



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

Appeal Number: AA/00342/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 14th April 2014**

**Determination Promulgated
On 15th April 2014**

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Before

UPPER TRIBUNAL JUDGE COKER

Between

**M B
(Anonymity direction made)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Loughran, counsel, instructed by Wilson Solicitors LLP
For the Respondent: Mr P Nath, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant was granted permission to appeal a decision of First-tier Tribunal Judge Drabu who had dismissed his appeal against a decision to remove him from the UK pursuant to s10 Immigration and Asylum Act 1999.
2. It was agreed before me that there was an error of law in the decision of the First-tier Tribunal such that the decision should be set aside to be remade. The error of law, in essence, was a failure by the First-tier Tribunal judge to adequately consider the issue of trafficking and Article 8.

3. The SSHD through the presenting officer at the First-tier Tribunal in front of Judge Drabu had conceded that the appellant's credibility was not in issue although the presenting officer relied upon the reasons for refusal of asylum letter dated 7th January 2013. Mr Nath confirmed that concession before me today. The effect of this is that the issues at large are sufficiency of protection, internal relocation and Article 8.
4. These matters are of substance and there have been no findings with regard to this. The scheme of the Tribunals Court and Enforcement Act 2007 does not assign the function of primary fact finding to the Upper Tribunal.
5. When a decision of the First-tier Tribunal is set aside s.12(2) of the TCEA 2007 requires me to remit the case to the First tier with directions or remake it for myself. In accordance with the Practice Statement dated 25th September 2012 of the Immigration and Asylum Chamber First-tier Tribunal and Upper Tribunal and in particular the nature of the judicial fact finding which is necessary in order for the decision in the appeal to be re-made and having regard to the overriding objective in rule 2 of the Practice Statement, it is appropriate in this appeal for the case to be remitted to the First-tier Tribunal.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision

I remit the appeal to the First-tier Tribunal to be remade.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Date 14th April 2014

Judge of the Upper Tribunal Coker