



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/12862/2015

THE IMMIGRATION ACTS

Heard at Field House
On 27 July 2018

Decision & Reasons Promulgated
On 23 August 2018

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

RAVINDER SINGH
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Sowerby, Counsel instructed by ATM Law Solicitors

For the Respondent: Mr S Walker, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Geraint Jones QC dismissing his appeal against the Secretary of State's decision to remove him from the United Kingdom. The Secretary of State's case is that the appellant had improperly obtained by deception a TOEIC pass test certificate by using a proxy and she then sought to remove him pursuant to section 10 of the Immigration and Asylum Act 1999. Unusually in this case of that type, there is a right of appeal in country because the appellant had made a prior human rights claim.

2. The judge did not accept the appellant's evidence but more importantly failed to make any findings whatsoever with regard to Article 8. Permission to appeal against that decision was refused by the First-tier Tribunal and again on renewal to the Upper Tribunal. However, as a result of a decision of Mr Justice Walker on a "Cart" Judicial Review the matter was remitted to the First-tier Tribunal.
3. I am satisfied having had regards to all the papers the judge did fail to make any findings at all with respect to Article 8 issues. Quite properly, Mr Walker accepted that this was a clear error of law and on that basis alone the decision cannot stand.
4. It did, however, become apparent during the hearing that in some respects the evidence that the appellant is the Ravinder Singh identified as having sat a test in Manchester is unclear. The extract from the database provided by the lookup tool does not identify, for example, passport number, and the name is relatively common.
5. Owing to the nature of the case and the unclear nature of the evidence which was served on the day that the appellant had also undertaken a test at Manchester Learning Academy, the reality is that the entirety of this case will have to be reheard, given that the entirety of the findings made by the First-tier Tribunal are unsafe and a fresh decision made and accordingly I am satisfied that the appropriate course of action would in this case be to remit the decision to the First-tier.

Notice of decision

1. The decision of the First-tier Tribunal involved the making of an error of law and I set it aside. I remit the appeal to the First-tier Tribunal for it to make a fresh decision on all issues. None of the findings made by the First-tier Tribunal are preserved

Directions

1. The respondent must within 28 days of the issue of this decision provide further details regarding Ravinder Singh born on 28 July 1989 who took a TOEIC test at Manchester Learning Academy on 18 June 2013 in order to demonstrate that it was the appellant, and not some other person with the same name and date of birth who obtained a certificate. This should be done by reference if this is available to passport numbers it being the Tribunal's understanding that that data is contained within the Excel spreadsheet.
2. No anonymity direction is made.

Signed

Date 15 August 2018



Upper Tribunal Judge Rintoul