



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

Appeal Number: PA/01627/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 23 April 2019**

**Decision & Reasons
Promulgated
On 07 May 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN

Between

**MSUA
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss R. Popal, Counsel instructed by Hunter Stone Law

For the Respondent: Mr. S. Walker, Home Office Presenting Officer

DECISION AND REASONS

1. By way of a decision promulgated on 15 January 2019 I set aside the decision of the First-tier Tribunal in relation to the Appellant's asylum claim. The appeal came before me to be remade. The issue for consideration was the risk on return to the Appellant on account of his profile due to his BNP activity and his involvement with a human rights organisation in Bangladesh, and due to his sur place activity with the BNP in the United Kingdom.

2. I make an anonymity direction continuing that made at the error of law hearing.
3. At the hearing I heard submissions from both representatives, following which I reserved my decision.
4. I have taken into account the documents contained in the Appellant's bundle (148 pages), the Appellant's supplementary bundle (137 pages) and the Respondent's bundle (to T14). I have also taken into account the original photographs and original newspaper articles which are on the file.

Submissions

5. Miss Popal submitted that, on all the evidence provided, it was clear that the Appellant was a member of the BNP, and that he had held a prominent position in Bangladesh for quite some time. Since he had come to the United Kingdom, he had continued his BNP involvement and now held a prominent position in the United Kingdom. There was extensive evidence of his sur place activities in the United Kingdom.
6. She referred me to the highlighted passages in the background evidence contained in the supplementary bundle. She submitted that this evidence showed that the government paid attention to those who were members of the opposition, even those whose activities were low-level. She referred me to the newspaper articles which showed the active interest of the authorities in clamping down on political opposition in Bangladesh. She submitted that article at page 110 referred to an individual with a similar profile to the Appellant who had been arrested and detained. He was a joint general secretary from Sylhet who had also been involved with the BNP in the United Kingdom. He was a British citizen. He had gone back to visit his father, and had been arrested and detained.
7. Miss Popal submitted that the Appellant had become of interest to the authorities as he was an active member of a human rights organisation in Bangladesh. He had been the general secretary of that organisation. He had put pressure on the government to be accountable for their human rights abuses. She submitted that it was clear that human rights abuses occurred in Bangladesh, especially within the judicial and prison system. Human rights organisations in Bangladesh played a key role. There was hostility towards these organisations. In his role as general secretary of the human rights organisation, the Appellant had assisted the family of a child who had been killed, allegedly at the hands of the police. He had tried to hold the government to account, and to ensure that the police officers responsible came before the courts. She submitted that clearly that this would have drawn the authorities' attention to the Appellant. Together with his general criticism of the government, it was unsurprising that he had come to the interest of the authorities.

8. The Appellant's activities in the United Kingdom had been confirmed. Taking into account his activities for the BNP and the human rights organisation in Bangladesh, together with his sur place activities, it was clear that the Appellant had a profile which would make him of interest to the authorities.
9. In relation to the human rights organisation, Miss Popal submitted that the Appellant had disclosed his involvement at his screening and asylum interviews. He had provided a thorough witness statement. It was clear that the human rights organisation existed, and the reasons for refusal letter was wrong when it stated that it did not.
10. Mr. Walker made brief submissions. He accepted that it was clear from the evidence that the human rights organisation did exist, and that the reasons for refusal letter was wrong in that respect. He accepted that, on all the evidence before me, it was clear that the Appellant had a high political profile given his sur place activities in the United Kingdom, plus his documented involvement in a human rights organisation in Bangladesh. He referred to the updated information provided in the Appellant's supplementary bundle. He accepted that the highlighted passages showed the difficulties for those who had a political profile in Bangladesh. He accepted that this evidence showed that those with a high political profile in Bangladesh, and those who had carried out sur place activities, were targeted in Bangladesh.
11. Miss Popal drew my attention to the Human Rights Watch Report, in particular pages 3, 24, 35 and 36, and also to the Odhikar Human Rights Monitoring Report on Bangladesh (pages 83 onwards of the supplementary bundle), which had been relied on in the Respondent's CPIN.

Decision and Reasons

12. I find, as was accepted by Mr. Walker, that it is reasonably likely that the Appellant has a high political profile in Bangladesh given his involvement in the BNP and a human rights organisation in Bangladesh, and his sur place activities in the United Kingdom.
13. I find, as was accepted by Mr. Walker, that the reasons for refusal letter is wrong when it states that the human rights organisation with which the Appellant claimed to have been involved in Bangladesh does not exist. The Appellant's involvement in this organisation is documented. It was accepted in the decision of Judge Cameron at [94] where he found that the Appellant was involved with the human rights organisation. I find that the Appellant was the General Secretary of the human rights organisation. I find that it is reasonably likely that the activities of the Appellant with this organisation will have brought him to the attention of the authorities, given that he was involved in challenging the government, bringing it to account for human rights abuses.

14. It was found by Judge Cameron at the First-tier Tribunal that “the appellant throughout has always indicated that he held the position of initially secretary and then general secretary within Ward 18, and I have no reason to doubt this given the documentation he has submitted” [91]. I adopt that finding. I find that the Appellant was a general secretary in the BNP in Bangladesh.
15. I find that the Appellant has provided evidence to show that individuals who hold a similar rank, i.e. general secretary of their BNP district, are of interest to the authorities. The Appellant provided evidence in the form of a news article from prothomalo.com/bangladesh/news (page 110 of the supplementary bundle). This states:-

“Police arrested BNP’s UK unit joint general secretary Shohidul Islam Mamun from his residence in Sylhet city’s Badambagich on Monday afternoon, reports UNB”.
16. This is confirmed by an article from the Dhaka Tribune (page 112) which refers to the arrest of the BNP’s UK unit joint general secretary. There was no challenge to this evidence. These articles are both dated 4 September 2018, and postdate the Appellant’s appeal before the First-tier Tribunal. Their relevance is clear as they show that an individual with the same status within the BNP as the Appellant is of interest to the authorities.
17. I have considered the original newspaper articles provided. There was no challenge to the authenticity of these documents. They include photographs of the Appellant involved in human rights and BNP protests in Bangladesh.
18. I have considered the photographs provided of the Appellant’s involvement with the BNP in the United Kingdom. The most recent photographs are found at pages 1 to 11 of the supplementary bundle. There is a photograph of the Appellant with other BNP leaders, and photographs of the Appellant demonstrating in central London. There was no challenge to this evidence, and Mr. Walker acknowledged the Appellant’s sur place activities with the BNP.
19. I have considered whether the Appellant’s sur place activities will have brought him to the attention of the authorities in Bangladesh, with reference to the background evidence in the supplementary bundle. There is evidence that those involved in the United Kingdom are of interest to the authorities given the arrest of Mr. Mamun when he returned to Bangladesh in September 2018 (see [15] and [16] above).
20. I have considered the evidence from the Daily Star (page 114 of the supplementary bundle). This is dated 18 November 2018. It is entitled “Arrest of party men continues: BNP tells EC [Electoral Commission]”. It refers to BNP claims that law enforcers had arrested “773 BNP men”.

21. I have considered the report from Human Rights Watch entitled “Creating Panic: Bangladesh Election Crackdown on Political Opponents and Critics” dated December 2018. Under the heading “Targeting Political Opposition” it states:

“Thousands of cases had been filed in recent months against leaders and supporters of opposition parties. “The police are indiscriminately arresting people,” a newspaper columnist told Human Rights Watch. According to a law professor, “They do not bother with legal formalities, these police. They are arresting people just to harass and put pressure on the politicians.”

According to the BNP, over 300,000 of its leaders and activists have been implicated in “false and fabricated” cases. The allegations are often broad and vague. Human Rights Watch found that one partial set of 14 cases, filed by just six of Dhaka’s 49 police stations in the first week of September, names 519 individuals and an unspecified number of unidentified people, accusing them of a variety of crimes. The allegations specify that all of the accused belong to the BNP. BNP Secretary General Mirza Fakhrul Islam Alamgir is facing charges in 46 cases. A standing committee member, Mirza Abbas, faces 42 cases. BNP candidate Saiful Alam Nirob, who is running against the home minister, is facing 267 cases.” (page 44 of the supplementary bundle).

22. Later there is reference to those arrested being subjected to abuse in custody (page 45):

“Several of those arrested said they had been subjected to abuse in custody. In four of the six recent cases of alleged torture of political detainees investigated by Human Rights Watch, the victims said they were beaten up after they had been produced in court and then remanded back to police custody instead of being sent to jail. In the other two, the abuse occurred before being produced in court. Abuses described to Human Rights Watch include beating with fists, plastic pipes, or sugar canes, crushing body parts against the floor, and partial drowning.”

23. More detail is set out in chapter II entitled “Crackdown on Political Opposition” (pages 54 to 63).

24. I have also considered the Odhikar Human Rights Monitoring Report on Bangladesh (pages 83 onwards of the supplementary bundle). This evidence is consistent with the evidence from Human Rights Watch. The report is dated 9 December 2018, and covers the period from 1 to 30 November 2018. At page 99 under the heading “Political Violence” it states “In November 2018, according to information gathered by Odhikar, 11 persons were killed and 461 persons were injured in political violence”. At [27] it states:

“Leaders and activists of the ruling Awami league and its affiliated organisations are enjoying impunity for committing criminal offence, due to absence of democracy, accountability and rule of law.”

25. At [29] it refers to violence on 23 November 2018, and states:

“On 23 November 2018 leaders-activist of local Awami League, Chhatra League and Jubo League allegedly attacked and vandalized the houses of local BNP leaders-activists in Chorbaria Village of Ajgoria Union under Laksham Upazila in Comilla District. They also beat former Chhatra Dal42 leader Amanullah Aman and handed him over to the police.”

26. At [30] the report refers to extra-judicial killings:

“Extrajudicial killings continue due to the absence of democracy and rule of law in the country. Such killings took a dangerous turn from 15 May 2018, during the nationwide ‘anti-drug’ drives conducted by law enforcement agencies, which continue in November. From May 15 to 30 November 2018, 283 persons were reported to have been killed extra-judicially in the name of ‘gunfight’ or ‘shootout’ during the ongoing ‘anti-drug drives’ across the country. 34 persons were reported to have been killed extra-judicially in November.”

27. The report goes on to consider enforced disappearances:

“In November 2018, 12 persons were allegedly disappeared after being picked up by members of law enforcement agencies. Among them, three were showed arrested after a few days of disappearance and the whereabouts of nine persons remain unknown. [32]

A highly visible and worrying number of enforced disappearances have been committed during the current government reign. Opposition parties have expressed their concern and fear that there are possibilities that leaders and activists of the opposition will be disappeared in the lead up to the upcoming national elections. Many leaders and activists of the opposition parties, particularly the BNP, became victims of enforced disappearance before and after the controversial 10th Parliamentary elections in 2014. Of them, many have still not returned.” [33]

28. At [36] the report refers to the impunity enjoyed by members of the law enforcement agencies:

“Members of the law enforcement agencies are enjoying impunity as the government is using them to suppress its political opponents. As a result of such impunity, allegations of harassment, torturing people, taking bribes, shooting in the legs, attacks and unlawful detention of the opposition and dissenters and extortion, were found against members of law enforcement agencies. The Torture and Custodial Death (Prevention) Act, 2013 was passed after relentless demands from human rights defenders. However, a vast majority of the torture victims and family members are not able to file any cases under this Act due to fear of reprisals; and those cases that have been filed are yet to see light in the court.”

29. I find that the background evidence shows that members of the opposition are being targeted in Bangladesh, and that the government is using law

enforcement agencies to suppress opposition. These evidence in these two reports post-date the hearing in the First-tier Tribunal. There was no challenge to this evidence and I find that it can be relied on to show that members of the opposition are being targeted by the authorities in Bangladesh. It shows that members of the BNP are at risk of arrest and detention. I find it is reasonably likely that the Appellant, who had a high profile in the BNP in Bangladesh, and who continues to have a high profile in the BNP in the United Kingdom, would be targeted on account of his political activity. This high profile was accepted by Mr. Walker.

30. Further I find it is reasonably likely that the Appellant has already come to the attention of the authorities when in Bangladesh on account of his involvement with the human rights organisation as well as with the BNP.
31. Considering all the above, I find the Appellant's claim to be a genuine refugee in need of international protection to be well founded. I find that there is a real risk that he will suffer persecution on return to Bangladesh, and so his claim succeeds on asylum grounds. As I have allowed his appeal on asylum grounds, I do not need to consider his claim to humanitarian protection. I find that returning him to Bangladesh would cause the United Kingdom to be in breach of its obligations under Articles 2 and 3 of the ECHR.

Notice of Decision

32. The appeal is allowed on asylum grounds.
33. The appeal is allowed on human rights grounds.
34. I have made an anonymity direction.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 2 May 2019

Deputy Upper Tribunal Judge Chamberlain

TO THE RESPONDENT
FEE AWARD

In the event that a fee has been paid or is payable, I have considered making a fee award. I have decided to make no fee award as certain aspects of the Appellant's account were not accepted, and further evidence was provided for the appeal.

Signed

Date 2 May 2019

Deputy Upper Tribunal Judge Chamberlain