



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

Appeal Number: AA/01815/2013

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 11 June 2014**

**Determination  
Promulgated  
On 10 July 2014**

**Before**

**LORD MATTHEWS, SITTING AS AN UPPER TRIBUNAL JUDGE  
DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE**

**Between**

**SUTHAHAR YOGENDRAM  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms A Walker of Counsel instructed by S Satha & Co,  
Solicitors

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This is an appeal by Suthahar Yogendra against a decision of First-tier Tribunal Judge Abebrese refusing his asylum claim in a determination dated 1 April 2014.

2. The history is set out in the determination itself. In short, the appellant came here as a student and was granted leave as such. He was found in a shop belonging to his uncle in South East London. The suggestion was that he was working in the shop in breach of his leave to remain as a student. Whether that is in fact the position is not entirely clear. There was conflicting evidence about it. It may be that he admitted that he was working when interviewed, but on the other hand it was plain also that he denied it when interviewed by CID officers. The findings in connection with it are set out at paragraph 24 of the determination and it is not clear to us what conclusion was reached by the FtT. We are not in a position ourselves to make any finding on the legality or otherwise of the original detention, not having the appropriate materials, but we leave that matter aside. It is not necessary for us to deal with that in any further detail.
3. The grounds of appeal set out a number of criticisms of the determination. Broadly speaking, we think they can be categorised as a complaint that the judge failed effectively to engage with the evidence which was presented and in making his findings failed to produce reasons for them. He made a number of adverse credibility findings against the appellant and quite why he did so is by no means clear. In particular, in paragraph 25 of the determination he sets out in brief certain details given by the appellant about events in 2006, 2007 and 2008. He does not go into detail about precisely what evidence the appellant gave about them. These matters go to the heart of his asylum claim and one would have expected an expansion of the circumstances as given by the appellant to appear in paragraph 25. The judge did not accept what the appellant had to say and that adverse credibility finding was carried on into paragraph 26 and indeed, we think it is fair to say, pervades the determination.
4. One matter which is of particular significance is that the judge, while referring to incidents in 2006, 2007 and 2008, says that these led to him leaving in 2010, but he makes no reference anywhere, as far as we can see, to a particular event about which the appellant spoke and which triggered his leaving in 2010. The judge's position was that it was incredible that the appellant simply stayed in the country for a number of years when he had the opportunity to leave and did not do so until 2010, for no particular reason. On the other hand, the appellant's position is that it was the event in 2010, with which the judge does not deal, which triggered his leaving the country. That is a major error in our opinion and is sufficient in itself to amount to an error of law requiring this decision to be remade.
5. Furthermore, the judge did not deal appropriately with the medical evidence which was produced. He did not go into any detail of what that evidence was and did not even mention, as far as we can see, evidence from Dr Goldwyn of findings which were highly consistent with the appellant having been tortured by being beaten on the soles of the feet. He finds that the psychiatric report is undermined because the qualifications of the author of it were not set out. As it happens, not only

is the psychiatrist particularly well known but his qualifications were sent to the judge after the event, by arrangement, so that he could take them into account. Furthermore the qualifications are set out in the body of the report at the beginning. That again undermines the determination and we conclude that he fell into an error of law in this regard also.

5. Looking at the determination as a whole, there is an absence of the anxious scrutiny which we would expect in a determination dealing with an asylum claim. It is fair to record at this stage that Mr Tarlow, for the Home Department, with characteristic fairness, has accepted that there are a number of errors, in particular the errors we have pointed out at paragraphs 25 and 26. We are grateful indeed to him for making that concession.
6. It follows therefore that the appeal must be allowed and the decision will require to be remade in this Tribunal on a date to be fixed.

LORD MATTHEWS  
Sitting as an Upper Tribunal Judge  
(Immigration and Asylum Chamber)

Date: