



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: PA/12199/2019**

**THE IMMIGRATION ACTS**

**Heard at Bradford (via Skype)  
On 19 March 2021**

**Decision & Reasons Promulgated  
On 30 March 2021**

**Before**

**UPPER TRIBUNAL JUDGE HANSON**

**Between**

**R O**

**(Anonymity direction made)**

**Appellant**

**and**

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

**Respondent**

**Representation:**

For the Appellant: Mr Jafferji instructed by Burton & Burton Solicitors.

For the Respondent: Mrs Pettersen Senior Home Office Presenting Officer

**DECISION AND REASONS**

- 1.** On 22 October 2020 First-tier Tribunal Judge Sangha dismissed the appellant's appeal on protection and human rights grounds.
- 2.** Permission to appeal has been granted by another judge of the First-tier Tribunal on 16 November 2020, the operative part of the grant being in the following terms:
  - 2.** The grounds seeking permission raise five issues. Firstly, they assert that the Judge erred in failing to consider the current country guidance caselaw and CPIN, that his findings on the Article 3 medical claim were flawed, that he

erred in refusing the adjournment, that he attached undue weight to the Respondent's position, and that his consideration of the previous decision was erroneous.

3. It is of some concern, that although the decision in **SMO & others** was promulgated in mid-2019, there is no reference at all in the Judges findings. Instead, he refers to country guidance, which was replaced by **SMO**, and he has referred to a CPIN which is now out of date. There is also some merit in the criticism of the psychiatric evidence, particularly as it does not make a diagnosis of PTSD. Weight is a matter for the Judge, but the number of paragraphs in the decision devoted to the Respondent's case, compared to the single paragraph, for the Appellant, may give rise to concerns of bias.
4. The failure to refer to the current country guidance caselaw, in my judgement, amounts to an arguable error of law. In those circumstances, I grant permission to appeal. All grounds should be left arguable.

### **Error of law**

3. There is no Rule 24 response from the Secretary of State but Mrs Pettersen conceded, having read the grounds, that the error had been made out sufficient to warrant all the findings being set aside and the appeal remitted to the First-tier Tribunal sitting at Birmingham to be heard afresh by a judge other than Judge Sangha.
4. I find the Judge has erred in law in a manner material to the decision to dismiss the appeal of the reasons set out in the grounds, grant of permission to appeal, and concession by the Secretary of State's representative.

### **Decision**

5. **The Judge materially erred in law. I set the decision aside. This appeal shall be remitted to the First-tier Tribunal sitting in Birmingham to be heard afresh by a judge other than Judge Sangha.**

Anonymity.

6. The First-tier Tribunal made no order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make no such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....

**Upper Tribunal Judge Hanson**  
**Dated 23 March 2021**