



**Upper Tribunal
(Immigration and Asylum Chamber)**
AA/03076/2014

Appeal Number:

THE IMMIGRATION ACTS

Heard at: Field House

**Determination
Promulgated**

On: 28 August 2014

**On: 1 September
2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE J F W PHILLIPS

Between

MS J A

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms E King, Counsel instructed by Duncan Lewis & Co
For the Respondent: Ms P Hastings, Home Office Presenting Officer

DECISION AND DIRECTIONS

1. The Appellant, a citizen of Pakistan, appeals a decision of the First-tier Tribunal (Judge Tiffen) dismissing her appeal against a decision made on 7 May 2014 by the Respondent to refuse her application for asylum and humanitarian protection.

2. The Appellant's application for permission to appeal against the First-tier Tribunal Judge's decision was granted on 20 June 2014 by Upper Tribunal Judge Eshun on the basis that it was arguable for the reasons set out in the grounds of appeal to the Upper Tribunal that the judge may have erred in law.
3. By a letter dated 26 June 2014 the Respondent's representative wrote to the Tribunal stating

"The respondent concedes that the FTJ has made a material error of law in the consideration of the sufficiency of state protection. The respondent further requests that the matter be taken out of the Detained Fast Track process and revert back to the First-tier Tribunal. The Respondent wishes to investigate further following the recent arrest in the UK of the MQM leader and the implications thereof, as well as the general country situation."

4. At the hearing before me Ms King appeared for the Appellant and Ms Hastings for the Respondent. Ms Hastings said that she had not been able to contact the case owner to ascertain the up to date position or to find out whether the Respondent intended to withdraw the decision under appeal pending reconsideration. Both representatives agreed that in the particular circumstances of this case and with an error of law having been conceded on a fundamental issue it was appropriate to remit this matter for rehearing by the First-tier Tribunal. Ms Hastings, noting further that the Appellant is pregnant, agreed to ask the case owner to confirm to the Appellant's representative as soon as possible whether the decision under appeal was to be withdrawn.

DECISION

5. In detailed grounds of appeal to the Upper Tribunal the Appellant asserts that the First-tier Tribunal Judge having made generally positive credibility findings erred in law in her assessment of risk on return. The Respondent accepts that this is the case and in the particular circumstances appertaining wishes to make further specific and general investigations. In my judgement, and taking into account the Respondent's concession, the decision of the First-tier Tribunal failed to properly consider the sufficiency of state protection available to the Appellant upon a return to Pakistan. This error was material to the decision to dismiss the appeal and that decision therefore falls to be set aside. Due to the nature of the error of law and in particular the Respondent's stated aim to make further investigations before deciding whether the decision under appeal should be maintained it is appropriate

for this matter to be remitted to the First-tier Tribunal for rehearing

Conclusion

6. The decision of the First-tier Tribunal involved the making of an error of law for the reasons set out above.
7. I set aside the decision of the First-tier Tribunal and in accordance with the President's direction this matter is suitable for and should be remitted to the First-tier Tribunal.

Signed:

Date:

**J F W Phillips
Deputy Judge of the Upper Tribunal**