



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/21353/2014

**THE IMMIGRATION ACTS**

Heard in Birmingham  
On 26 February 2015  
Prepared 26 February 21015

Decision & Reasons Promulgated  
On 5 March 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

VARINDER JEED  
(NO ANONYMITY DIRECTION MADE)

Respondent

**Representation:**

For the Appellant: Mr Mills, Senior Presenting Officer  
For the Respondent: Mr A Barnfield, Charles Simmons Immigration Solicitors

**DECISION AND REASONS**

1. In this decision the Appellant is referred as the Secretary of State and the Respondent is referred as the claimant.

2. The claimant, a national of India, date of birth 11 October 1978, appealed against the Secretary of State's decision, dated 25 April 2014, to make removal directions of an illegal entrant as a person subject to administrative removal under Section 10 of the Immigration and Asylum Act 1999. A form IS151A had been served on 10 March 2006.
3. The appeal was heard before First-tier Tribunal Judge S Law (the judge) who, on 27 November 2014, allowed the appeal under the Immigration Rules and also under Article 8 of the ECHR.
4. The Secretary of State was given permission to appeal by Designated Judge of the First-tier Tribunal Woodcraft on 15 January 2015.
5. The Secretary of State's arguments on the error of law can with no disrespect to them be put fairly shortly. First, the judge had taken into account erroneous considerations in relation to the issue of maintenance pertinent to the date of application or the date of decision in what was a clear example of a misunderstanding of that issue. Secondly, the judge had failed to provide proper reasons for being satisfied that the Claimant fell to be considered under paragraph EX1 of the Rules. Thirdly, the judge had failed to adequately reason the conclusion that the Claimant succeeded on the Article 8 ECHR claim.
9. Mr Barnfield correctly accepted, as he must do, that the judge did not properly assess the issues and took into account matters which he should not have done. However it was said that in relation to the second matter of complaint the reality was that the judge had done enough to show that he had not solely concentrated on the issues of the nationality (British) of the Claimant's wife and recently born child.
10. Mr Mills argued that in fact, apart from the analysis in paragraph 18 of the decision which plainly was addressing the issue of British citizenship, there has been a failure

to look at the matter in the round and to give a proper reasoned argument for concluding that Article 8 ECHR rights were engaged.

11. I agree with Mr Mills that the reasoning falls significantly below that to be expected of an experienced Immigration Judge but also really does not tell the Secretary of State what were the considerations that justified the conclusions that the appeal succeeded under Article 8 ECHR.
12. In these circumstances it seems to me that these three points raised by the Secretary of State disclosed material errors of law.
13. It is unfortunate that aspects of the determination simply are unconnected as demonstrated in paragraph 20. In those circumstances it is unfortunate that the Claimant should find himself the position of having this matter to be reconsidered all over again.
14. The Original Tribunal's decision cannot stand. The decision must be re-made in the First-tier Tribunal.

### **Directions**

- (1) Appeal to be remitted to the First-tier Tribunal to be remade again on all issues.
- (2) No findings of fact to stand.
- (3) Time estimate 1½ hours.
- (4) Interpreter required. The Claimant to notify the First tier Tribunal of the language required.

- (5) Any further evidence relied upon to be served on the other party and IAC not less than 14 days before the date of the further hearing.
  
- (6) Please relist with reference to Mr A Barnfield's availability.

No anonymity direction is made.

Signed

Date 2 March 2015

Deputy Upper Tribunal Judge Davey