



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

Appeal Number: PA/00699/2019

THE IMMIGRATION ACTS

Heard at Field House
Oral judgment given at hearing
On 9 January 2020

Decision & Reasons Promulgated
On 31 January 2020

Before

UPPER TRIBUNAL JUDGE KOPIECZEK

Between

**L M
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K Gayle, Counsel instructed by Elder Rahimi Solicitors
(London)

For the Respondent: Mr P Deller, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Iran born in 1969. He arrived illegally in the UK in 2002 but at that point claimed to be an Iraqi citizen. He maintained that pretence for some period of time until, ultimately, he made a protection claim as a citizen of Iran. That application was refused in a decision dated 10 January 2019.
2. The appellant appealed against that decision and his appeal came before First-tier Tribunal Judge Barrowclough at a hearing on 23 July 2019. Judge Barrowclough dismissed the appeal on asylum, humanitarian protection and human rights grounds. Permission to appeal that decision having

been granted by a Judge of the Upper Tribunal, the appeal came before me.

3. It was not contended on behalf of the appellant in relation to the grant of permission, notwithstanding how the grant is phrased, that it was anything more than a grant of permission and a decision that the grounds are arguable, although the grant of permission does on one view suggest that the judge who granted permission had concluded that there were errors of law already made out.
4. It is not necessary for me to set out in detail the basis of the appellant's claim or the detail of the judge's adverse credibility findings because it was accepted on behalf of the appellant that in the light of my expression of a provisional view that the appeal fell to be allowed in the light of the country guidance decision of *HB (Kurds) Iran* CG [2018] UKUT 00430 (IAC), the complaints in the grounds concerning the judge's adverse credibility findings need not be pursued.
5. It was similarly agreed on behalf of the respondent that in the light of the findings made by Judge Barrowclough in terms of the appellant's *sur place* activities, the appeal fell to be allowed notwithstanding the limited findings as to those *sur place* activities.
6. In those circumstances, and having canvassed these issues with the parties at the hearing in advance of this oral judgment, I am not satisfied that there is any error of law in the judge's adverse credibility findings, but on the basis of the positive findings set out in particular at [34] of Judge Barrowclough's decision supported by the documentary evidence in terms of the appellant's *sur place* activities, I am satisfied that Judge Barrowclough erred in law in dismissing the appeal in the light of the country guidance decision of *HB*.
7. Accordingly, and in the light of the concession on behalf of the respondent that the judge's decision must be set aside, the parties agreed that the appropriate outcome is for the decision to be re-made and for the appeal to be allowed on protection grounds (asylum and Article 3).

Decision

The decision of the First-tier Tribunal involved the making of an error on a point of law. Its decision is set aside and I re-make the decision allowing the appeal on asylum and Article 3 grounds.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant

and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Upper Tribunal Judge Kopieczek

29/01/2020