



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

Appeal Number: HU/17041/2016

**THE IMMIGRATION ACTS**

**Heard at Birmingham CJC**

**Decision & Reasons  
Promulgated**

**On 19 October 2018**

**On 12 November 2018**

**Before**

**UPPER TRIBUNAL JUDGE ALLEN**

**Between**

**MR MD JULHASH UDDIN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr S Woodhouse of S H Solicitors Ltd

For the Respondent: Mrs H Aboni, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is the appeal of Mr Uddin against a decision of the First-tier Tribunal in which his human rights appeal was dismissed by the judge, the human rights decision having been made on 29 June 2016.
2. Essentially there are three strands to the challenge to the judge's decision. The first is in relation to the judge's acceptance that the appellant's leave was curtailed properly on 30 October 2014 to expire on 1 November 2014 and that obviously had significance to the question of how long he had been in the United Kingdom with leave. The second issue was with regard

to a document verification report in respect of which the respondent's conclusion was that he had submitted false bank statements and a solvency letter and the third issue is with regard to Article 8 in particular the judge's dealing with the best interests of the appellant's two children in particular his son who suffers from autism.

3. The first matter because it in a sense leads the other to is the issue of the curtailment. The judge addressed this issue with regard to the provisions of the Immigration (Leave to Enter and Remain) Order 2000 as amended by the Immigration (Leave to Enter and Remain) Amendment Order of 2013 with regard to service. What had happened was that the notice of curtailment had been sent by recorded delivery, it was returned to the respondent by the post office and it was in effect served to the file. But it is clear that documentation it seems in this regard was sent to the Tribunal subsequent to the hearing but does not appear to have reached the judge. I note that the decision containing these submissions and a copy of the decision in Mahmood and a copy of the 2003 Regulations were sent on 11 September 2017 which is some time before the judge's decision was promulgated and it was obviously not brought to his attention as he proceeded to address the matter in relation to the 2000 Regulations.
4. I think it is common ground that in fact the 2003 Regulations were applicable in this case and the crucial difference between the two sets of Regulations is that service of notice to the representative under Regulation 7(2)(c) is a prerequisite to effective service of the curtailment notice. That was not done in this case.
5. Ms Aboni on behalf of the respondent very properly accepts that there is no evidence that that was shown to have been the case and I think it is clear the argument is clearly set out in the letter of 11 September 2017 and as argued by Mr Woodhouse today that that was the relevant provision in this case because leave was effectively brought to an end by the curtailment notice rather than leaving a period of leave still extant. That was the relevant provision and therefore it would appear that curtailment notice was not properly served and that has clear implications for the duration of leave that the appellant had had in the United Kingdom and there would have to be a rehearing on that basis alone.
6. As regards the document verification report Mr Woodhouse raised today an issue in relation to that which is that on the face of it, it refers to contact with the bank on 5 December 2012 which is inconsistent with the date of the application made by Mr Uddin in 2013. Ms Aboni on behalf of the respondent argued that it is a typographical error bearing in mind that the date of the written confirmation is December 2013 and subsequent attached emails from that time. That may very well be right but since the matter is going to go back for rehearing anyway there is an opportunity to investigate that exists in the interim and no doubt will form part of submissions before the First-tier Tribunal on that occasion.

7. The third issue is that of Article 8 which I think Mr Woodhouse is right again would have to be reconsidered in any event. I do have some concerns about the brevity of the judge's evaluation of the point particularly in the absence of any mention of the best interests of the children. The assessment really is very brief.
8. The only point I would make in relation to that in respect of the grounds is that it is stated that the judge said that Article 8 was not engaged. I do not think that is right. The judge accepted that Article 8 was in play but that becomes academic in light of the fact that the matter is going to be remitted and I think it is a case where the extent of the remittal is such that the decision would effectively have to be fully remade and therefore the matter will be remitted for a full hearing before the First-tier Tribunal.

No anonymity direction is made.



Signed

Date

Upper Tribunal Judge Allen