



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

Appeal Number: PA/05811/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 23 April 2019**

**Decision & Reasons Promulgated
On 09 May 2019**

Before

UPPER TRIBUNAL JUDGE WARR

Between

**BH
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr E Raw of Counsel (Middlesex Law Chambers)

For the Respondent: Mr S Kandola, Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Pakistan born on 10 June 1987. He appeals the determination of a First-tier Judge following a hearing on 18 December 2018. The judge dismissed his appeal against the decision of the respondent on 24 April 2018 to refuse his protection claim. The appellant had come to this country as a student and had completed his courses in 2015. He had applied for a further visa which had been granted from 13 September 2016 to 28 February 2018. He had travelled to Pakistan in July 2017 and had later returned to the UK arriving on 7 August 2017. He had applied for asylum on 27 October 2017.

2. Although the appellant's claim was rejected the respondent did accept that the appellant had converted from Sunni to Shia as claimed. It was not accepted that the appellant had a genuine fear of return however in the light of the fact that the appellant's claim to have been threatened and assaulted by his family had not been accepted. Even if he was being sought by the family the appellant's fear was not objectively well-founded as there was a sufficiency of protection in Pakistan and he could internally relocate.
3. In the First-tier Judge's decision the judge concluded that the appellant had exaggerated the sort of influence his family could have. The appellant's family were not so hostile towards the appellant that they really would try to cause him harm if he were to return.
4. In the application for permission to appeal it was argued that the judge had failed to consider the essential documents that went to the core of the appellant's case and in particular had failed to take into account documents from two different criminal courts in Pakistan, documents from two different lawyers and attested, and documents relating to the medical records recording the appellant's injuries. The view of the documents had tainted the rest of the determination. Having not given consideration to the appellant's documents the judge had been unable to make adequate and appropriate findings on returnability and internal relocation.
5. Permission to appeal was granted on all the grounds by a First-tier Judge on 15 February 2019.
6. At the outset of the proceedings before me Mr Kandola stated that he was in agreement with Counsel about the grounds as lodged. There was an error in dealing with the documentary evidence.
7. Counsel submitted that the judge had overlooked the appellant's corroborative material when coming to his findings in paragraphs 36FF of the decision. The medical reports in relation to the incident when the appellant ended up in hospital with bruises had been overlooked. The reasoning given for rejecting the appellant's account was inadequate. In relation to relocation the appellant was a member of the bar and it would not be possible for him to carry out his profession on return. He would come to notice of his family members. The WhatsApp messages that the judge had been referred to demonstrated that hostilities continued to exist. The judge had taken too cursory a view of matters.
8. Mr Kandola accepted that the judge had not considered the documentary evidence and the only way the determination could be saved was if it were found that the appellant could relocate and accordingly the errors were not material. Absent that the appeal should be remitted for a fresh hearing before a different First-tier Judge. Counsel argued that the appeal should be remitted.

9. In light of the fact that Mr Kandola did not support the judge's decision in a key aspect and indeed accepted the points made in the grounds that the judge had not properly dealt with the documentary evidence it is difficult to see how the judge's factual analysis can stand. If the judge's approach was flawed as accepted then the findings on which it is necessary to consider the risks on return are rendered unreliable.
10. In the light of the concession made I find that the decision is flawed by a material error of law. Bearing in mind paragraph 7.2 of the Practice Statements and the extent of the fact finding necessary the appeal is remitted for a fresh hearing before a different First-tier Judge on all issues apart from the matters conceded by the respondent in the decision itself, in particular the appellants' conversion from Sunni to Shia.
11. The appeal is allowed to the extent indicated.

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.

TO THE RESPONDENT
FEE AWARD

The First-tier Judge made no fee award and I make none

Signed

Date 03 May 2019

Judge Warr. Judge of the Upper Tribunal