



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

Appeal Number: HU/10766/2017

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 15 May 2019**

**Decision & Reasons Promulgated  
On 23 May 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHANA**

**Between**

**URVASHIBEN [P]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Turner of Counsel

For the Respondent: Miss Everett, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant is a national of India born on 3 October 1986. She appeals against the decision of the respondent dated 11 September 2017 refusing her application for leave to remain in the United Kingdom dated 25 November 2016 on human rights grounds.
2. The First-tier Tribunal Judge Anstis dismissed the appellant's appeal in a decision dated 11 February 2019. Permission to appeal was granted by Upper Tribunal Judge Canavan on 17 April 2019 granted permission to the appellant to appeal the first-tier Tribunal Judge's decision pursuant to Article 8 of the European Convention on Human Rights stating that it is

arguable that the judge failed properly to analyse the impact of the appellant's removal in the context of her family dynamic. The judge found that it is arguable that the respondent did not consider the right of residence of the appellant's children whose father is a dependent of his EEA national wife and that they have a right of residence in the United Kingdom and the appellant is their main carer.

3. At the hearing it was agreed by consent that there is a material error of law in the decision of the first-tier Tribunal Judge. I find that there is a material error of law in the decision because the judge has not considered all the evidence, including the fact that the appellant's children are EEA nationals and the appellant is their carer.

### **Notice of Decision**

4. In the circumstances I direct that the appeal be remitted to the First-tier Tribunal and be placed before any judge other than Judge Anstis to be heard de novo and evidence provided as to the status of the children. The decision of Judge Anstis is set aside in its entirety.
5. No anonymity direction is made.

Signed

Dated this 21<sup>st</sup> day of May 2019

Deputy Upper Tribunal Judge Chana