



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-002128
On appeal from: PA/52073/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 06 August 2023

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

M S (Iran)
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION OF THE UPPER TRIBUNAL
PURSUANT TO RULE 40(3)(a) OF
THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008

- 1.** The appellant appeals with permission from the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision to refuse him refugee status, humanitarian protection, or leave to remain in the UK on human rights grounds.
- 2. Anonymity order.** Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. **Failure to comply with this order could amount to a contempt of court.**
- 3.** Permission to appeal was granted by First-tier Judge Monahan on the following basis:

"The Judge has arguably made a material error of law in failing to make adequate or any findings in respect of the threats alleged and on the weblog operated by the Appellant, rejecting both these aspects on the sole basis that the Appellant was found to be an economic migrant by the previous Judge. The Judge has arguably erred in failing to make his own assessment of credibility on the evidence before him."

- 4.** By an email dated 13 July 2023, the respondent conceded that the First-tier Judge had made a material error of law, for the following reasons:

“The SSHD accepts that the FTTJ’s reliance on previous adverse credibility findings and a finding of fact of having come to the UK as an economic migrant are insufficient, without more, to disregard the Appellant’s accepted evidence of operating a weblog with 14,000 followers **[18]**.”

It is not implausible for an economic migrant to become political (or imputed politically) active. The FTTJ has not specifically stated that the activity is non-genuinely motivated, although that may be implied at **[21]**. The FTTJ’s rejection of the police visiting his home to intimidate family is seemingly a finding devoid of reasoning* **[19]**. The FTTJ does not seemingly suggest that if the authorities were aware of the blog and its content they would remain uninterested in it i.e. that the subject matter is non-contentious?

The FTTJ’s reliance on the inability of the Iranian authorities to monitor everyone and the lack of established current interest* **[18-20]** does not address the ‘HJ’(Iran) point of how the Appellant may act on return, what if any questioning they may face and their likely response.”

- 5.** It is common ground, therefore, that the First-tier Tribunal did materially err in law and both parties agree that this is a case where the decision of the First-tier Tribunal must be set aside and remade.
- 6.** I am satisfied that the decision of the First-tier Tribunal can properly be set aside without a reasoned decision notice.
- 7.** Pursuant to rule 40(3) of the Tribunal Procedure (Upper Tribunal) Rules 2008, no reasons (or further reasons) will be provided unless, within 7 days of the sending out of this decision, either party indicates in writing that they do not consent to the appeal being disposed of in the manner set out at (5) above.

Decision

- 8.** I set aside the decision of the First-tier Tribunal, with no findings of fact or credibility preserved. The appeal will now proceed to the stage in which the First-tier Tribunal will remake the decision afresh.

Judith A J C Gleeson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 1 August 2023