



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

Appeal Number: PA/02545/2018

THE IMMIGRATION ACTS

Heard at Field House

On 11 April 2019

**Decision & Reasons
Promulgated
On 25 April 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHANA

Between

**MR M P
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Wilcox

For the Respondent: Mr L Tarlow

DECISION AND REASONS

1. The appellant is a national of Iran and whose date of birth is 21 September 1982. His application for protection was refused by the respondent in a decision dated 6 February 2018. He appealed against the decision and his appeal was dismissed on 29 June 2015 by the First-tier Tribunal. The appellant then made further representations and his appeal was reconsidered.

2. Permission to appeal was at first refused by Designated Judge of the First-tier Tribunal Woodcraft on 17 October 2018 and subsequently granted by Upper Tribunal Judge Kopieczek on 9 January 2019. Judge Kopieczek found that it is arguable that the First-tier Tribunal failed to undertake a proper assessment of the potential risk with the appellant's social media content and profile would be discovered on his return to Iran and thus the extent to which there would be a real risk of persecution or Article 3 harm as a result. It may be argued in that context that there was an undue emphasis on credibility in the First-tier Tribunal's decision.
3. At the hearing I heard submissions from both parties and I am persuaded by the submissions made on behalf of the appellant that the decision is not safe. Although the case of **HP** was not before the previous Tribunal, however if that case was to be applied to the facts of this case the decision may be arguably different.
4. Even if, as found by the First-tier Tribunal, the appellant's claim is opportunistic and that the appellant is not credible, nevertheless perception by the Iranian authorities is the key issue in the appeal in that would he be perceived to have, by his conduct in his Facebook accounts, which can be linked to him by his e-mail bring him to the adverse attention of the authorities.
5. The appellant's father is a Supreme Court Judge in Iran and this is another factor which must be analysed more carefully because I find it is of some significance to his circumstances and risk.
6. I therefore find that the decision of the First-tier Tribunal must be set aside and heard de novo by another judge.
7. No findings of fact are to be preserved and all issues are to be considered by a judge the first-tier Tribunal other than Judge Fox.

Notice of Decision

8. Appeal be remitted to the First-tier Tribunal.

Signed

Date 20th day of April 2019

Deputy Upper Tribunal Judge Chana