



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

Appeal Number: PA/04470/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 27 February 2020**

**Decision & Reasons
Promulgated
On 10 March 2020**

Before

UPPER TRIBUNAL JUDGE KAMARA

Between

**MBU
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Symes, counsel instructed by Lawmatic Solicitors

For the Respondent: Mr I Jarvis, Senior Home Office Presenting Officer

DECISION AND REASONS

Introduction

1. This is an appeal against the decision of First-tier Tribunal Judge Head, promulgated on 24 September 2019. Permission to appeal was granted by Upper Tribunal Judge Gleeson on 13 January 2020.

Anonymity

2. Such a direction was made previously and is reiterated below because this is a protection matter.

Background

3. The appellant, now aged 37, entered the UK on 24 October 2009 with leave to enter as a Tier 4 migrant valid until 1 April 2011. That leave was extended until 29 October 2012 and again to 20 September 2014, in the same capacity. The appellant applied for further leave to remain under Tier 4 on 19 September 2014, but varied that application to a human rights application, which was refused and certified as clearly unfounded on 30 March 2016. After unsuccessfully seeking reconsideration, the appellant twice applied for further leave to remain under the Tier 1 Exceptional Talent route during 2016. Those applications were promptly refused. Thereafter the appellant applied for leave to remain on private life grounds, which was refused on 12 July 2017. The appellant applied for asylum on 17 August 2017.
4. The basis of the appellant's asylum claim was that he was engaged in political activities in Bangladesh, with the Bangladesh Islami Chhatra Shibir (BICS) and Jamaat-e-Islami (JEI), that he was attacked during 2006 and 2007 owing to his membership of BICS and that as of 2014 he learned that he was of adverse interest to the Bangladesh government. Those claims were rejected by the respondent owing to the appellant's failure to provide a consistent and credible account. His knowledge of the said parties was accepted and considered understandable owing to the appellant's degree in Al-Hadith & Islamic Studies. It was not accepted that the appellant had been politically active in the UK nor that his father was a war criminal. The credibility of the appellant's account was said to have been damaged by his immigration history and his failure to claim asylum before being notified of an immigration decision.

The decision of the First-tier Tribunal

5. Following the hearing before the First-tier Tribunal, despite accepting that the appellant and his friend, AAM had been attacked in 2006 by members of opposition student groups at the time they were active BICS members, the judge concluded that the appellant's account of his claimed problems arising since 2014 was a fabrication.

The grounds of appeal

6. The grounds of appeal are as follows
 - There was a material error of fact as to whether there was a material inconsistency in the appellant's evidence at the appeal hearing of his friend and in addition no credit was given for the appellant having been found to be a credible witness.
 - There was a failure to take into account that the Awami League, whose supporters had attacked the appellant and his friend, had taken office in 2009

- The judge failed to determine whether the appellant's father was alleged to have perpetrated war crimes and whether the appellant would be at risk
- There was a failure to consider the impact of suppression of political beliefs.

7. Permission to appeal was granted on the basis sought.

The hearing

8. Mr Symes made the following points. Starting with the second ground, the judge had accepted that the appellant and his friend were attacked. In relation to the comments that the Awami League (AL) were not the ruling party, they had been dominant since 2009 and the appellant must be in more danger now as AL were more powerful now than they were in 2006. Paragraph 339K of the Immigration Rules was in play as there was a presumption of future persecution unless good reason to suppose otherwise. As for the third ground, the judge was alive to the activities of the appellant's father in the 1970's and made several references to it. The appellant's concern was that he feared ongoing harassment and it was unclear what the judge made of this evidence and whether it would raise problems for the appellant in Bangladesh. Regarding the fourth ground, the judge accepted that the appellant was active in the past and therefore the question was what the situation would be on return. Reference was made to the extract from a Human Rights Watch report which was before the judge regarding the risk of abuse to supporters of JEI and BISC. The evidence before the judge as to how the appellant would act on return to Bangladesh was found in his witness statement where he described himself as "*hardcore*" in his beliefs. While the point was not developed in the statement, if the appellant did not act in a similar way in the future it would be because he felt obliged to keep his head down owing to the political situation in Bangladesh. Mr Symes did not place any emphasis on the first ground as he accepted that the judge's finding that the appellant was attacked along with his friend was not harmful to the appellant's case.
9. Mr Jarvis made the following submissions. The appellant had not challenged the judge's findings regarding the documents, the events since 2006 and the UK activities. The judge rejected the material put forward to show an ongoing interest in the appellant and provided good reasons. The background evidence could not lead the judge to reach an alternative conclusion in circumstances where, on the appellant's own evidence, neither he, his father nor family had experienced problems.
10. At the end of the hearing I announced that the First-tier Tribunal made no material errors of law and the decision was upheld in its entirety. I give my reasons below.

Decision on error of law

11. As accepted by Mr Symes, there was no material error of fact as to content of the appellant's evidence at the appeal hearing of his friend, given that at [53], the judge was willing to accept that *"during their time as active BICS member at university, the appellant and AAM were subject to attacks by members of the opposition student groups including the AL."*
12. The second ground concerned a failure by the judge to take into account that the AL had taken office in 2009. That argument is unsustainable because at [54] the judge demonstrated that he was aware that AL took office in 2009 when he found that the appellant ceased his involvement in BICS in 2007 and *"faced no further issues during his time in Bangladesh... he left and returned to Bangladesh without incident or adverse attention from the authorities, even when the AL came to power in 2009."*
13. In relation to the third ground, it was contended that the judge failed to determine whether the appellant would be at risk as a result of the allegation that his father had perpetrated war crimes. The judge's treatment of this issue was impeccable. At [73-74], the judge replicates the relevant part of the Bangladesh CPIN which refers to war crimes allegations as well as the position of political party activists and at [75], the judge found there to be evidence that senior leaders of JEI had been charged with war crimes and that those charges were likely to be politically motivated and persecutory. At [76], the judge asked the correct question, was there a real risk of the appellant being subject to such politically motivated persecution. The judge proceeds to answer that question in the following paragraphs, giving wholly sustainable reasons for concluding that there was no such risk. Those reasons included that by the appellant's own account he had not been actively involved in BICS for 13 years, he was not currently actively involved in JEI, there was no credible evidence why the government in Bangladesh would show any interest in him and that he had attempted to provide unreliable documents to the Tribunal [73]. The judge further noted that the appellant's father, aged 90, remained free and that he continued to live without incident in Bangladesh in his own home or that of his daughters [55] and that the appellant had not given consistent evidence regarding how this could be if his father was wanted for war crimes. The judge further found that the appellant had failed to demonstrate any credible current connection to BICS or JEI and that there was no evidence that all those associated with JEI or BICS, past or present, were at real risk of serious harm in Bangladesh[78].
14. It was said that there was a failure by the judge to consider the impact of the appellant suppressing his political beliefs on return to Bangladesh. This argument takes no account of the judge's findings regarding the appellant's claimed political activity in the UK, which is set out at [69] of the decision. The judge notes that the appellant's oral evidence was that *"he did not involve himself in politics in the UK to protect his family in Bangladesh"* and that the appellant's witness confirmed that *"the appellant had not attended any demonstrations with him in the UK and the appellant's evidence was that he had only attended two demonstrations in the last 11 years."* The evidence before the judge did

not, therefore, support the appellant's claim, made in his witness statement, that he was a "hardcore" BICS/JIE supporter, let alone the suggestion that he would recommence political activities on return to Bangladesh.

15. Lastly, Mr Jarvis' made a valid point regarding the absence of any challenge to the judge's comprehensive findings on the substantial quantity of documents relied upon by the appellant to support his claim that the Bangladesh authorities have a current or recent interest in him. Briefly, at [47] the judge commented that the appellant was unable to give a cogent reason for discrepancies and issues in the documents and at [59] the judge finds that a newspaper article produced, made no sense, did not stand up to basic scrutiny, was not an independently published news article and was deserving of no weight. Referring to the FIRs, the judge noted that the appellant had given contradictory evidence as to potential cases against him in Bangladesh [61] and that the documents related to another person and events which had taken place when the appellant was in the UK [62]. There were also a number of other unchallenged findings, adverse to the appellant set out in the decision and reasons.

16. The grounds fail to identify any material errors of law. Accordingly, the decision of the First-tier Tribunal stands.

Decision

The making of the decision of the First-tier Tribunal did not involve the making of an error of on a point of law.

The decision of the First-tier Tribunal is upheld.

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 their 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 28 February 2020

Upper Tribunal Judge Kamara