



IAC-BH-PMP-V1

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

Appeal Number: AA/02975/2015

**THE IMMIGRATION ACTS**

**Heard at Bennett House, Stoke  
On 16<sup>th</sup> July 2015**

**Decision & Reasons Promulgated  
On 20<sup>th</sup> August 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE GARRATT**

**Between**

**FAHMIDA BEGUM  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Q Ahmed, legal representative of Joules Law

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Background**

1. On 8<sup>th</sup> June 2015 Judge of the First-tier Tribunal Grant-Hutchison gave permission to the appellant to appeal against the decision of Judge of the First-tier Tribunal Matthews in which he dismissed the appeal against the decision of the respondent to refuse asylum, humanitarian and human rights protection to the appellant, an adult female citizen of Pakistan.
2. Judge Grant-Hutchison granted permission because she thought it arguable that the judge had misdirected himself by misapplying the country guidance in *MN and*

*Others* [2012] UKUT 00393 and by failing to assess the appellant's claimed behaviour as a member of the Ahmadi faith. She also thought it arguable that the judge had failed to consider the evidence of the appellant's niece, Saba Mirza, had failed to consider the appellant's UK based religious activities and had not considered and assessed the present situation for Ahmadis in the appellant's home town of Gujranwala. However, Judge Grant-Hutchison thought the claims that the judge had misdirected himself by failing to consider the principles set out in *HJ (Iran)* [2010] UKSC 31 and the weight attached to a letter from the Ahmadiyya Muslim Association letter less persuasive.

### **Submissions**

3. At the hearing before me I heard submissions as to whether or not the grounds gave rise to an arguable error on a point of law. Mr Ahmed expanded upon the grounds. He contended that, if the judge had given proper consideration to *MN and Others*, this would automatically have included consideration of the principles set out in *HJ (Iran)* upon which the Upper Tribunal relied when giving its country guidance. He also argued that the judge had failed to consider the appellant's comments in interview (for examples questions 91 and 92) about her inability to practice her faith in Pakistan and had failed to consider the appellant's claimed preaching activities.
4. Mr McVeety reminded me that the respondent had entered a response under Rule 24 in which it was argued that the First-tier Tribunal Judge had directed himself appropriately setting out clear instances, in paragraphs 18 to 26, of evidence which was inclusive or contradictory. His conclusion in paragraph 27 that the appellant's account lacked credibility was open to him. Further, the judge had correctly directed himself as to the guidance set out in *MN* in paragraph 30 and in paragraph 32 applied his mind to the question of whether the appellant might be at risk on return despite his adverse credibility findings.
5. Mr McVeety also drew attention to paragraph 19 of the decision in which the judge had concluded that the appellant had admitted, in interview, that she had not been an official in her local organisation. The appellant had simply taught people how to sew and was not a preacher. He contended that the guidance in *HJ (Iran)* had no relevance to the appellant's non-religious activity. The judge was right to find that the appellant did not have a raised profile.
6. Mr Ahmed contended that the judge had failed to give adequate consideration to the appellant's alleged activities in the United Kingdom when paragraphs 6 and 9 of the head note to *MN* made it clear that a careful evidential analysis was required. He maintained that the judge should have considered the Ahmadi letter in the light of the country guidance. The judge had also failed to give reasons for the conclusions as required by *MK (Duty to give reasons) Pakistan* [2013] UKUT 00641 (IAC).

### **Conclusions**

7. After hearing submissions I announced that I was not satisfied that the decision of the First-tier Judge showed a material error on a point of law. My reasons for that conclusion follow.

8. The judge's credibility findings are key to his conclusions about risk on return for the appellant accepting that she is an Ahmadi. It is clear that the judge was fully aware of the need to consider not only the appellant's activities in Pakistan in relation to her faith but also in the United Kingdom. The judge's copious reasons for concluding that the appellant's claims lacked credibility are set out in paragraph 15 of the decision. The judge commenced with an examination of the conflicting information from the UK Ahmadiyya Muslim Association which stated, on the one hand, that the appellant taught sewing to female members of the community whilst in, another, described her activities as involving preaching to non-Ahmadi friends. The judge was entitled to conclude that not only did the letters not support the appellant's claim to have been an active preacher in Pakistan but also in the United Kingdom.
9. The judge was also able to call upon inconsistencies and a lack of evidence to support his conclusions. In particular I note the judge's comments about the absence of evidence from the appellant's younger son, despite him also claiming persecution in Pakistan, and who had delayed his departure from Pakistan for two years despite the claimed risk. The judge was also entitled to comment upon the possibility that the appellant had a pre-existing plan to leave Pakistan before the claimed incident in August 2012. The appellant also contradicted herself in evidence about where she was living before she left Pakistan. The judge was also entitled to reject the appellant's claim that she did not know how to claim asylum in the United Kingdom when she was familiar with international travel and had children and siblings who had settled in other countries.
10. For all the cogent reasons given by the judge the conclusion that the appellant was a member of the Ahmadi community but was not actively preaching or organising meetings as she claims was properly open to the judge. It was also open to him to conclude that the appellant's community activities in her home area showed that she was able to live without difficulty after her husband's death. In this respect the judge was also able to reach the conclusion that the appellant had not suffered the two mob incidents claimed by her.
11. The conclusions, in paragraph 29, that the appellant would return to her former practice of simply observing her own faith as she had done for many years without adverse interest showed that the judge had in mind the guidance in *HJ (Iran)*. The judge does so in the context of *MN and Others* in paragraph 30. Where, as in this case, the judge found that the appellant would continue to practice her faith as she had before did not require examination of any reason for the appellant behaving discretely because the judge had evidently concluded that she had not behaved in that way but had simply followed her faith as she wished without attracting any adverse attention.
12. As to the allegation that the judge failed to consider that the appellant would be at risk on return simply because she is an Ahmadi is not supported by the conclusions of the Tribunal in *MN and Others*. That is particularly so where the judge had properly found that the appellant was happy to practice her faith in such a way as would not attract any adverse attention. In the guidance it is concluded that Ahmadis who have practiced their faith in Pakistan on a restricted basis are, in general, unlikely to be able to show that their genuine intentions or wishes are to practice and manifest their faith openly on return. It cannot be said that the judge did not conduct the careful

evidential analysis required of the appellant's "sur place" activities taking into consideration, as he was entitled to do, inconsistencies in the appellant's evidence.

13. No material error on a point of law is shown.

**Decision**

The decision of the First-tier Tribunal does not show a material error on a point of law and shall stand.

**Anonymity**

The First-tier Tribunal did not make an order pursuant to Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.

Signed

Date

Deputy Upper Tribunal Judge Garratt