



**FIRST-TIER TRIBUNAL
ASYLUM SUPPORT**

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Appeal Number AS/15/02/32599

UKBA Ref. 15/01/01265/001

Appellant's Ref.

IMMIGRATION AND ASYLUM ACT 1999
THE TRIBUNAL PROCEDURE (FIRST-TIER TRIBUNAL)
(SOCIAL ENTITLEMENT CHAMBER) RULES 2008

Tribunal Judge	Mr David Saunders
Appellant	MS CCA
Respondent	Secretary of State

STATEMENT OF REASONS

1. This Statement of Reasons is made in accordance with Rule 34(1) of the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008 ("the Rules"), and gives reasons for the decision given on Wednesday the 4th day of March 2015 striking out the above mentioned appeal.
2. The appellant, a 35 year old citizen of Nigeria, appeals against the decision of the Secretary of State who, on 5 February 2015, refused to entertain her application for support under Section 95 of the Immigration and Asylum Act 1999 ("the 1999 Act") – applying Section 57 of the Nationality, Immigration and Asylum Act 2002 ("the 2002 Act").
3. At the hearing before me, the appellant appeared in person and was represented by Mr Marsden, a solicitor instructed by ASAP. The appellant has English as her first language and did not require the services of an interpreter. The respondent was represented by Ms Bello.
4. On 11 January 2015, the appellant made an application for Section 95 support as she is an asylum seeker. On 22 January 2015, the respondent says that she asked the appellant to provide further information in order that her application could be considered but that the respondent was not satisfied with the reply received in response to her enquiries. As a consequence, a decision was made, on 5 February 2015, refusing to entertain her application. The appellant has sought to appeal this decision.

5. Section 57 of the Nationality, immigration and Asylum Act 2002 provides as follows:-

“(An application for asylum support can be disregarded) (shall) not be entertained where the Secretary of State is not satisfied that the information provided is complete or accurate or that the (applicant) is cooperating with enquiries...”

6. The appeal came before this Tribunal for directions on 26 February 2015. It made directions that the question of a strike out was to be considered under Rule 8(2) of the Rules in that this Tribunal did not have jurisdiction to hear this appeal. Appropriate directions were made on that date warning the appellant of the consequences of the strike out.
7. The appellant says, in her grounds of appeal, that she provided all the information that was required of her through her representatives, Asylum Support Housing Advice. She responded to the letter requesting further information on 30 January 2015 and cannot provide any further details. She says that she is an alleged victim of trafficking. She provided details of where she had been staying and some information with regard to a dormant account with Santander.
8. At the hearing before me, the appellant did not give oral evidence but relied upon the submission made by Mr Marsden. He submits that the decision letter under appeal is not, in reality, a decision refusing to entertain an application for asylum support. It is a refusal – and that I should, therefore, have jurisdiction.
9. In support of this contention, he explained that the appellant had provided all the further information that was requested of her. He says that the decision letter under appeal is wrong. In particular, I should consider at paragraph 4 of that letter which – in his view – was indicative of the fact that the respondent had made a decision with regard to destitution. If I were to deem the letter written in this manner, then it would follow that it is a refusal letter, that I do have jurisdiction and should, therefore, go on to consider whether or not the appellant is destitute and, therefore entitled to Section 95 support.
10. Section 57 of the 2002 Act is quite clear. It does not attract a right of appeal pursuant to Section 103 of the 1999 Act. This is set out in the decision letter under appeal which specifically states that “there is no right of appeal against this decision”.
11. I agree with Mr Marsden to a limited extent. It does appear that the appellant has provided a substantial amount of information so that the respondent can determine her Section 95 application. However, and in my view, that is not the issue. If the appellant is aggrieved about the decision not to entertain, then she can challenge this decision by way of application for judicial review.
12. In my view, the decision letter is based upon the alleged failure on the part of the appellant to provide sufficient information to enable a decision to grant or refuse support to be made.
13. Paragraph 4, to which Mr Marsden refers, states as follows:-
“Although you have responded to our recent request for further information, we are not satisfied that you have provided complete information because you have not provided the comprehensive account of how you have supported yourself since January 2012. You have also not accounted for your address history between July 2012 and August 2014”.

14. I interpret this decision as being entirely based on the Secretary of State's view that the appellant has not provided sufficient information. There is no mention of the word "destitute" or any indication that the appellant's claim for asylum support has been "refused". The law (rightly or wrongly) provides a power to the Secretary of State to refuse to entertain an application if it is not satisfied that the information provided by the appellant is complete or accurate – in accordance with Section 57 of the 2002 Act. This is such a decision.
15. I do not, therefore, consider that I have jurisdiction to deal with this appeal. I strike out the application in accordance with Rule 8(2)(a) of the Rules.

Signed : Mr David Saunders
Tribunal Judge, Asylum Support

Dated : 5 March 2015