



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

Appeal Number: PA/05388/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14 February 2019**

**Decision & Reasons Promulgated  
On 6 March 2019**

**Before**

**UPPER TRIBUNAL JUDGE ALLEN**

**Between**

**OBAIDUL [Q]  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Ms A Jones, instructed by Waterstone Solicitors

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a national of Bangladesh. He appealed to a Judge of the First-tier Tribunal against the Secretary of State's decision of 12 April 2018 refusing to grant asylum or humanitarian protection.
2. The appellant's claim was based on his claimed involvement in Bangladesh with the organisation Chatra Shibir, which is the student wing of Jamat-e-Islami. He said that he had been attacked by local Awami League members in March 2009 and he had gone into hiding thereafter. In the days after the attack people had gone to his village home looking for him and in interview he said the Government were looking for him and maintained he was still an active member of the party.
3. The judge heard evidence from the appellant and from his wife and his brother. He found the appellant to lack credibility. He noted a delay of over four years in claiming asylum and the fact that this was only done after service of a notice concerning removal. The judge noted at

paragraph 57 of his decision that in support of his claim to have been involved with Chatra Shibir he relied primarily on the evidence of his brother and a letter from a Mr Ahmed, an affidavit from his father and one from Mr Ali. The judge considered briefly the evidence of Mr Ali and Mr Ahmed and also the appellant's father's affidavit. He did not however refer to the evidence of the appellant's brother in coming to his conclusion that the appellant lacked credibility. This is essentially the basis upon which the decision has been challenged.

4. In his witness statement the appellant's brother who lives in the United Kingdom and is a British citizen confirmed that the appellant left Bangladesh and arrived in the United Kingdom in January 2010, that he had come to avoid persecution by the ruling Awami League Party for his involvement in Chatra Shibir. He said that the family were concerned for the appellant's safety since the Awami League came into power in early 2009 and after the incident of 26 March 2009 his parents had decided to send him out of the country to secure his education and personal safety. He confirmed that he was told by his father from Bangladesh on the same day, i.e. 26 March 2009, that the appellant was attacked in a meeting and seriously beaten by Awami League Party members. He had noticed his brother's concern about the worsening political situation in Bangladesh since arriving here and confirmed that the family had received a repeated threat from the ruling party activists and the law enforcement agencies before and after the appellant left Bangladesh and arrived in the United Kingdom.
5. In essence the point before me as clarified in the submissions of Ms Jones and Mr Avery, is whether this evidence could or should have made any difference to the judge's evaluation of credibility. It is, as Mr Avery says, a fairly brief statement, and one expressed at a degree of generality. However in my judgment it cannot be concluded safely that the judge would have come to the same decision had he taken this evidence into account. It is unclear whether that would have been the case. The general tenor of the judge's decision is such that it is perhaps unlikely, but I consider that where there was material evidence before the judge in the form of a witness statement and also oral evidence, it was incumbent upon him given the centrality of that evidence to the claim, to make some findings perhaps not necessarily very full findings, but some findings on that evidence. As a consequence the judge erred in law. The matter will have to be reheard, and given the centrality of the point in issue I consider that it will have to be reheard in the First-tier Tribunal so the matter was remitted for a full rehearing at Hatton Cross before a judge other than Judge Eldridge.

No anonymity direction is made.

A handwritten signature in black ink, appearing to be a stylized name with a large initial letter.

Signed  
Upper Tribunal Judge Allen

Date 28 February 2019