



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-000867
First-tier Tribunal Nos:
PA/54285/2021
IA/12761/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 21 September 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

HA
(ANONYMITY ORDER MADE)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms Amanpreet Bhachu, counsel, Freedom Solicitors
For the Respondent: Mr Stephen Walker, Home Office Presenting Officer

Prepared 8 September 2023
Heard at Field House on 8 September 2023

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (*and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified*) 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 (*and/or other person*). Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. The Appellant who was granted anonymity on a previous occasion, appealed against the Respondent's decision to refuse the application made by the Appellant, a national of Iraq, who amongst other things, claimed a fear of persecution as a result of his religious beliefs and his sur place activities in the United Kingdom as well a fear of Article 15(c) harm.
2. The Judge in dealing with these issues, it was said, made material errors of law in two ways. First in respect of the sur place activities and secondly in relation to the (re)documentation of the Appellant on return to Iraq. It matters not at this stage in which order the points are taken for it is accepted by the Secretary of State that the Judge had not sufficiently dealt with identification documents available to the Appellant and had failed to consider the validity, insofar as it is relevant, of the Appellant's UK activities, particularly as to whether they were undertaken in bad faith.
3. If there were concessions made on this point at the hearing they were not before me and I do not find myself in any way bound by such as may have been said in the First-tier Tribunal. Further, it was clear that there was not the scrutiny required relating to the Appellant obtaining an identity card or CSID card and that was a material error of law. The issue of the sur place activities was also a matter which needed to be readdressed. I concluded therefore that it remained an issue for the Appellant to address, as to the consequences of his claimed sur place activities. In the light of the concession on the identity card issue made by Mr Walker for the Respondent, I concluded that the only course for the fair and just disposal of the appeal was for the matter to be redetermined in the First-tier Tribunal.
4. The appeal is allowed to the extent that the decision of First-tier Judge Caswell is set aside.
5. The appeal to the Upper Tribunal is allowed to the extent that the matter is to be redetermined de novo in the First-tier Tribunal not before First-tier Tribunal Judge Caswell and listed for three hours, Kurdish Sorani interpreter required to be listed for hearing at Manchester, not Bradford.
6. Any further documents relied upon by the parties to be served on each other respectively and the First-tier Tribunal, not less than fourteen days before the rehearing, any extension of time or variation of time to be made in writing with reasons to the First-tier Tribunal Resident Judge, at the Manchester hearing centre.



Judge of the Upper Tribunal
Immigration and Asylum Chamber