



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

Appeal Number: IA/16732/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 18 June 2015**

**Decision & Reasons Promulgated
On 22 June 2015**

Before

**UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE HILL QC**

Between

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(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Ume-Ezeoke, Counsel instructed by JDS Solicitors

For the Respondent: Miss A Fijiwala, Senior Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 we make an order prohibiting the disclosure or publication of any matter likely to lead members of the public to identify the appellant. Breach of this order can be punished as a contempt of court. We make this order because the appellant claims to be the victim of “sex trafficking”. Although there is considerable and legitimate public interest in the subject we see no such interest in the identity of the appellant. Further, although we make no findings about this, the appellant could be risk if she is

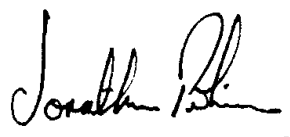
identified as a victim of trafficking who has reported her experiences to the authorities in the United Kingdom.

2. This is an appeal against the decision of the First-tier Tribunal dismissing an appeal by the appellant against the decision of the Secretary of State refusing her leave to remain in the United Kingdom. The case was brought on several grounds in which the appellant's apparent ill health featured but during the course of the argument it became clear that the appellant claimed to be and might have been a victim of trafficking.
3. We were told by Miss Fijiwala that there is a note on her papers from counsel who represented the Secretary of State in the First-tier Tribunal indicating that the First-tier Tribunal Judge intended to decide that the decision of the Secretary of State was not in accordance with the law because the Secretary of State had not followed her policy in cases where serious trafficking allegations were made. This policy requires the Secretary of State to arrange for the case to be examined by a specialist body before any further decision is made. The Secretary of State was therefore rather surprised when the appeal was dismissed and we are grateful, although not in the least surprised, that Miss Fijiwala has pointed this out to us.
4. Mr Ume-Ezeoke for the appellant started to outline his case on the basis that the decision was not in accordance with the law but was politely interrupted by Miss Fijiwala to indicate that from her point of view he was pushing at an open door.
5. We have reflected on the right approach. It is a matter for us rather than the parties but we can see no sensible basis of doing anything other than that suggested by Ms Fijiwala. Obviously the Secretary of State will look at the findings that have been made but Miss Fijiwala says that the idea is to look at the whole case again once the outcome of the trafficking enquiries have been made. They might illuminate any further findings so it is better that no findings stand.
6. We therefore find, as is agreed by the parties, that the First-tier Tribunal erred by failing to conclude that the Secretary of State's decision was not in accordance with the law. We set aside the First-tier Tribunal's decision. We substitute a decision that the decision of the Secretary of State was not in accordance with the law and the consequence of that is that the Secretary of State has not made a lawful decision and it is for her to make a lawful decision in this case.

Notice of Decision

7. The appeal is allowed. The decision of the First-tier Tribunal is set aside. We substitute a decision allowing the appellant's appeal to the extent that the Secretary of State's decision is not in accordance with the law and needs to be made again.

Signed



Jonathan Perkins
Judge of the Upper Tribunal

Dated 19 June 2015