



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

Appeal Number: PA/14159/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 6 December 2017**

**Decision & Reasons Promulgated
On 5 January 2018**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**LK
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Saeed, Aman Solicitors and Advocates

For the Respondent: Ms Fijiwala, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, LK, is a male citizen of Afghanistan. He appealed to the First-tier Tribunal (Judge M R Oliver) against the decision of the respondent dated 6 December 2016 refusing to grant him asylum. The First-tier Tribunal, in a decision promulgated on 9 May 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. Before the Upper Tribunal, Ms Fijiwala, who appeared for the Secretary of State, accepted that the decision of the First-tier Tribunal was vitiated by error of law. In particular, the judge had provided a period of two weeks following the First-tier Tribunal hearing for the appellant to provide English translations of documents upon which he relied. However, before the expiration of that two week period, the judge had promulgated the Tribunal's decision. In consequence, the appellant had been deprived of a fair hearing of his case. Secondly, the judge has not made any proper findings of fact upon which to base an assessment of the likely risk on return to Afghanistan of this appellant.
3. In the circumstances, I set aside the First-tier Tribunal decision. There will need to be a new fact-finding exercise since none of the findings of fact shall stand. That exercise is better conducted before the First-tier Tribunal to which this appeal is now returned.

Notice of Decision

The decision of the First-tier Tribunal which was promulgated on 9 May 2017 is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal (not Judge M R Oliver) for that Tribunal to remake the decision.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 3 JANUARY 2018

Upper Tribunal Judge Lane