



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No: UI-2023-003617**  
**First-tier Tribunal Nos:**  
**HU/50770/2021**  
**IA/02614/2021**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 16 October 2023**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE B KEITH**

**Between**

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

Appellant

**and**

**MUHAMMAD SALEEM BASHIR**  
**(ANONYMITY ORDER MADE)**

Respondent

**Representation:**

For the Appellant: Mr E Tufan, Senior Home Office Presenting Officer

For the Respondent: Mr A Maqsood, Counsel, instructed by Legal Solutions  
Advocates and Solicitors Ltd

**Heard at Field House on 6 October 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant (*and any member of his family*) is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant or his family. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. This is an appeal by the Secretary of State for the Home Department (“SSHD”) against the decision of First-tier Tribunal Judge Dixon (“the Judge”) made as long as 31 August 2021. In that decision the Judge allowed the Article 8 appeal of the Appellant, Mr Muhammad Saleem Bashir.
2. On submissions from the parties and for the reasons that follow I grant anonymity in this case.
3. Permission to appeal was granted by First-tier Tribunal Judge Swaney on 28 October 2021. Almost two years later we now deal with the case before the Upper Tribunal. At the outset of the hearing I asked for an update as to what had happened in the previous two years.
4. The background to the case is that the appellant is a national of Pakistan born on 3 April 1972. He moved to the United Arab Emirates in 1996 and married in 1998. He was granted a visit visa initially on 20 August 2006 and subsequently granted further visit visas in 2009, 2012 and 2016. The last of those visas expired on 6 April 2021. In October 2018 during a visit to the United Kingdom with his wife and children he and his wife had an argument in relation, he says, to his faith which led to the appellant’s wife leaving him with their children who are minors. He looked for the children in the United Kingdom and then returned to Dubai where he ran a business. He made further visits to try and find the location of his wife and children in 2019 and 2020 respectively. He last came to the United Kingdom on 13 March 2020 and due to pandemic restrictions started soon after. He made an application for leave on 14 September 2020. He stated that the basis of that application was not to remain in the UK on a permanent basis but was to enable him to continue to search for his family which he could more effectively do if he was present in the United Kingdom.
5. The Secretary of State appealed the judge’s decision on two grounds. The first ground was that the judge had made a material misdirection in failure to give adequate reasons citing the case of **Nagre v Secretary of State for the Home Department [2013] EWHC 720 (Admin)**. Mr Tufan submitted that the judge was wrong to allow the Article 8 appeal, applied the wrong test in relation to exceptional circumstances and that the judge had conflated various different legal and factual errors to allow the appeal.
6. The second ground is that the First-tier Tribunal Judge failed to weigh the public interest effectively and did not properly refer to the public interest criteria in Section 117B of the 2002 Act.
7. At the outset of the hearing I checked the papers that I had been provided with. In two years it seems Mr Bashir has in fact found his family and I have been given a child arrangement order under Section 8 of the Children Act 1989 by Her Honour Judge Brown dated 17 August 2023. That is a consent order that the child who was born in 2008 would live with the mother and the Appellant would have contact. I do not admit that evidence for the purposes of the error of law hearing.
8. In my judgment this is a difficult case and a finely balanced issue that the judge carefully weighed all competing factors. The judge concluded that it was appropriate for Mr Bashir to stay in the United Kingdom in order to search for his family and found that he was intending in using Family Court proceedings and

trying to find his family. It is a highly unusual situation but the judge in my view was not plainly wrong to allow that appeal and therefore there is no error of law.

9. If I were wrong about the issue of an error of law and there were a factor that was to tip the balance I would still not interfere with the judge's decision but in any event. As if I was to then go on in a scenario where I am might re-make the decision there is clear evidence including the child arrangement order that would lead me to allow the Article 8 appeal in any event because what the First-tier Tribunal Judge found was that Mr Bashir's purpose to be in the United Kingdom was to find his family. A Family Judge has already found that there is a family relationship and has a child arrangement order in place. The reasons for the family gaining asylum and any other issues in relation to that relationship are a matter for the Family Court and not for this Tribunal. Therefore, if I were to go on to re-make the case I would allow the Article 8 appeal in any event.
10. For those reasons in my judgment there is no merit in the appeal against the decision of First-tier Tribunal Judge Dixon and I dismiss the Secretary of State's appeal.
11. It is a matter for the Secretary of State how long any leave granted under Article 8 will be for, that is a matter for the Secretary of State and not for this Tribunal.

**Ben Keith**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**12 October 2023**