



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: HU/09339/2016
HU/05889/2016
HU/05908/2016

THE IMMIGRATION ACTS

Heard at Manchester
On 26th July 2018, typed, corrected
Signed and sent to Promulgation
On 1st August 2018.

Decision & Reasons Promulgated
On 14th August 2018

Before

Upper Tribunal Judge Chalkley

Between

ZAKARIA [A]

FARHANA [J]

[S A]

(ANONYMITY DIRECTION NOT MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants:

Mr Muquit of Counsel, instructed by Taj Solicitors

For the Respondent:

Mr Tan, a Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is an appeal against the respondent's decision to refuse the appellants' application for leave to remain in the United Kingdom on the grounds that their removal would not place the United Kingdom in breach of its obligations under the Human Rights Act 1998 and to give directions for their removal from the United Kingdom.
2. The first-named appellant is a national of Bangladesh who was born on 30th January, 1980 and the second and third appellants are his dependent wife and child, born on 31st May, 1989 and 24th November, 2014 respectively. Following the respondent's refusal, the appellants appealed and their appeal was heard at Taylor House on 27th July last year by First-tier Tribunal Judge Devittie. His decision was to dismiss the appellants' appeals under the Immigration Rules and on human rights grounds. His determination was challenged on the basis that the Tribunal had failed to have regard to Home Office policy at the date of the appeal (*SF and others (Guidance, post-2014 Act) Albania* [2017] UKUT 00120 (IAC) applies).
3. At the hearing before me today, Mr Tan accepted that both the respondent and the judge had erred in failing to apply the Home Office policy and had the policy been applied, the appeal would have been allowed. He agreed that I should allow the appeal in this determination, which I am happy to do.
4. I find that the determination of Mr Devittie did contain an error of law and I set it aside. I remake the decision and as requested by the Home Office Presenting Officer, I allow the appellants' appeals.

Notice of Decision

The appeal is allowed.

No anonymity direction is made.

Richard Chalkley

Upper Tribunal Judge Chalkley

TO THE RESPONDENT **FEE AWARD**

Any fee the appellants paid when they made their application should be repaid to them in full.

Richard Chalkley

Upper Tribunal Judge Chalkley