



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

Appeal Numbers:  
VA/16196/2013  
VA/16193/2013  
VA/16195/2013

VA/16195/2013

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 19<sup>th</sup> August 2014**

**Determination  
Promulgated  
On 10<sup>th</sup> October 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE**

**Between**

**ABU SAYEM  
MD AYAS MIAH  
SYEDA ASIA BEGUM**

**Appellants**

**and**

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

Respondent

### **Representation:**

For the Appellant: Mr Baker, Sponsor

For the Respondent: Mr Jarvis, Senior, Home Office Presenting Officer

### **DETERMINATION AND REASONS**

1. The hearing before me on 19<sup>th</sup> August proceeded on the mistaken assumption that the grant of permission extended to all three Appellants of these linked appeals, whereas, in fact, only Mr Abu Sayem was granted permission. For that reason I had no jurisdiction to make any decision in respect of the dismissed appeals of Mrs Syeda Asia Begum or Mr MD Ayas Miah, and accordingly my extempore decision, so far as it relates to their cases, is set aside for procedural irregularity, with reference to Rule 43 of the Tribunal Procedure (Upper Tribunal) Rules 2008. Accordingly the decisions of the First-tier Tribunal dismissing their appeals stand.
2. Mr Abu Sayem a Bangladeshi national born on 25 December 1995 appeals, with permission, a decision of First-tier Tribunal Judge Fox, promulgated on 19<sup>th</sup> May 2014, in which he dismissed the Appellants' appeal against the refusal of his application for entry clearance as a visitor. In the first instance the judge found that because the Appellant had not established he was related as claimed, i.e. as a full blood brother to the sponsor, he had not established a right of appeal on the grounds argued in the notice of appeal, and, secondly and in the alternative, that for the same reasons he had dismissed the parents appeal, namely the failure to establish they met the financial provisions because of a failure to establish their circumstances in Bangladesh, the appeal could not succeed in any event.
3. The Grounds of Appeal assert that:
  - (i) the issue of blood relationship was not before the judge,
  - (ii) the documentary evidence before the judge was sufficient to establish that the Appellant was related as claimed,
  - (iii) that the financial position of the parents was established.
4. Permission was granted on the sole ground that it was arguable that the First-tier tribunal judge had failed to adequately explain his conclusions

about the relationship, which underpinned the decision that the Appellant had no right of appeal.

5. I am satisfied that the decision reveals no material error. The judge sets out the basis of the dispute: namely the implausibility of the claimed relationship because, on the asserted dates of birth, the mother would have given birth to the Appellant at the age of 50. The judge finds that the respondent's doubts are reasonable, so that they require an answer. At paragraphs 8, 15 and 16, the judge notes the documentation provided in support of the claimed relationship: namely a photocopy of a late registered (May 2010) birth certificate issued in May 2014, a copy of a letter from the local council dated 04 May 2014, a copy letter from his school, and copies of two secondary school certificates for 2011 and 2012. It is for the judge having the opportunity of hearing and seeing the evidence to make their assessment of the factual matters in dispute. The judge correctly self directed that the burden was on the Appellant, and the standard was that of the balance of probabilities. The judge noted that the documentary evidence was all photocopies, and that they were all dated significantly after the ECM raised the issue on the 15 April 2014, and were only submitted at the hearing. The judge found in the round that the evidence was not sufficient to establish the family relationship claimed. The evidence submitted cannot be described as being determinative in nature. The judge's decision is not perverse in the context of the evidence. For those reasons I am satisfied that the grounds of challenging the findings on the issue of the relationship have not been made out. In any event the Judge finds that even if the relationship were established, the appeal would fail for the same reasons the parents appeals fell to be dismissed. Permission to appeal against those grounds has not been granted.
6. In short the decision of the judge dismissing Mr Abu Sayem's appeal for lack of jurisdiction, and alternatively on the merits, reveals no material error of law requiring it to be set aside, and the decision dismissing the appeal stands.

### **Decision**

7. The decision of the First-tier tribunal reveals no material error of law requiring it to be set aside, and it stands.

Signed

Date

Deputy Upper Tribunal Judge Davidge