



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

Appeal Numbers: OA/00914/2015
OA/00915/2015
OA/01967/2015

THE IMMIGRATION ACTS

**Heard at Bradford
On 5 July 2017**

**Decision & Reasons
Promulgated
On 14 July 2017**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**MOHAMMAD KAIUM AHMED
FARZANA BEGUM
SHOFIQLISLAM ISLAM
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

ENTRY CLEARANCE OFFICER - INDIA

Respondent

Representation:

For the Appellants: Mr Moksud, Westminster Law Chambers

For the Respondent: Mrs Pettersen, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellants, Mohammed Kaium Ahmed, Farzana Begum and Shofiqlislam Islam, are citizens of Bangladesh. They were born on 25 September 2000, 21 February 1997 and 25 September 1993 respectively and claim to be the children of the same father, the late Rehan Uddin. The appellants claim that the late Rehan Uddin was a British citizen. Applications for certificates of entitlement to the right of abode in the

United Kingdom were refused by decisions of the Entry Clearance Officer (ECO) India dated 14 November 2014. The First-tier Tribunal (Judge Clapham SSC) in a decision promulgated on 16 December 2015 dismissed the appeals. The appellants now appeal, with permission, to the Upper Tribunal.

2. Granting permission, Upper Tribunal Judge Southern, noted that the judge had incorrectly recorded the date of birth of the third appellant as 25 September 1983. He also noted that the appellants had adduced DNA evidence which indicated a high probability that they were related to each other (no DNA example had been taken from the late Rehan Uddin for obvious reasons). Judge Southern granted permission primarily because Judge Clapham had arguably failed to deal adequately with the DNA evidence.
3. These appellants have previously applied for certificates of entitlement and have been refused and their appeals dismissed. Judge Britton dismissed an appeal by a determination promulgated on 20 September 2013. As long ago as June 2006, Judge Ince had dismissed an appeal by the same appellants which he had heard in Bradford. The appeals before Judge Clapham and Judge Britton had been “on the papers”. DNA evidence had not been available at the time of Judge Ince’s decision but the same DNA evidence had been made available to Judge Britton. Judge Britton did not find that the appellants and the late Mr Uddin were related as claimed noting that the “DNA results may show there may be a relationship as claimed between the appellants and Serazul Islam, but it does not show they have the same father.” Serazul Islam is another son of the late Rehan Uddin. The DNA results indicated that Serazul Islam and the appellants were most likely related as half siblings. Notwithstanding the DNA evidence, Judge Britton dismissed the appeals. As well as finding that the DNA evidence proved little regarding the claimed relationship between the appellants and the late Rehan Uddin, he found that the appellants had not proved that Rehan Uddin had been in Bangladesh at the time of conception of the children [22].
4. I have considered the previous judicial decisions despite the fact that they do not appear to have been made available to Judge Clapham. I was conscious of the fact that the submissions made to me by Mr Moksud in relation to the DNA evidence do not appear to add anything at all to the submissions made in the previous appeal to Judge Britton. Judge Clapham did not have the advantage of hearing oral submissions since he dealt with the matter “on the papers.” I have to say that, had Judge Clapham examined the DNA evidence in any greater detail, I do not believe that he would have changed his decision. As the ECO in the previous appeal had pointed out, the DNA evidence did not establish that the appellants were the natural children of the late Rehan Uddin. That failure, together with the incomplete nationality certificates had been produced to the ECO and the lack of evidence regarding the presence of the late Rehan Uddin in Bangladesh at the dates of conception of the appellants, would have led Judge Clapham to dismiss the appeal in any event. Often DNA may be

conclusive in proving kinship but in this appeal it cannot prove the crucial relationship which the appellants claim exists between the late United Kingdom citizen, Rehan Uddin, and the appellants.

5. Mr Moksud submitted to me that the passport of the late Mr Uddin indicated that he had left Bangladesh on 22 March 1996 and had not returned to the country again before the birth of the second appellant on 21 February 1997. He cannot, therefore, have had sexual relations with the mother of the second appellant after 22 March 1996. Mr Moksud appeared to submit that these dates provided conclusive evidence that it was possible for the late Mr Uddin to have been the father of the second appellant. Assuming that the dates are accurate, this would mean that the child had been born 11 months following conception; I take judicial knowledge of the fact that the gestation of a human baby is 9 months. I pointed this out to Mr Moksud who was unable to provide a rational explanation. Indeed, rather than settle the question of the parentage of the second appellant as he believed would be the case, Mr Moksud's submission concerning the passport of the late Mr Uddin casts further doubt upon the claim that he is the father of the second appellant.
6. In short, nothing that was submitted to me at the Upper Tribunal hearing leads me to conclude that Judge Clapham's decision, albeit somewhat brief, is wrong in law. The evidence concerning the conception of the children remains unsatisfactory whilst the DNA evidence (the judge's analysis of which had been of concern to Judge Southern when he granted permission) had been dealt with conclusively and correctly at the previous appeal before Judge Britton.

Notice of Decision

7. These appeals are dismissed.
8. No anonymity direction is made.

Signed

Date 5 July 2017

Upper Tribunal Judge Clive Lane

TO THE RESPONDENT **FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date 5 July 2017

Upper Tribunal Judge Clive Lane