



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

Appeal Number: PA/05878/2019

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 6 December 2019**

**Decision & Reasons Promulgated  
On 8 January 2020**

**Before**

**UPPER TRIBUNAL JUDGE SHERIDAN**

**Between**

**SJB  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Hussain, of Raiyad Solicitors

For the Respondent: Mr Jarvis, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Bangladesh who claims to be at risk in his own country because he is gay. The First-tier Tribunal accepted that the appellant is gay but applying the Supreme Court judgment in *HJ (Iran) v SSHD [2010] UKSC 31* found that the appellant would not be at risk because he would be discrete for family/societal reasons rather than because he fears persecution.
2. Mr Jarvis conceded that (a) the decision contained an error of law; and (b) the appeal should be remade in favour of the appellant.

3. Mr Jarvis stated that he accepted that the findings of fact show a nexus between the appellant's sexuality and his fear of persecution in Bangladesh and that the evidence indicates that a material reason for the appellant's discretion on return would be fear of persecution.
4. Mr Jarvis did not dispute that being openly gay in Bangladesh would put the appellant at risk of persecution.
5. In the light of the concession by the respondent, the decision of the First-Tier Tribunal is set aside and I remake the decision by allowing the appeal.

### **Decision**

The decision of the First-Tier Tribunal is set aside.

I remake the decision by allowing the appeal.

### **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 their 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.

Signed



Upper Tribunal Judge Sheridan

Dated: 3 January 2020