



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

Appeal Number: PA/00683/2020

THE IMMIGRATION ACTS

**Heard at Field House
by Skype for Business
On 19 March 2021**

**Decision & Reasons Promulgated
On 24 March 2021**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**P P (NEPAL)
[ANONYMITY ORDER MADE]**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Nisham Paramjorthy of Counsel, instructed by
Cranbrook Legal Solicitors

For the respondent: Mr Stephen Walker, a Senior Home Office Presenting
Officer

DECISION AND REASONS

Anonymity order

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI 2008/269) The Tribunal has ORDERED that no one shall publish or reveal the name or address of P P who is the subject of these proceedings or publish or reveal any

information which would be likely to lead to the identification of him or of any member of his family in connection with these proceedings.

Any failure to comply with this direction could give rise to contempt of court proceedings.

Decision and reasons

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision on 28 January 2019 to refuse him refugee status under the 1951 Convention, humanitarian protection, or leave to remain in the United Kingdom on human rights grounds. The appellant is a citizen of Nepal.

Background

2. The appellant was born in 1986 and is now 34 years old. On 19 July 2009, when he was 23 years old, he entered the United Kingdom with a Tier 4 (Student) visa and remained here lawfully, first as a student and then as a skilled worker, until 15 October 2015, when his final visa was curtailed due to the revocation of his sponsor employer's licence. The appellant did not embark for Nepal.
3. The First-tier Judge accepted that the appellant was in a genuine and subsisting relationship with his partner, a Nepalese woman who came to the United Kingdom in September 2009. A friend told him of her arrival in October 2009 and asked the appellant to help her. Over time, feelings developed between the two young Nepalese, and by March 2010 they were in a relationship. In June 2010, they began to cohabit.
4. The appellant's account is that cohabitation ended in November 2010, when his partner told her mother about the relationship. The issue is said to be that they are both Brahmin Hindus, of the same caste, and that therefore marriage between them is prohibited. He also says that his partner's mother is a Communist Party member, with a position of influence extending beyond her home area, who has been the Communist Party representative on the local Council since 2017.
5. In December 2014, the appellant returned alone to Nepal. He wanted to visit his partner's family and ask for her hand in marriage. His partner telephoned her parents to say that he was in Nepal, and an arrangement was made for him to meet some men. The appellant thought he would be taken to his partner's parents' home to meet them, but instead, he says he was taken to another place and beaten up. He had to go to hospital. Contact between his partner and her family since then has been rare.

6. The appellant says that he was told that in 2016, members of the Nepalese Communist Party contacted his family in Nepal to ask for his address in the United Kingdom and when he would return to Nepal.
7. The appellant returned to the United Kingdom (it is not clear on what basis he was able to re-enter). He made various unsuccessful applications for leave to remain between 2016 and 2019. He considers that the threat from his partner's family and the Communist Party remains. His partner's witness statement stated that Nepal was a small and social country and that they would be found wherever they went.
8. The application with which we are concerned was made on 18 January 2019, after the appellant was detained on reporting, and was an international protection claim. It was rejected on 28 January 2019 and the appellant appealed to the First-tier Tribunal.

First-tier Tribunal decision

9. The First-tier Judge did not find most of the appellant's core account to be credible, but he did accept that the appellant and his partner are in a genuine, but prohibited relationship. He found that there was nevertheless an internal relocation option.
10. The First-tier Judge noted that the appellant's partner has no right to reside in the United Kingdom and that the parties have not cohabited since 2010. He accepted that the relationship was genuine and subsisting, but not that it amounted to family life.
11. The appellant appealed to the Upper Tribunal.

Permission to appeal

12. Upper Tribunal Judge Perkins granted permission to appeal on the following basis:

"3. A difficulty I have with the decision and reasons is that the First-tier Tribunal finds that if there is family life, it can continue in Nepal (paragraph 110 of the decision and reasons) even though it appears that the relationship is forbidden (paragraph 94).

4. Whilst I *may* be able to follow the conclusion that the appellant would not risk personal violence throughout Nepal immediately on his return there this, even if sound, arguably does not answer the claim that returning him to a country where he could not develop his 'private and family life' with his partner is unlawful."

13. That is the basis on which this appeal came before the Upper Tribunal.

Upper Tribunal hearing

14. At the Upper Tribunal hearing, both representatives submitted that the decision of the First-tier Tribunal was flawed and could not stand.
15. I agree. The decision in this appeal will have to be remade and I have a number of other concerns regarding the judge's reasoning. It will unfortunately be necessary for the decision to be remade afresh in the First-tier Tribunal.

DECISION

16. For the foregoing reasons, my decision is as follows:

The making of the previous decision involved the making of an error on a point of law.

I set aside the previous decision. The decision in this appeal will be remade in the First-tier Tribunal.

Signed [Judith AJC Gleeson](#)
Upper Tribunal Judge Gleeson

Date: 19 March 2021