



Upper Tribunal

(Immigration and Asylum Chamber) Appeal Numbers: UI-2021-001762

EA/02671/2021

UI-2021-001763 EA/02830/2021

UI-2021-001765 EA/02832/2021

UI-2021-001766 EA/02833/2021

THE IMMIGRATION ACTS

**Heard at Field House
On the 26 August 2022**

**Decision & Reasons Promulgated
On the 19 October 2022**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

**TAHMINA FERDOUS
MD BALALUR RAHMAN
MAZDI RAHMAN
TAIBA AFNAN
(no anonymity direction)**

Appellants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Ms Francis Allen, Counsel instructed by MQ Hassan Solicitors

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The reasons for the appeal are set out particularly aptly in the First-tier Tribunal's Decision and Reasons at paragraph 1 and I substantially repeat

it because I cannot put it any better. It says that the appellants are husband and wife and their two children born in 2003 and 2007. They are all citizens of Bangladesh and their sponsor is Sultana Mashrufa Kabir. Ms Kabir is the niece of the lead appellant, Md Balalur Rahman, being the daughter of his sister, and is a Dutch national. Ms Kabir, at the date of the application leading to the decision under appeal, had a permanent residence card issued pursuant to the Immigration (EEA) Regulations 2016 (as amended), hereinafter “the EEA Regulations”.

2. The point of contention between the parties was whether in fact the appellants are dependent on their Dutch national relative.
3. The First-tier Tribunal has gone through the evidence with some care and has made findings. What the First-tier Tribunal has not done, at least to my satisfaction, is explain what it made of the evidence of the sponsor that she did indeed maintain the appellants in Bangladesh as her mother had done for some time. There is a hint, which Mr Avery properly picked up, that the judge might have had in mind the sponsor’s evidence and decided she was not as well informed as she thought. There is some reference to a lack of knowledge on her part. However I cannot elevate that into a clear finding on the extremely clear claim made in her evidence that she did support these appellants and there really needs to be a finding on that point.
4. There are several possible explanations; it might be that she is telling lies; it might be that she is being unduly optimistic because of family loyalty; it might be that she has been deceived by her relatives; but it is also possible that she is both truthful and accurate which is why she and her mother have been sending money. There does need to be a clear finding on that point, the absence of which spoils the decision. I do acknowledge that much care has gone into this decision and it is regrettable that the judge has lost the track of this rather important point.
5. The situation cannot be remedied, it has to be heard again and I direct the case be heard again in the First-tier Tribunal. That is my decision.

Notice of Decision

6. The First-tier Tribunal erred in law. I set aside its decision and I direct that the appeals be heard again in the First-tier Tribunal.

Jonathan Perkins

Signed
Jonathan Perkins
Judge of the Upper Tribunal

Dated 16 September 2022