



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/00022/2020

THE IMMIGRATION ACTS

Heard at: Manchester CJC (remote)  
On the 13<sup>th</sup> September 2021

Decision & Reasons Promulgated  
On the 13<sup>th</sup> October 2021

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

Liton Chandra Gun  
(no anonymity direction made)

Appellant

And

The Secretary of State for the Home Department

Respondent

For the Appellant: In person  
For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a national of Bangladesh born in 1989. He appeals with permission against the decision of the First-tier Tribunal (Judge Birrell) to dismiss his protection appeal.
2. Permission was granted on one ground only. By his decision of the 28<sup>th</sup> January 2021 Upper Tribunal Judge Keith found it arguable that the First-tier Tribunal had failed to make findings on one significant piece of the evidence: whether the Appellant's family in Bangladesh had received death threats.

3. Before I assess this sole ground, it is appropriate that I set my consideration in the context of the case overall. It had been the Appellant's case that he has a well-founded fear of persecution in Bangladesh for reasons of his religious belief. He and his family are Hindu. The Appellant asserts that they have come under pressure to convert to Islam, and that a wealthy local businessman is taking advantage of their minority status to try and seize their property. The man in question, a Mr Miah, has accused the Appellant of mocking Islam, and has filed a complaint with the local police against him. The dispute has further intensified because Mr Miah was subsequently attacked and badly beaten, an attack he accuses the Appellant of having orchestrated.
  
4. The First-tier Tribunal did not find the Appellant to be a credible witness. Although the account was generally consistent with the country background evidence in that Hindus in Bangladesh can face discrimination, there were several reasons to find his evidence was not capable of discharging the burden of proof, even to the lower standard:
  - i) The Appellant had been an overstayer in the UK since 2010 and had absconded from bail in 2018;
  - ii) His account that he had come here with the intention of studying was not credible given that he was unable to recall what he had wanted to study;
  - iii) When he was encountered by immigration enforcement officers preparing food in the kitchen of a restaurant he had claimed to be preparing food for himself and denied working there. This was not worthy of belief and further undermined the Appellant's credibility;
  - iv) There was a significant delay in making the claim. The alleged problems with Mr Miah had started before the Appellant arrived in the UK but he did not seek protection until 2018;
  - v) The Appellant has sought to rely on a 'First Information Report' said to have been issued against him after the attack on Mr Miah. The Respondent has provided evidence demonstrating that this FIR is fake, namely information given to the British High Commission in Dhaka by the Bangladeshi police that no cases matching the details given were in fact ever lodged with them;
  - vi) The Appellant's suggested explanation - that the police would choose not to co-operate with the High Commission's query - was not supported by evidence and was non-sensical;
  - vii) It is not credible that the Appellant would be drawn into a dispute with Mr Miah in 2017 when he has been far away - living in the UK - since 2010.

5. Having had regard to these matters the First-tier Tribunal concluded that the entire account was a fabrication and that the Appellant was simply an economic migrant. In the alternative the Tribunal concluded that it would not be unduly harsh to expect the Appellant to relocate within Bangladesh to avoid Mr Miah.
6. In considering the application for permission to appeal Judge Keith found that the First-tier Tribunal had not arguably erred in its approach to credibility generally, or internal flight. Those findings are therefore to stand, save, Mr McVeety accepts, that Judge Keith cannot have intended that the internal flight findings would stand even if it were to be established that the Appellant's family were receiving death threats: if that assertion was made out, the internal flight findings would have to be re-evaluated.
7. Returning to the single ground upon which permission was granted it is pleaded as follows:

“The IJ notes the credible objective evidence which supports the Appellant's claim at paragraph 33 and accepts that the Appellant was being harassed by a local businessman.

This is the core of the claim and the Appellant has been consistent about it.

The IJ then failed to assess the level and severity of the harassment, the level of protection that may have been afforded to the Appellant and his family and there is no findings on this important issue”.

8. Judge Keith granted permission because he considered it arguable that there was an omission in the reasoning in that the First-tier Tribunal does not appear to have made findings on whether the Appellant's family were receiving death threats. I do not read his grant of permission as an acceptance of the assertion in the grounds that the First-tier Tribunal accepted that threats had been made. In fact Judge Birrell does no more than accept that such harassment does occur. Her paragraph 33 goes no higher than this:

“There is nothing in general terms inconsistent about the Appellant's account that he and his family were subject of harassment by a local businessman”.

9. Against that background I must assess whether the omission to make a formal finding on whether the family were being threatened is an error such that this decision should be set aside.
10. I am unable to make such a finding. That is because it is, to my reading, abundantly clear from the decision overall that Judge Birrell rejected the account advanced by the Appellant in its entirety: see in particular her paragraph 40. The Respondent had accepted that the Appellant is a member of the Hindu minority in Bangladesh, and that the country background material

spoke of unscrupulous members of the Muslim majority wielding that minority status against their Hindu neighbours, for instance in the context of land disputes. That is a long way from accepting that this individual faces a real risk of persecution as a result. As the Tribunal noted, there are areas in the 'Hindu Belts' where Hindus comprise as much as 40% of the population; their numbers amount to up to 15 million people nationwide. It is not the case that all of those people are facing serious harm. It was for the Appellant to make out his case. This, for the reasons set out with clarity by Judge Birrell, and summarised at my §4 above, he could not do. His claim was based on an assertion that some seven years after he had come to overstay in the UK, and shortly before he claimed asylum, he and his family came into conflict with a Mr Miah. The primary evidence upon which he relied in support of his claim – and FIR report said to have been lodged by Mr Miah against the Appellant accusing him of mocking Islam – has been found by investigations conducted by the BHC to be false. These matters not unreasonably led Judge Birrell to conclude that the *entire* account was a fabrication: this must implicitly include the assertion that a Mr Miah is threatening the Appellant's family. I cannot read her decision any other way, particularly since she notes that the family have remained living in their home village.

11. There is a further reason that the decision must be upheld. As I observe at my §6 above, Judge Birrell had gone on, in the alternative, to dismiss the claim with reference to the 'internal flight' doctrine. This provides that a signatory state can refuse to grant protection under the Refugee Convention where there is an alternative location within the country of origin where it would be reasonable to expect the Appellant to live. In this case she suggested one of the areas with a high Hindu population and noted the absence of evidence that Mr Miah was a man with 'reach'. Even if the family had been threatened in the past, and (contrary to the evidence) they had felt compelled to flee themselves, the Appellant had failed to demonstrate any reason why they could not relocate to another area. There was no evidence in the file which could support such a proposition. It follows that even if I had found the ground of appeal to be made out – which I do not – the remade decision insofar as it relates to internal flight would still be made in the Respondent's favour.
12. The appeal is dismissed.
13. There is no order for anonymity.



Upper Tribunal Judge Bruce  
14<sup>th</sup> September 2021