



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

Case No: UI-2024-005052

First-tier Tribunal No: PA/01226/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 5 February 2025**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS  
DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**Between**

**EK  
(ANONYMITY ORDER MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms K McCarthy, Counsel instructed by GLS Solicitors  
For the Respondent: Ms J Isherwood, Senior Home Office Presenting Officer

**Heard at Field House on 29 January 2025**

**Order Regarding Anonymity**

**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.**

**We make this order because the appellant seeks international protection.**

**DECISION AND REASONS**

1. This is an appeal by a citizen of Nepal against the decision of the Secretary of State, explained and amplified in a refusal letter dated 25 July 2004, refusing her claim for international protection.
2. The fundamental problem with the decision is that the appellant made an extremely clear allegation that she was the victim of rape but, as far as we can see and we read the decision carefully and have been assisted by Ms Isherwood, there is no clear finding on the claim to have been raped.
3. The allegation impacted with her case in two ways: (1) it was an illustration of how she claimed she had been persecuted and (2), on her case, it illustrated why she could not reestablish herself in Nepal.
4. We agree with Ms Isherwood that, when the decision is read as a whole, there are reasons to infer a general adverse credibility finding but we do not find that sufficient to show proper consideration of the case when there is such an important allegation, particularly because it is a kind of allegation where, by its very nature, there may be good reasons for the appellant to be hesitant to give her full account at the first opportunity.
5. This decision is so unsatisfactory for that reason that it is wrong in law.
6. By way of observation, not direction, we suggest that it might have been more sensible if the First-tier Tribunal Judge had begun his deliberations by considering whether the appellant's claim to have been raped was truthful and let that illuminate the fact finding exercise rather than the other way round. Obviously, findings must be made "in the round" on the totality of the evidence rather than sequentially but considering first the evidence of the most serious allegation would help ensure that it was considered thoroughly.

### **Notice of Decision**

7. This appeal is allowed. We set aside the decision of the First-tier Tribunal. We allow the appeal to that extent. We direct the case to be heard again in the First-tier Tribunal. No findings are preserved.

Jonathan Perkins  
Jonathan Perkins  
Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**29 January 2025**