IAC-PE-SW-V1

Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/37668/2013
& IA/37684/2013

THE IMMIGRATION ACTS

Heard at Field House	**Determination Promulgated**
On 20th January 2015	**On 10th February 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

MFA & MIU
(ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Sayem, Solicitor Uzma Law
For the Respondent: Mr Shilliday, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellants are mother and child, both are citizens of Bangladesh. These proceedings concern the interests and welfare of a child. In order to protect the child I make an anonymity direction.

2. This is an appeal by the appellants against the determination of First-tier Tribunal Judge Lester promulgated on 15 October 2014, whereby the judge dismissed the appellants' appeals against the decisions of the respondent

dated 15th August 2013. The decision by the respondent was to refuse the appellants further leave to remain in the UK and to remove the appellants to Bangladesh.

3. By decision made on the 3rd December 2014 leave to appeal to the Upper Tribunal was granted. Thus the matter appears before me to determine in the first instance whether or not there is an error of law in the original determination.

4. I would note within the grounds and reasons for the application the determination is challenged on the basis that the reasons given are too brief and inadequate. It is not suggested that the judge gave no reasons for coming to the decision that she did.

5. On 20 August 2010 the first appellant was granted leave to enter the United Kingdom as a student. That leave was a valid until 30 June 2012. On 29 May 2012 the first appellant was granted further leave as a student which was a valid until 13 January 2014. However on 20 September 2012 the first appellant's leave was curtailed and the curtailment resulted in the appellant's leave ceasing on 19 November 2012. Whilst it is asserted by the appellant that the curtailment was as a result of the college in which she was studying being removed from the register of approved colleges, at the time of curtailment the appellant could no longer continue as a student.

6. Prior to 19 November 2012 the first appellant submitted an application for further leave to remain in the United Kingdom. In submitting that application it was accepted that the appellant could no longer seek extension as a Tier 4 Student under the rules. Extension was being sought under Appendix FM, paragraph 276ADE and Article 8 of the ECHR.

7. Whilst in the United Kingdom as a student the first appellant had commenced a relationship with a Mr Mohammed Shiraj Uddin. As set out in paragraph 5 of the determination the parties began to live together and the appellant gave birth to the second appellant on 22 August 2011. During the pregnancy Mr Uddin began to become abusive and soon after the birth of the child he vanished leaving the appellants alone.

8. The evidence before the judge was to the effect that the first appellant's parents and family did not want to know the appellants and would no longer support them. It was submitted that the first appellant would have problems returning to Bangladesh because she would have no job, no support and no finance. It was also submitted that because of the culture and Bangladesh she would have no respect. Even though she already had a degree in order to obtain a job the appellant was asserting that she would require a further degree and money to pay bribes.

9. In the United Kingdom the first appellant claims that she is dependent upon the kindness of people with whom she is living, and who she had known in her own village in Bangladesh. There was a letter in support and

evidence before the judge from Mr Mohamed Jamil Uddin, that out of charity he appears to have been assisting the appellants.

10. Within the determination the judge had noted that there was no objective evidence before the tribunal to substantiate that a single woman with a child would face difficulties in Bangladesh. The judge noted that it was only the assertion in the evidence of the appellant without any basis given for the assertion. It was also noted that the evidence with regard to support in the form of a letter was again lacking in detail.

11. Within the submissions attention was drawn to section 117B of the 2002 Act as amended, which defined public interest and the maintenance of immigration control and identified factors that have to be taken into account in assessing that. The judge clearly took account of the matters therein set out.

12. Within the determination the judge noted that there was a significant lack of evidence to support many of the assertions made by the first appellant. There was no background evidence as to the circumstances of first and second appellant could expect on return to Bangladesh as a single woman with a small child with no family support and no apparent financial resources. Whilst the assertions had been made there was no background evidence to substantiate those assertions. There was no evidence as to any insurmountable obstacles or unduly harsh conditions or other factors rendering it unreasonable for the first appellant to return to Bangladesh with her child.

13. The judge was satisfied that the best interests of the child were to remain with the mother. The judge specifically considers the best interests of the child in the concluding sentence of paragraph 35. Whilst clearly the child would benefit if in the United Kingdom from free education and medical care, but the judge was clearly satisfied that the best interests of the child were to be with the mother. There was no evidence that the mother could not find employment in Bangladesh could not support herself and the child and could not provide for the education and other needs of the child.

14. The judge within the determination has given reasons for coming to the conclusions that she has. The grounds of appeal assert that the reasons given are too brief and are inadequate in respect of the child. The grounds do not assert that the reasons given are not valid reasons.

15. It was for the appellant to produce evidence as to the circumstances, which the appellants would face on return to Bangladesh and there was no evidence before the judge. The judge took account of the benefits that the child could enjoy within the United Kingdom but there was no evidence as to what would face the parties within Bangladesh. The appellants were both nationals of Bangladesh. There was no basis for the first appellant to remain in the United Kingdom under the Immigration Rules. The judge has properly assessed the provisions of Appendix FM

16. The judge took account of the fact that the first appellant was a chemistry graduate with a United Kingdom degree in Business Studies and had been in the United Kingdom for short period of time. The judge was satisfied that the first appellant has extended family in Bangladesh and a network of friends. The judge was satisfied therefore that the appellant did have ties to Bangladesh. Accordingly the appellants did not meet the requirements of paragraph 276ADE.

17. The judge having considered all the evidence came to the decision that the decision by the respondent was in all the circumstances proportionate. That clearly was a finding of fact that the judge was entitled to make. The judge had commented throughout about the lack of evidence otherwise.

18. Taking all the circumstances into account the judge has given ample reasons for coming to the conclusions that she did. Whilst the reasons are brief, the judge does deal with the cases presented by the appellant and the issues in the case. In those circumstances the judge has given sufficient reasons for coming to the conclusions and reaching the decision that she did.

19. There is a no material error of law in the determination. I uphold the decision to dismiss these appeals on all grounds.

Signed Date **23rd January 2015**

Deputy Upper Tribunal Judge McClure