



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2023-001888

First-tier Tribunal No: HU/01570/2022

HU/54613/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On 13 September 2023**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**Miss Shelisa Ally**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**The Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr P Richardson (Counsel)

For the Respondent: Ms S Lecoite (Senior Home Office Presenting Officer)

**Heard at Field House on 3 August 2023**

**DECISION AND REASONS**

1. This is an appeal against the determination of First-tier Tribunal Judge Chana, promulgated on 29<sup>th</sup> March 2023, following a hearing at Hatton Cross on 9<sup>th</sup> March 2023. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

**The Appellant**

2. The Appellant is female, a citizen of Guyana, and was born on 4<sup>th</sup> March 1989. She appeals against the refusal of leave to remain by the respondent in a decision dated 18<sup>th</sup> July 2021.

### **The Appellant's Claim**

3. The nub of the Appellant's claim is that she arrived in the United Kingdom when aged only 14, and has been here for nearly twenty years, having no experience of adult life in Guyana, and not having lived independently in that country, as she has never worked there or rented or owned property there. Under paragraph 276ADE(1)(vi) of the Immigration Rules there would be "very significant obstacles" to her integration in Guyanese society.

### **The Judge's Findings**

4. The judge held that there were no "insurmountable obstacles" to the Appellant's integration into society in Guyana (see paragraph 41), instead of stating that there would be no "very significant obstacles". The appeal was dismissed.

### **The Grant of Permission**

5. Permission to appeal was granted by the Upper Tribunal on 27<sup>th</sup> June 2023 on the basis that the judge had arguably applied a high threshold when referring to "insurmountable obstacles", rather than to "very significant obstacles".

### **Submissions**

6. At the hearing before on 3<sup>rd</sup> August 2023 Mr Richardson, appearing on behalf of the Appellant, submitted that there were a number of errors in the decision below, and not just the one that dealt with the relevant applicable test relating to integration into one's home society. For example, the judge refers to evidence from the witness by the name of "Mr Syed" (paragraph 27), even though there is no such witness. There is a reference to how the Appellant relies on her family life "with her cousin with whom she lives, her cousin's children and her grandmother who are living together" (at paragraph 45) even though the grandmother had passed away. More importantly, the judge had referred to the Appellant having been in this country for nearly nineteen years, when she had been in this country for nineteen years and eight months, and therefore, nearing the twenty year threshold, after which she would have the right to remain in this country indefinitely. Indeed, submitted Mr Richardson, the Appellant was now 16 days short of reaching the twenty year threshold. Given that the Appellant cannot be removed for fourteen days after the date of the decision from this Upper Tribunal, there was every chance that she would now be able to remain in this country in any event.
7. For her part, Ms Lecointe submitted that the errors in the determination were material and so the decision should be set aside.

### **Error of Law**

8. I am satisfied that the making of the decision by the judge involved the making of a error on a point of law such that it falls to be set aside. This is because the judge has plainly applied the wrong standard. When referring to "insurmountable obstacles" instead of significant obstacles, as the former is a higher threshold than the latter. The judge's assessment of whether the Appellant, as a single woman with no children, who has lived in this country for nineteen years and seven months continuously, could be undertaken on the basis that, "The question I have to answer is whether there would be insurmountable obstacles ...", is

plainly an error (see paragraph 30). In fact, the judge went on to then examine and analyse how the term insurmountable obstacles could be interpreted and evaluated the Appellant's circumstances against the criteria arising under such a standard, before concluding (at paragraph 41) that there were no such obstacles.

### **Re-Making the Decision**

9. I have remade the decision on the basis of the findings of the original judge, the evidence before her, and the submissions that I have heard today. I am allowing this appeal for the following reason. First, applying the test set out in **Kamara [2016] EWCA Civ 813** in relation to integration, it is plain that that the Appellant succeeds. That case makes it clear that the decision maker has to embark on a broad, evaluative judgment on whether the individual concerned would be enough of an insider to be able to understand how life in the society in that other country is carried on, with the capacity to participate in it, so as to have a reasonable opportunity to be accepted there, and to be able to operate on a day-to-day basis in that society. I am satisfied that the Appellant will not be able to do that or to have the capacity to participate in that manner. She has been in this country since the age of 14 years on 20<sup>th</sup> August 2003, and has been living in this country for well over 19 years, as a single woman, who has never lived as an adult in Guyana, or worked there, or rented or owned a property there. Indeed, she has no relatives or friends there and cannot be described as an insider on any rational view. I am accordingly satisfied that there would be very significant obstacles to her integration in Guyana were she now to be returned.

### **Notice of Decision**

10. The decision of the First-tier Tribunal involved the making of an error of law such that it falls to be set aside. I have set aside the decision of the original judge. I remake the decision as follows. This appeal is allowed.

**Satvinder S. Juss**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**12<sup>th</sup> September 2023**