



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

Appeal Numbers: AA/11170/2013

THE IMMIGRATION ACTS

**Heard at Newport
4 February 2015**

**Determination
Promulgated
On 16 February 2015**

Before

**MR C M G OCKELTON, VICE PRESIDENT
UPPER TRIBUNAL JUDGE GRUBB**

Between

NYIMA DOLMA PONGATHANG

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S Dipnarian, instructed by Duncan Lewis Solicitors
For the Respondent: David Mills, Home Office Presenting Officer.

DETERMINATION AND REASONS

1. The appellant is treated as a national of China. Following the unchallenged findings of Judge Archer in the First-tier Tribunal she must be regarded as a person who has a well-founded fear of persecution there.
2. In the First-tier Tribunal the Secretary of State had opposed her appeal on Refugee Convention grounds on the basis that she could be returned to

India. The judge accepted that argument. The appellant has permission to appeal to this Tribunal.

3. Before us, Mr Mills told us that the Secretary of State now accepts that the Qualification Directive 2004/83/EC requires her to make a grant of refugee status to the appellant. That is to all intents and purposes, a concession of the appeal.
4. We set aside the determination of the First-tier Tribunal and substitute a determination allowing the appeal. We direct the Secretary of State to grant the appellant refugee status under the Qualification Directive.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 12 February 2015