



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

Appeal Number: PA/11968/2016

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 18 April 2018**

**Decision & Reasons  
Promulgated  
On 20 April 2018**

**Before**

**UPPER TRIBUNAL JUDGE LANE**

**Between**

**B A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Hussein, instructed by Halliday Reeves

For the Respondent: Mrs Pettersen, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant, B A, was born in 1985 and is a male citizen of Iran. He arrived in the United Kingdom in March 2016 and applied for asylum. By a decision dated 14 September 2016, his application was refused by the Secretary of State. He appealed to the First-tier Tribunal (Judge Henderson) which, in a decision promulgated on 15 May 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. At the Upper Tribunal initial hearing at Bradford on 18 April 2018, Mrs Pettersen, who appeared for the Secretary of State, referred me to the Rule 24 statement of the respondent which indicated that the respondent did not oppose the appeal. She told me that, upon her reading of Judge Henderson's decision, it was clear that the judge had intended to allow the appeal on asylum and Article 3 ECHR grounds but, for reasons which were not clear, she had instead dismissed the appeal. My reading of the decision coincides with that of Mrs Pettersen. In particular, at [60], Judge Henderson wrote:

"I consider there was a real risk of harm to the appellant at the "pinch point" identified in *AB and Others (internet activity - state of evidence) Iran* [2015] UKUT 00257 (IAC) and that it is reasonably likely that the appellant will be asked about his internet activity. I do not accept that the Iranian government will differentiate between the supporter activist or member of the KDPI and it matters not to them whether the appellant is a *sur place* activist with limited links to the organisation. He has identified as a person who by implication is critical of the Iranian government and with an organisation which is perceived as a threat to the state. This is sufficient to put him at risk of harm for a Convention reason - on the basis of his imputed political opinion."

3. In the light of that finding, it is clear that the judge intended to allow the appeal. I therefore set aside Judge Henderson's decision, preserve her findings of fact and remake the decision, allowing it on asylum and Article 3 ECHR grounds.

### **Notice of Decision**

**The decision of the First-tier Tribunal which was promulgated on 15 May 2017 is set aside. All the findings of fact are preserved. I have remade the decision. The appellant's appeal against the decision of the Secretary of State dated 14 September 2016 is allowed on asylum and human rights (Article 3 ECHR) grounds.**

### **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 18 April 2018

Upper Tribunal Judge Lane

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 18 April 2018

Upper Tribunal Judge Lane