



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

Appeal Number: PA/13864/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 16 May 2017**

**Decision & Reasons Promulgated
On 18 May 2017**

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

E T

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

(ANONYMITY DIRECTION MADE)

Anonymity

Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008

Anonymity was ordered at an earlier stage of the proceedings because the case involves protection issues. I find that it is appropriate to continue the order. Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the appellant and to the respondent.

Representation:

For the appellant: Ms A. Radford, Counsel instructed by Duncan Lewis Solicitors

For the respondent: Mr N. Bramble, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appealed the respondent's decision dated 11 October 2016 to refuse a protection claim. First-tier Tribunal Judge Aujla dismissed the appeal in a decision promulgated on 24 January 2017.
2. Rule 40 of The Tribunal Procedure (Upper Tribunal) Rules 2008 allows the Upper Tribunal to give a decision orally at a hearing. Rule 40(3) states that the Upper Tribunal must provide written reasons with a decision notice to each party as soon as reasonably practicable after making a decision which finally disposes of all issues in the proceedings. Rule 40(3) provides exceptions to the rule if the parties have consented to the Upper Tribunal not giving written reasons.
3. Both parties were in agreement that the decision disclosed material errors of law that were sufficient to set aside the decision. In summary:
 - (i) The judge misunderstood the chronology of events and the evidence given by the appellant at the hearing. In particular, he misunderstood the appellant's evidence regarding when her mother was arrested [44]. This underpinned further errors in the assessment of evidence that supported her claim to be of Oromo ethnicity, such as her ID card [39].
 - (ii) The judge made a material mistake of fact by placing weight on the fact that the appellant did not speak Oromiffa when publicly available evidence contained in the respondent's Country Information and Guidance Note on Ethiopia: Oromos and the 'Oromo protests' (December 2016) states that the Oromo are the largest ethnic group in Ethiopia (paragraph 4.2.1-2) who speak a range of languages (paragraph 4.4.1-4). The point was not raised by the respondent so the appellant could not anticipate that this was going to be an issue. The judge's finding that the fact that she did not speak Oromiffa was, taken alone, sufficient to bring her claim to be Oromo "under suspicion" was therefore based on a material error of fact [40].
 - (iii) The judge failed to consider material evidence from Dr Berri, the Chairman of the OLF Committee in the UK. Dr Berri stated that it was not unusual for Oromo people who were brought up in Addis Ababa not to speak the Oromo language. In the alternative, when he did

come to consider the evidence, the judge erred in rejecting the letter because he had “serious concerns about her credibility” [49]. He failed to take a holistic view of the evidence as part of an overall credibility assessment.

4. Both parties agreed that the decision involved the making of material errors of law and that it should be set aside. It was agreed that the appropriate course of action was to remit the appeal for a fresh hearing before the First-tier Tribunal.

Decision

The First-tier Tribunal decision involved the making of errors of law

The decision is set aside and remitted to the First-tier Tribunal for a fresh hearing

Signed  Date 16 May 2017
Upper Tribunal Judge Canavan