



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

Appeal Number: EA/50322/2021
UI-2021-001348 [IA/01741/2021]

THE IMMIGRATION ACTS

**Heard at Manchester Civil Justice
Centre
On 8 July 2022**

**Decision & Reasons Promulgated
On 6 September 2022**

Before

**UPPER TRIBUNAL JUDGE LANE
DEPUTY UPPER TRIBUNAL JUDGE SILLS**

Between

**EHTSHAM UK HAQ
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Vokes

For the Respondent: Mr McVeety, Senior Presenting Officer

DECISION AND REASONS

1. The appellant, a male citizen of Pakistan born on 26 November 1999, appealed to the First-tier Tribunal against a decision of the Secretary of State dated 5 February 2021 by which he was refused a residence card. The First-tier Tribunal, in a decision dated 5 November 2021, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. At the initial hearing at Manchester on 8 July 2022, Mr McVeety, who appeared for the Secretary of State, told us that the respondent acknowledged that the decision of the First-tier Tribunal was vitiated by material error. At [21-22], the judge found:

21. Generally, in relation to the Appellant and Sponsor's evidence, I had grave reservation about the evidence given to me by the Appellant and Respondent in term so how they first met via Facebook. My concern centre around this issue. The Sponsor in her evidence at the hearing explained, in answer to questions from me, how she met the Appellant via Facebook. It was her contention that the Facebook platform suggested this Appellant as a friend, or as Facebook portal labels it 'People you may know'.

22. It is explained by Facebook in its Help Centre on its platform to how it recommends 'People you may know' and that there are four factors that feed into this algorithm. The Facebook Help Centre explains that it makes suggestions from friends you have in common, people in the same Facebook groups, people tagged in the same photo or all members of common Facebook networks e.g., a school, University, or work group. Facebook may also recommend as friends contacts that a user has uploaded from their mobile phone and email contact lists.

3. Both parties agree that the judge's reference to 'The Facebook Help Centre' indicates that she pursued research after the hearing on the internet. By doing so, the judge acted unfairly towards the parties because, as the grounds state, 'the parties were not allowed to give a response to this research' (see *EG (post-hearing internet research) Nigeria* [2008] UKIAT 00015, and recently *JG V Kent and Medway NHS Trust* [2019] UKUT 187 (AAC)). It is clear also that the judge's post-hearing research led, at least in part, to her rejection of the account given by the sponsor (see [29]: 'As I have not accepted that the version events, she has given me in relation to how she met the Appellant as truthful ...')
4. In the circumstances, we set aside the decision. There will need to be a new fact-finding hearing which is better conducted in the First-tier Tribunal to which this appeal is returned for it to remake the decision following a hearing *de novo*.

Notice of Decision

The decision of the First-tier Tribunal is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal for that Tribunal to remake the decision following a hearing *de novo*.

Listing Directions: list at Manchester First-tier Tribunal: first available date: not Judge Lang: No interpreter: 1.5 hours: liaise with Mr Vokes's clerk (#)

Signed

Date 8 July 2022

Upper Tribunal Judge Lane

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008,
the appellant is granted anonymity.

No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.