



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-004478
UI-2024-004479
First-tier Tribunal No: HU/59374/2023
(LH/04331/2024)
HU/59375/2023
(LH/04332/2024)

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 31 December 2024**

Before

**UPPER TRIBUNAL JUDGE HOFFMAN
DEPUTY UPPER TRIBUNAL JUDGE RICHARDS**

Between

**Aayush Limbu
Deepak Limbu
(NO ANONYMITY ORDER MADE)**

Appellants

and

Entry Clearance Officer

Respondent

Representation:

For the Appellant: Mr R Jesurum, Counsel

For the Respondent: Ms S Nwachukwu, Senior Home Office Presenting Officer

Heard at Field House on 17 December 2024

DECISION AND REASONS

1. The appellants, who are citizens of Nepal, appeal with permission against the decision of First-tier Tribunal Judge Parkes (“the judge”) promulgated on 24 July 2024 dismissing their appeals against the respondent’s decisions dated 14 July 2023 refusing their applications for entry clearance made on 28 May 2023.
2. The appellants were granted anonymity by the First-tier Tribunal. It is unclear on what basis that order was made. Taking into account the strong public interest in open justice and having had regard to the Upper Tribunal guidance note on anonymity orders and hearings in private, we therefore set aside the anonymity order.

The grounds of appeal

3. The appellants argue that in dismissing their appeals, the judge made material errors of law by:
 - a. acting in a procedurally unfair manner by making adverse findings on a number of points without the appellants' witnesses having been directly cross-examined on them; and
 - b. by failing to consider relevant evidence and, instead, focussing on the evidence of the sponsor.

Findings - Error of Law

4. At the outset of the hearing, we were told by Ms Nwachuku that the respondent conceded that the judge had made material errors of law for the reasons given by the appellants in their grounds of appeal.
5. We are therefore satisfied that the judge's decision is vitiated by a material error of law.

Remaking

6. The parties were in agreement that because the judge's decision is tainted by procedural unfairness, as well as the extent of the fact-finding that is required, the appeal should be remitted to the First-tier Tribunal for a de novo hearing. Applying paragraph 7.2 of *the Practice Statements of the Immigration and Asylum Chambers of the First-tier Tribunal and the Upper Tribunal*, we are satisfied that it is appropriate for the appeal to be remitted with no findings preserved.

Notice of Decision

The decision of the First-tier Tribunal involved the making of material errors on a point of law.

The decision of the First-tier Tribunal is set aside with no findings preserved.

The remaking of the decision in the appeal is remitted to the First-tier Tribunal in Birmingham, to be remade afresh and heard by any judge other than Judge Parkes.

M R Hoffman

Judge of the Upper Tribunal
Immigration and Asylum Chamber

17th December 2024