



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

Appeal Number: IA/07796/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 10 July 2014**

**Determination
Promulgated
On 14 July 2014**

Before

UPPER TRIBUNAL JUDGE COKER

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

and

MS JYOTSNA PRYADARSHINEE PARSUNOO

Appellant

Respondent

Representation:

For the Appellant: Mr L Tarlow
For the Respondent: Mr Z Malik

DETERMINATION AND REASONS

1. This is an application for permission to appeal the decision of First-tier Tribunal Judge Herbert who allowed the appeal of Ms Parsunoo in a determination dated 1 May 2014. The appeal was allowed under Article 8. He found in paragraph 15:

“First and foremost this is a highly unusual case as the appellant does not have any grounds to remain under the Immigration Rules or under Appendix FM paragraph ADE.”

2. The Secretary of State sought and was granted permission to appeal in what could be said is the **Gulshan** point in that it was submitted that the judge in finding in the appellant’s favour under Article 8 had failed to consider the principles set out in **Gulshan [2013] UKUT 640 (IAC)** and **Nagre [2013] EWHC 720 (Admin)**.
3. Before me Mr Tarlow relied upon the grounds seeking permission to appeal but felt that he could not strenuously argue against the issue that Miss Parsunoo did in fact meet the Immigration Rules, in particular paragraph 276ADE(vi), namely she is aged 18 years or above, has lived continuously in the UK for less than twenty years but has no ties including social, cultural or family with the country to which she would have to go if required to leave the UK.
4. The findings by Judge Herbert which have not been challenged are that Miss Parsunoo and her sister are clearly credible witnesses, that she faced complete ostracism from her family in Mauritius and the stigma and trauma of having been raped by an ex-boyfriend. She was subject to physical abuse in a manner set out in her statement which included being forced to have an abortion as a consequence of the rape and ill-treatment that followed.
5. The relationship that the appellant has with her sister, who is settled and resident in the UK, is beyond the normal sibling relationship, and that has greatly deepened and strengthened because of the support the sister has given to the appellant during the crisis that has continued to affect her life. He found that the relationship is significant in the scheme of her current application as removal to Mauritius would effectively make that close bond extremely difficult to maintain.
6. He refers and makes positive findings with regard to friendships with her peers in the UK, her desire to continue her studies and that if she were to be removed to Mauritius there is every likelihood that she would be destitute and would have no financial or accommodation support from her immediate family.
7. He found that she was likely to suffer from societal discrimination in Mauritius based upon the notoriety of her nude photographs being exhibited and by the fact that it may well come out as to why her parents failed to talk to her, namely the rape and abortion. He found that she would have no accommodation and maintenance and would have nobody to turn to given her parents’ attitude to her.
8. As referred to in the case of **Ogundimu [2013] UKUT 60** the natural and ordinary meaning of the word ties in paragraph 399A of the Immigration

Rules imports a concept involving something more than merely remote or abstract links to the country of proposed deportation or removal. It involves there being a connection to life in that country.

9. In terms of explaining that it is not merely that there is somebody in that country. It is also looking at the quality of the relationships that person has with friends and family members in the country to which it is intended to remove her. This is explained in detail in paragraph 125 of **Ogundimu**.
10. Given the findings of fact by Judge Herbert which, as I have said, have not been challenged it is quite clear that this young woman has no ties that could in any way be said to exist in any meaningful way, and it is therefore quite clear that she meets paragraph 276ADE(vi) of the Immigration Rules.
11. Given that the Secretary of State was granted permission on the **Gulshan** point, namely the consideration of Article 8, it is hard to find that the determination by Judge Herbert, given the findings of fact, did not actually fall within the **Gulshan** and **Nagre** parameters even though neither of those cases was referred to and Judge Herbert in fact referred to **MF [2012] UKUT 00393** rather than the Court of Appeal decision.
12. Accordingly I am satisfied that on the findings of fact made, that she meets the requirements of paragraph 276ADE and that this appellant succeeds in her appeal under Article 8 as well. I therefore set aside the decision of Immigration Judge Herbert and remake the decision by allowing her appeal both under the Rules and on Article 8 grounds.

Signed

Date 14th July 2014

Upper Tribunal Judge Coker