



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-005510

First-tier Tribunal Nos: PA/63472/2023
LP/08128/2024

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 6th of February 2025

Before

UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

BR
(ANONYMITY ORDER MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Kogulathas, Counsel, instructed by KB Law 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] (and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified) 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 (and/or other person). Failure to comply with this order could amount to a contempt of court.

We make this order because this is a protection case and publicity might put the appellant at risk.

DECISION AND REASONS

1. This is an appeal by a citizen of Nepal against a decision of the First-tier Tribunal dismissing his appeal against a decision of the Secretary of State to refuse him international protection in a decision made on 21 November 2023.
2. There is a fundamental problem in the First-tier Tribunal's Decision and Reasons which will not go away. The First-tier Tribunal did not show any consideration whatsoever of an expert report provided to the Tribunal. The tone of the expert report might be thought to be generic rather than specific but it clearly refers to a person in the appellant's circumstances and, if the judge did consider it, the judge gives no indication at all of his findings. Ms Isherwood accepted that this was a substantial obstacle in the way of defending the appeal and, despite her best efforts, we find that it is indefensible and we have to set aside the decision of the First-tier Tribunal because something important has just not been considered expressly.
3. Ms Kogulathas urged us to preserve existing findings of fact and we understand fully why she sought to persuade us to do that but we do not. We do not do it because the expert report, at least in part, impacts on some of the things that had been said and the judge considering the expert report needs to know, and probably show, how the expert report illuminated the credibility findings. This means that the whole issue of credibility has to be reopened because there are no reliable findings on matters that are of importance given that the expert report has got to be considered in some care. Unless there are unusual circumstances, matters that have been already agreed by the Secretary of State really ought to be agreed when the matter is reheard.
4. The failure to consider the expert report essentially means there has not been a fair hearing and we find the only proper thing to do is to remit the case to be reheard in the First-tier Tribunal before a different judge.

Notice of Decision

5. The appeal is allowed to the extent that the decision of the First-tier Tribunal is set aside and we direct that the appeal is heard again in the First-tier Tribunal before a different judge.

Jonathan Perkins

Jonathan Perkins
Judge of the Upper Tribunal
Immigration and Asylum Chamber

30 January 2025