



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

Appeal Number: AA/04389/2015

**THE IMMIGRATION ACTS**

**Heard at Birmingham Employment  
Centre  
On 10 November 2015**

**Decision Promulgated  
On 10 November 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE McCARTHY**

**Between**

**SME**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms O E Duru, Jemek Solicitors

For the Respondent: Ms R Pettersen, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Preliminary**

The First-tier Tribunal made an anonymity direction in relation to the appellants because of the nature of the case. I consider it appropriate to make a similar order in the Upper Tribunal under Procedural Rule 14(1) to prohibit the disclosure or publication of any matter likely to lead members of the public to identify the appellant. To give effect to this order the appellant is to be referred to by the initials above.

1. In her decision and reasons statement promulgated on 29 June 2015, First-tier Tribunal Judge Phull found that the appellant was not a refugee.
2. The appellant challenges that decision on three grounds:
  - a. the judge erred in her approach to credibility and plausibility,
  - b. the judge failed to give adequate reasons, and
  - c. the judge failed to take account of the fact that the appellant's brother had been recognised as a refugee in the UK because of his conversion to the Baha'i religion and the fact this relationship of itself might put the appellant at risk on return to Iran.
3. Permission to appeal has been granted only in relation to the third ground. There has been no renewal of the other two grounds direct to the Upper Tribunal and, in my opinion, any such application would have been bound to fail.
4. At the start of the hearing I reminded the representatives that the penultimate sentence of paragraph 17 confirms that the appellant's case was put on the footing stated in the third ground. Paragraph 17 contains the submissions relating to the appellant's case and the sentence in question reads, "If [the appellant] tells [the Iranian authorities] about her brother and father's conversion to the Baha'i faith this will also put her at risk on return."
5. Ms Pettersen confirmed that Judge Phull failed to address this submission in her decision and reasons statement and the failure to make findings on a relevant issue amounted to an error on a point of law. Ms Pettersen suggested that the appeal be remitted to Judge Phull to complete her findings. I indicated that I would consider that possibility but first I wanted to examine the available evidence to see whether remittal was necessary.
6. After discussion the case with Ms Duru and Ms Pettersen, I identified the following.
  - a. Judge Phull accepted the appellant's brother had been recognised as a refugee because of his conversion to the Baha'i religion.
  - b. When he applied for asylum in the UK, the appellant's brother had claimed that he was of adverse interest to the Iranian authorities because of his activities for the Baha'i religion before he fled Iran. Ms Pettersen acknowledged that his credibility was not disputed as was evident from the fact he had been recognised as a refugee.
  - c. Although not provided to Judge Phull, the Home Office Country Information and Guidance report, *Iran: Baha'is* (November 2014) confirmed the members of this religion have a well-founded fear of persecution merely because of their religion. This is, of course, in addition to the fact that those who abandon Islam are seen as apostates and face persecution on that basis as well.

- d. Extracts from the Home Office *Iran: Country of Origin Information Report* 26 September 2013 were provided to Judge Phull and I have had regard to that report in full. Section 23 reveals how women are treated and it is evident that Iran is a patriarchal society where women are associated with the beliefs of their close male relatives.
  - e. Judge Phull accepted that the appellant had left her husband because of his affairs and that she had come to the UK to be with her father and brother (see paragraph 30 of Judge Phull's decision).
  - f. SB (risk on return-illegal exit) Iran CG [2009] UKAIT 00053 confirms that those who left Iran illegally, such as the appellant, will be questioned on return. It is reasonably likely that the appellant would be asked what she had been doing in the UK and it is also reasonably likely that the appellant would disclose that she had been with her father and brother and that she would provide their details.
7. I suggested to both representatives that with this matrix of facts I could only conclude that the Iranian authorities would identify that the appellant had been visiting her brother who they knew had been involved in spreading the Baha'i religion and who had converted to that religion. Given the patriarchal nature of Iranian society and given that the appellant's father and brother would be her closest male relatives following her separation from her husband, it is reasonably likely that the Iranian authorities would infer that the appellant was in some way also linked to the Baha'i religion. Taking into consideration that treatment of Baha'is in Iran, such association would amount to a well-founded fear of persecution based on "imputed religion".
  8. Ms Pettersen and Ms Duru accepted that based on Judge Phull's findings and the background country information this was the only reasonable interpretation.
  9. In such circumstances, I find there is no need for this matter to be returned to Judge Phull. Having found an error on a point of law, I set aside her decision and remake it in line with what I have said above.

## Decision

The decision and reasons statement of First-tier Tribunal Judge Phull contains an error on a point of law and is set aside.

I remake the decision and allow the appellant's appeal against the immigration decision of 14 January 2015 because I find the appellant is a refugee.

Signed

Date

Judge McCarthy  
Deputy Judge of the Upper Tribunal