015. In a decision promulgated on 24 February 2015, Judge Andrew dismissed the appellant's appeal on asylum and humanitarian protection grounds and under Arts 2, 3 and 8 of the ECHR. Judge Andrew made an adverse credibility finding and rejected the appellant's claim based upon political opinion.
4. The appellant sought permission to appeal challenging the judge's adverse credibility finding.
5. On 23 March 2015, the First-tier Tribunal (Judge Cruthers) granted the appellant permission to appeal.
6. Thus, the appeal came before me.
7. At the outset of the hearing, Mr Mills, who represented the respondent, accepted that the judge's decision could not stand. He accepted that the judge had materially erred in law in reaching her adverse credibility finding. First, he accepted that the judge had failed to take into account a number of documents relied upon by the appellant to establish his political activity in Iran. At para 20, the judge had said that "no such documents have been provided to me". Mr Mills accepted that those documents were, in fact, contained within the appellant's bundle.
8. Secondly, Mr Mills accepted that the judge had been wrong in para 32 of her determination, in assessing the appellant's political activity in Iran, that his political comments in favour of the "Green Movement" were irrelevant as the "Green Movement" had succeeded in the 2013 elections. Mr Mills accepted that that the Judge had been wrong to believe that was the case.

Decision and Disposal

9. On that basis, and in the light of the respondent's concession that the judge's decision contained material errors of law and cannot stand, I set aside that determination and remit the appeal for a *de novo* rehearing before the First-tier Tribunal to be heard by a judge other than Judge Andrew.

Signed

A Grubb
Judge of the Upper Tribunal