



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

Appeal Number: HU/04015/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 3 May 2019**

**Decision & Reasons Promulgated
On 18 June 2019**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**NEERA [A]
(NO ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Clark instructed by Luqmani Thompson & Partners
Solicitors

For the Respondent: Mr T Melvin, a Senior Home Office Presenting Officer

DECISION AND REASONS

Anonymity

The First-tier Tribunal made an order pursuant to Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. I continue that order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008: unless the Upper Tribunal or a court directs otherwise, no report of these proceedings or any form of publication thereof shall identify the original appellant, whether directly or indirectly. This order applies to,

amongst others, all parties. Any failure to comply with this order could give rise to contempt of court proceedings.

1. The appellant appeals with permission against the decision of the First-tier Tribunal the appeal being limited to the proper approach to Section 117B(6) of the 2002 Act as amended. He is an Indian citizen with a subsisting relationship with his British citizen wife and child. His child has autism.
2. Mr Melvin for the respondent indicated at the hearing that while he was not able formally to concede the appeal, he did not wish to make detailed submissions in support of the Secretary of State's position. For the appellant, Mr Clark provided a skeleton argument which I have considered, contending that it would be unduly harsh for the appellant's highly autistic child to be expected to leave the United Kingdom or to remain here without his father's support.
3. The appellant has been continuously resident in the United Kingdom since October 2001, a period of nearly eighteen years. This case turns on the reasonableness of expecting this particular child to go and live abroad in India and adapt to an entirely different culture when he is having so much difficulty in managing the present culture.
4. The appellant's child has a significant disability arising from his autism. He is physically clumsy. Despite being 4 years old, he still requires significant support in order to attend to the basic activities of daily living: he has no awareness of having soiled himself, has an obsession and fixation with animals and animal toys and his use of words is limited to a few nouns and one or two nursery rhymes. He is unable to assemble two words together and speaks only when spoken to and only then in single words.
5. The appellant's child is well supported in the United Kingdom and his mother supports the family by working as a regional manager for the Middle East and North Africa for Business Monitor International, which she would be unable to do, were the appellant not there to look after the child while she works.
6. My attention has been drawn to the decisions of the Supreme Court in *KO (Nigeria) UKSC 53 [2018]*, of the Court of Appeal in *AB and AO v Secretary of State EWCA Civ 661, SR* (subsisting parental relationship - Section 117B(6)) UKUT 334 (IAC) [2018] and *JG* (Section 117B(6) - reasonable to leave UK) Turkey [2019] UKUT 72 (IAC).
7. It is not necessary to set out in detail the decisions in those appeals because I am quite satisfied that on the particular facts of this appeal it is not reasonable to expect this child to leave the United Kingdom or to remain here without his father, given his physical and developmental difficulties.

8. This appeal is accordingly allowed.

Signed **Judith AJC Gleeson**
2019
Upper Tribunal Judge Gleeson

Date: 24 May