



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/06610/2017**

**THE IMMIGRATION ACTS**

**Upper Tribunal On Papers  
On the 29<sup>th</sup> October 2021**

**Decision & Reasons Promulgated  
On the 01<sup>st</sup> November 2021**

**Before**

**Upper Tribunal judge Hanson**

**Between**

**M R  
(ANONYMITY DIRECTION MADE)**

**Appellant**

**and**

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

**Respondent**

**ERROR OF LAW FINDING AND REASONS**

- 1.** The appellant appeals with permission a decision of the First-tier Tribunal which dismissed the appellant's appeal on protection and human rights grounds and rejected his claim to be a citizen of Iran.
- 2.** The Upper Tribunal has received an email from the assigned Senior Home Office Presenting Officer in the following terms:

"Following receipt of the Appellant's Upper Tier Tribunal bundle the Respondent has now had the opportunity to consider in more detail the Appellant's grounds of appeal.

The Respondent accepts that the Judge of the First Tier Tribunal has materially erred in placing undue reliance on the decision in the brother's appeal, which on the face of it appears to be flawed in the standard and burden of proof applied to the brother's nationality.

In light of this the Respondent does not oppose the Appellant’s appeal and invites the Tribunal to find a material error and remit the appeal to the First Tier Tribunal for a de novo hearing.”

**3.** The appellant’s advocate, Mr Holmes, has sent an email to the Upper Tribunal, stating:

“Further to the Respondent's email a few moments ago, the Appellant confirms that he is in agreement with the proposals set out.

The Appellant would therefore respectfully ask that the Tribunal set aside the decision of the First Tier Tribunal and remit the matter to that Tribunal for re-hearing before any Judge other than JFTT Meyler or Austin.

Again in concert with the Respondent, the Appellant therefore asks that the hearing in this matter be vacated.”

**4.** I find that for the reasons set out in the grounds seeking permission to appeal, the grant of permission to appeal, and in light of the agreed position of both advocates, that the First-tier Judge erred in law in a manner material to the decision to dismiss the appeal.

**5.** I set the decision of the First-tier Tribunal aside. In light of the nature of the error, which is fundamental to the core issue, I agree it is appropriate for this matter to be remitted to the First-tier Tribunal to be reheard afresh by a judge other than First-tier Tribunal Judge Meyler or First-tier Tribunal Judge Austin. There shall be no preserved findings.

**Decision**

**6. The First-tier Tribunal materially erred in law. I set the decision aside. This appeal shall be remitted to the First-tier Tribunal sitting at Manchester to be heard afresh by a judge other than First-tier Tribunal Judges Meyler or Austin.**

Anonymity.

**7.** The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....  
Upper Tribunal Judge Hanson  
Dated 29 October 2021