



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

Appeal Number: VA/01792/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 17<sup>th</sup> November 2014**

**Decision and  
Promulgated  
On 19<sup>th</sup> November 2014**

**Reasons**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**ENTRY CLEARANCE OFFICER - ISTANBUL**

Appellant

**and**

**MRS AZAR MIRMOHAMMAD  
(ANONYMITY ORDER NOT MADE)**

Respondent

**Representation:**

For the Appellant: Mr Shilliday (Senior Home Office Presenting Officer)

For the Respondent: Mrs Zari Nazari (The Sponsor in person)

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal, with permission, by the Entry Clearance Officer in relation to a Determination of the First-tier Tribunal (Judge Osborne) promulgated on 24th September 2014.
2. The Appellant had sought entry clearance to the UK as a family visitor. The application was refused on 2<sup>nd</sup> April 2014 with only a limited right of appeal.

3. The matter came to be decided on the papers by the First-tier Tribunal. In her determination Judge Osborne set out the reasons for refusal and dealt with the Appellant's arguments. She accepted that the Appellant is a genuine visitor and allowed the appeal. In so doing she failed to take into account the limited grounds available to the Appellant (discrimination or Human Rights). She dealt with paragraph 41 of the Immigration Rules but not discrimination or Human Rights and in so doing made an error of law. As that was the basis for allowing the appeal I set aside the decision and remake it.
4. While I have sympathy for the Appellant who wishes to visit her daughter in the UK and help her to care for her child on a temporary basis, the decision does not amount to a disproportionate breach of the Article 8 rights of the various family members. When families choose to live across continents from each other it is that which interferes with family life and as was made clear to the First-tier Tribunal and to me, the Sponsor can and does visit her mother in Iran.
5. There was no evidence or submission that the decision was discriminatory.
6. The Appellant can make a further application to the Entry Clearance Officer and the Appellant may wish to include a copy of Judge Osborne's determination and this one with the application. While Judge Osborne was not entitled to allow the appeal, her findings remain valid. It does appear to be the case that this Appellant and Sponsor were denied a visa because they were honest in giving the reason for the visit at that time rather than simply saying it was a family visit. I note that this Appellant has been a frequent visitor in the past.
7. The appeal to the Upper Tribunal is allowed such that the Appellant's appeal against the Entry Clearance Officer's decision is dismissed.

Signed

Date 18<sup>th</sup> November 2014

Upper Tribunal Judge Martin