



**Upper Tribunal
(Immigration and Asylum Chamber)
PA/07677/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 25 August 2017

Promulgated

On 07 September 2017

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

S A

(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr L Rahman, instructed by Edward Alam & Associates
For the Respondent: Mr T Melvin, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against the decision of the First-tier Tribunal Judge Ian Howard promulgated on 20 February 2017 in which he dismissed the appellant's appeal against the decision of the Secretary of State made on 12 July 2016 to refuse his protection claim.
2. The appellant's case is that he was at risk on return to Bangladesh on account not that he had actually been the victim of politically motivated violence or harassment but that he had been informed that false charges had been brought against him in 2015 albeit that the appellant has been present in the United Kingdom since 2004.

3. The appellant also states that in 2016 in May he attended a demonstration with fellow BNP activists who had travelled down to London from Coventry that being a demonstration and protest against the visit of the Bangladeshi Prime Minister. His evidence is that he appears in photographs of that demonstration which are publicly available on the internet.
4. The judge did not believe the appellant and did not accept his account of the false charges being brought against him. He dismissed his appeal, finding that the documents produced in support of the claim are entirely self-serving and there was nothing to support the contention that appellant was at risk in Bangladesh.
5. Turning to the *sur place* aspect of the case, that is, the participation in a demonstration, the judge found that it was tainted by the same documentation and said [30]:

...While I do not doubt he attended the demonstration in 2016 I do not accept he was motivated by any political interest.

31. As a consequence, I do not, even to the lowest standard, find the appellant to be a credible witness.

6. The appellant sought permission to challenge the decision on two main grounds. First, that the findings of fact and capability with respect to the false charges have been brought against him and second that the judge failed properly to analyse the risk flowing from the fact that he accepted that the appellant had attended a demonstration. Permission was not granted on the first ground but was granted on the second ground.
7. In submissions before me Mr Rahman accepted that there was no evidence but that there was no direct evidence of the Bangladeshi authorities maintaining surveillance to the extent of identifying those who attend demonstrations in the United Kingdom. He submitted that a commonsense point of view should be taken on this issue given that it may well be the case that surveillance activities are carried out albeit covertly and may take time for such evidence to come out pointing to the fact that it took some time for such information to come out in for example cases such as the surveillance of dissidents from Myanmar, Sri Lanka and Iran.
8. Mr Rahman accepted that unlike those countries there is no direct evidence of for example people who are returning to Bangladesh are stopped and identified and questions put to them about their attendance at demonstrations or involvement in opposition parties in the United Kingdom or elsewhere.
9. I accept that there is no direct evidence of surveillance. I do not accept that it is permissible to take what Mr Rahman describes as a commonsense view that such activities may occur by reference to and analogy to what goes on in Bangladesh.

10. Mr Rahman helpfully took me through a number of passages from the Home Office's Country Information Guidance Report on Bangladesh opposition to the government from February 2015. Whilst I accept from these that there is clear evidence of suppression of political expression and that there is a significant degree of violence towards political activists it must be borne in mind that the applicant was found not to be a political activist.
11. I accept that there is strong evidence of the harassment of journalists and also of opposition politicians, and there is also very clearly suppression of freedom of the press and the use of laws improperly to detain activists and journalists for criticising the government or offending the Prime Minister. Equally, it appears that critics of the government and oppositionists may be targeted and that this targeting described at [2.4.11] extends well beyond the activists themselves and goes so far as attacks on the property of families of activists.
12. There is, however, nothing here that indicates any degree of use of surveillance of a type that would be necessary to identify the appellant and to put a name to him. That is an entirely different exercise from the usual exercise of policing to arrest people, to interrogate them and find out details from them.
13. There is no indication of a database of individuals being put together or that sophisticated means such as identification of demonstrators by looking at photographs and/or asking people to identify them is necessary. There appears to be no indication either that, as Mr Rahman submitted, the demonstrators could be seen in this case as standing on a platform in the way that journalists do in that they would be seen to openly to be critical of the Prime Minister in a public forum, in this case a public visit abroad.
14. There is no evidential basis on which it can be said that the Bangladesh authorities seek to identify those who attend demonstrations abroad and accordingly I conclude that there is no basis of which it could be argued that the judge's error in not addressing any risk of attending the demonstration is material, given that there is no basis in which it could properly be argued that there is any relevant evidence that the applicant would be at risk of being identified as having attended the demonstration or that he would in consequence face ill-treatment on return as a result given not least the finding that he was not a political activist.
15. For these reasons I find that the decision of the First-tier Tribunal did not involve the making of an error of law capable of affecting the outcome and I uphold it.

SUMMARY OF CONCLUSIONS

The decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.

Signed

Date: 31 August 2017

A handwritten signature in black ink, appearing to read "James Rintoul". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "Rintoul".

Upper Tribunal Judge Rintoul