



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/02347/2013

THE IMMIGRATION ACTS

Heard at Bradford
On 16 August 2013

Determination Promulgated
On 21 August 2013
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Before

UPPER TRIBUNAL JUDGE
D E TAYLOR

Between

RINZIN LAMA

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mrs Daly, instructed by Legal Justice Solicitors
For the Respondent: Mrs Pettersen, HOPO

DECISION AND DIRECTIONS

1. This is the appellant's appeal against the decision of First-tier Tribunal Judge Saffer made following a hearing at Bradford on the 11 April 2013, dismissing his appeal against the decision of the respondent made on 26 February 2013 to refuse to grant him asylum in the UK.
2. The appellant challenged the decision on the grounds that the judge had erred in failing to make clear findings of fact on the central issue in the appeal, namely the appellant's nationality, failed to make a finding as to whether the appellant is a Tibetan ordained monk as claimed, erred in his approach to his credibility findings generally and did not apply the relevant country guidance case of SP and others (Tibetan - Nepalese departure - illegal - risk) PRC CG [2007] UKAIT 00021.
3. Permission was granted for the reasons stated in the grounds by Judge Blandy on 13 May 2013.
4. Mrs Pettersen, although the respondent had served a reply defending the determination, acknowledged the deficiencies in it. At first she submitted that the errors were not material because the judge had made a sustainable decision that the appellant was Nepalese. However she accepted that it had been argued by him that he was not safe in Nepal because of the danger of refoulement, and this aspect of the appellant's case had not been addressed at all in the determination.
5. The judge erred in failing to make clear and reasoned findings. With respect to the issue of nationality, he accepted that the appellant had a genuine Chinese id card, and that China and Nepal do not accept dual nationality but that the appellant had failed to establish that the Nepalese passport was not genuine. He made no findings on whether the appellant was a Tibetan ordained monk nor whether he would be at risk in Nepal. It is also arguable that his approach to his credibility findings were flawed, as set out in grounds 3 and 4
6. The decision is set aside.
7. This appeal will be heard at Bradford on 1 October 2013 when the decision will be remade by a judge other than Judge Saffer under 7.2 of the Senior President's Practice Statement dated 25 September 2012 because of the nature and extent of the judicial fact finding which is necessary in order for the decision in the appeal to be remade.

Signed

Date

Judge of the Upper Tribunal