



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/00271/2016**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Bradford
On 17 October 2017**

**Decision & Reasons
Promulgated
On 19 October 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

**JN
(ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hussain of Counsel

For the Respondent: Mr Diwyncz a Home Office Presenting Officer

DECISION AND REASONS

1. Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify JN. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to Contempt of Court proceedings. I do so in order to preserve the anonymity of JN whose asylum claim remains outstanding.

Background

2. The Respondent refused JN's application for asylum or ancillary protection on 29 December 2016. Her appeal against this was dismissed by First-tier Tribunal Judge Housego ("the Judge") following a hearing on 24 February 2017.

The grant of permission

3. First-tier Tribunal Judge Brunnen granted permission to appeal (24 July 2017) as it is arguable that

"the Judge failed to make findings of fact on key aspects of the Appellant's claim and found that she was not homosexual or bisexual despite evidence from two witnesses that he found to be highly credible that she is homosexual."

Respondent's position

4. It was submitted in the rule 24 notice (9 August 2017) that the Judge directed himself appropriately and made findings open to him on the evidence as the Appellant had changed her evidence regarding her sexuality at the hearing. Mr Diwynicz did not add to the submissions.

Discussion

5. Despite the length of the Judge's decision, I am satisfied that his assessment of the background was inadequate to such an extent as to amount to a material error of law. That is because no findings were made on the core part of her claim that as a direct result of her lesbian relationship being discovered, she had been beaten by her mother, subjected to rituals by her grandmother, been given lashes by the village Chairman, attacked by locals, and that her female partner had been killed. Nowhere in the "findings" sections from [104-127] is there any reference to this let alone assessment of it. The subsequent assessment of the semantics of terminology between being lesbian or bisexual when either would have sufficed, and the rejection of the views of experts in the field who the Judge found to be "witness of transparent honesty" was based on an inadequate evidential base in the absence of findings in that core part of the claim.
6. I am therefore satisfied that a material error of law occurred to such an extent that the decision cannot stand.
7. I am also satisfied having heard from the representatives that it is appropriate to remit the matter de novo as the errors go beyond those contained within the Presidential Guidance for retention in the Upper Tribunal.

Decision:

The making of the decision of the First-tier Tribunal did involve the making of a material error on a point of law.

I set aside the decision.

I remit the matter to the First-tier Tribunal for a de novo hearing with no findings being preserved, not before Judge Housego.

A handwritten signature in black ink, appearing to read 'L. Saffer', with a long vertical line extending upwards from the start of the signature.

Deputy Upper Tribunal Judge Saffer
18 October 2017