



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

Appeal Number: PA/08152/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 21st March 2019**

**Decision & Reasons Promulgated
On 25th March 2019**

Before

UPPER TRIBUNAL JUDGE COKER

Between

**SM
(anonymity direction made)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr I Palmer, instructed by Barnes Harrild & Dyer solicitors
For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) I make an anonymity order. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the appellant in this determination identified as SM. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings

1. In a decision promulgated on 2nd November 2017, Dr Storey found errors of law in the decision by the First-tier Tribunal such that the decision to dismiss SM's appeal was set aside to be re-made. He noted there had been no challenge to the First-tier Tribunal judge's adverse credibility finding and the cases was adjourned to be concluded in the Upper Tribunal after the anticipated Country Guidance case.
2. The CG case (*HB (Kurds) Iran CG* [2018] UKUT 00430 (IAC)) on 12th December 2018, directions made and hence the case came before me.
3. Unfortunately Mr Jarvis was not aware that the hearing before me was a resumed hearing. He was not provided with the bundle of documents the appellant sought to rely upon until the morning of the hearing, which was received by the Tribunal on 18th March, along with a skeleton argument.
4. This appeal has now "blossomed" into a *sur place* claim with the appellant relying on a number of documents including FaceBook activity; it is not an historical asylum claim of activity in Iran prior to coming to the UK.
5. Mr Jarvis confirmed that in the light of the evidence that had been provided it is likely that the respondent would need to consider the FaceBook activity, including issues such as security settings, deletion and so on as well as considering these matters in the context of *HJ(Iran)*. These may well be matters upon which the appellant will want to adduce evidence.
6. In these circumstances and given the extent of the fact-finding that has now become necessary I have concluded that it is appropriate and in accordance with the Practice Direction, and with the agreement of the parties, that this appeal is remitted to the First-tier Tribunal to be re-heard.
7. No doubt the First-tier Tribunal will make any necessary directions and the parties will themselves consider the extent of evidence they seek to adduce in connection with the claimed *sur place* activity.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

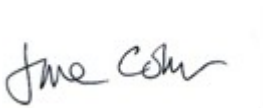
The decision of the First-tier Tribunal is set aside and remitted to the First-tier Tribunal for a fresh hearing.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008).

Date 21st March 2019



Upper Tribunal Judge Coker