



Shabir Ahmed and others (sanctions for non – compliance) [2016] UKUT 00562 (IAC)

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

THE IMMIGRATION ACTS

Before

**THE HON. MR JUSTICE MCCLOSKEY,
PRESIDENT
DEPUTY UPPER TRIBUNAL JUDGE
HOLMES**

Between

**SHABIR AHMED
ADIL KHAN
QARI ABDUL RAUF
ABDUL AZIZ**

Appellants

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

Appellants: [DC/00022 /2015] Mr R Sharma, of counsel, instructed by Platt Halpern Solicitors.
[Other three cases] Mr Z Jafferji, of counsel, instructed by Burton & Burton Solicitors

Respondent: Ms C McGahey QC and Mr V Mandalia and Mr Patel, both of counsel, instructed by the Government Legal Department, on behalf of the Respondent

Persistent and egregious non-compliance with Upper Tribunal orders, directions and rules will attract appropriate sanctions.

RULING AND DIRECTIONS

1. In these four inter-related and combined appeals, cases of some notoriety arising out of certain highly publicised prosecutions and ensuing convictions, the procedural history is as follows:
 - (a) Following a hearing on 16 February 2016, the decision of the First-tier Tribunal dismissing the Appellants' appeals against deprivation of citizenship decisions was promulgated on 27 April 2016.
 - (b) By my decision dated 11 July 2016, permission to appeal to the Upper Tribunal was granted. This incorporated the following directions. First, a hearing date of 21 September 2016 was allocated. Second, any request for a case management hearing was to be made within the ensuing period of 21 days. Certain other directions were also made.
 - (c) By further directions dated 09 August 2016 the parties were required to file and serve skeleton arguments by 11 September and 15 September 2016 respectively.
 - (d) By letter dated 04 August 2016 the Upper Tribunal was informed by the Home Office that the GLD had been instructed and would be instructing Counsel.
 - (e) Next, the Appellants' representatives were given the indulgence of an adjournment of the hearing scheduled for 21 September 2016.
 - (f) All parties' representatives have failed to comply with the September directions issued by the Tribunal.
 - (g) In re-listing the appeals the Tribunal noted the information provided about the availability of counsel and duly inconvenienced all concerned.
 - (h) By Notices dated 13 October 2016 the rescheduled hearing date of 01 December 2016 was notified to all representatives.
2. During the most recent phase scarce judicial and administrative resources have been wasted in dealing with repeated unmeritorious requests by the Appellants' solicitors for an adjournment of today's hearing.
3. These proceedings, in the Upper Tribunal, have been extant for some five months. During this period no representative has requested a case management hearing or has applied for any variation, or sought clarification of, the Upper Tribunal's directions.

4. No hearing bundle or skeleton argument has been provided by the Appellants' representatives.
5. On the eve of today's hearing it became apparent that at least one of the counsel apparently "instructed" had received no papers from his instructing solicitors. Still further Tribunal resources, which took the form of, in effect, constructing a brief for counsel, were wasted in consequence.
6. The Respondent's skeleton argument was received, figuratively, at the 59th minute of the eleventh hour - and this only following a flurry of emails involving the Tribunal's administration. It was produced in egregious breach of the Tribunal's Directions and is still not properly before the Tribunal. A feeble and unacceptable excuse for this particular default has been proffered - and only when prompted by the Tribunal.
7. To describe this state of affairs as grossly unsatisfactory is an acute understatement. The Upper Tribunal has been treated with sustained and marked disrespect. The conduct of these appeals has been cavalier and unprofessional. The rule of law has been weakened in consequence.
8. Disturbingly, there have been multiple recent examples of similar conduct and misconduct. Recent examples include, inexhaustively:
 - (a) The three "ETS" cases of MA v SSHD [2016] UKUT 450 (IAC), Mohibullah v SSHD [2016] UKUT 561 (IAC) and Saha v SSHD (JR/10845/2015);
 - (b) PP v SSHD (AA/09745/2011); and
 - (c) VT v SSHD (AA/00156/2015).
9. I trust and expect that these four appeals and each of the aforementioned cases will be reviewed personally by the Treasury Solicitor.
10. The Upper Tribunal will, henceforth, have recourse to the full panoply of sanctions at its disposal. These include in particular wasted costs orders. There will also be reporting of rulings of this kind. Furthermore, consideration will be given to the invocation of the Upper Tribunal's contempt powers, together with referrals to professional bodies.
11. The parties' representatives have by their conduct, also demonstrated a signal lack of interest in these proceedings. These appeals evidently belong to the level of lowest priority. The Upper Tribunal will treat them accordingly henceforth. Deserving cases in which the parties are seeking expeditious finality will be accorded priority.
12. In a recent lecture to the Law Society I spoke of the vital importance of partnership between the legal profession and the judiciary. There is no evidence of this partnership in these cases or any of those identified above.

13. Today's hearing is hereby adjourned in these frankly shameful circumstances. The Upper Tribunal, at this stage, will take no steps to relist the cases. If the Appellants and their representatives are serious about prosecuting these appeals, they will provide an agreed draft order to the Tribunal by 16.00 hours tomorrow. This time limit is immutable. If a draft order materialises, it will of course be without prejudice to the appeals being dismissed on account of want of prosecution and/or a misuse of the process of the Upper Tribunal. If relisting of these appeals eventuates, the only convenience which will be taken into account is that of this Chamber and its judges.
14. The issues of possible contempt action and referral to professional bodies are hereby reserved.

Seamus McCloskey.

THE HON. MR JUSTICE MCCLOSKEY
PRESIDENT OF THE

UPPER TRIBUNAL

IMMIGRATION AND ASYLUM CHAMBER

Dated: 01 December 2016