



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal No: PA094932016

**THE IMMIGRATION ACTS**

At **Field House**  
On **01.06.2017**

Decision signed: **01.06.2017**  
Sent out: **02.06.2017**

Before:

Upper Tribunal Judge  
**John FREEMAN**

Between:

**Syed MZ ZAIDI**

appellant

and

**Secretary of State for the Home Department**

Respondent

Representation:

For the appellant: *Sugun Praisoody* (counsel instructed by Saj Law Chambers)

For the respondent: Mr Chris Avery

**DECISION AND REASONS**

This is an appeal, by the appellant, against the decision of the First-tier Tribunal (Judge John Eames), sitting at Newport on 22 December 2016, to dismiss an asylum and human rights appeal by a citizen of Pakistan, born 1979. The appellant had come here on a student visa in 2011: his leave was curtailed to 23 September, when he applied for leave to remain as a student. After that ran out, he made a private and family life application, received on 21 January 2013, putting himself forward as a homosexual. When this was refused, he challenged the decision on judicial review: permission was granted, but the proceedings ended in a consent order on 23 March, allowing the appellant to withdraw his claim.

2. Following that order, the appellant arranged on 4 October 2013 to make an asylum claim, but he missed interview appointments on the 29<sup>th</sup>, and on 4 January 2014. He was next heard of on 20 October 2015, when immigration officers caught up with him on an enforcement visit. On 20 November he claimed asylum, on the basis that he feared

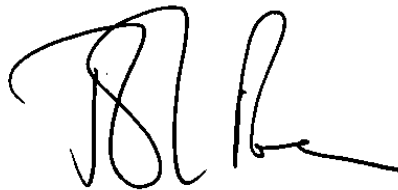
NOTE: (1) *no anonymity direction made at first instance will continue, unless extended by me.*  
(2) *persons under 18 are referred to by initials, and must not be further identified.*

persecution in Pakistan as a Shi'a, having taken part in the activities of a group called *Sipah e-Muhammad* [SeM].

3. The appellant said he had never put himself forward as a homosexual, and blamed his solicitors for the false claim made in 2013, and for later pursuing it on judicial review. He particularly blamed an unqualified employee of the solicitors called Dr Mohid Jawad. The judge made the following findings of fact at paragraph 70:
  - (a) Dr Jawad had been the subject of a decision by the Solicitors Regulation Authority on 27 March 2015, when they declared him an undesirable person for any solicitor to employ: the ruling put before the judge gave no details of what misconduct he had been detected in. He had been working for a firm called Wilsons, in Barking.
  - (b) There was however no evidence to link the appellant specifically with Dr Jawad.
  - (c) In particular, the appellant had proved himself unable to bring up records he said he had on his mobile to show financial transactions with Dr Jawad.
  - (d) The judge accordingly did not accept that the appellant had not made the homosexual application, and the judicial review claim on that basis himself.
  - (e) This very gravely undermined the credibility of his later account of fearing persecution as a Shi'a.
4. At paragraph 71 the judge made the following further findings:
  - (a) the appellant had said nothing at all about being a Shi'a in his homosexual application.
  - (b) He had failed to produce any photographs to support a claimed attack on his family house in Pakistan, despite the offer recorded at paragraph 42 (o).
  - (c) He had given inconsistent accounts of his rôle with SeM.
  - (d) His delay in making his current claim, till after he was caught by immigration officers, further damaged his already poor credibility.
  - (e) The appellant had not produced any documentary evidence of his connexion with SeM, though the judge accepted that this might not have been easy to get.
5. Permission to appeal was granted on the basis that it was arguable that the appellant, not highly literate in English, could not have made the homosexual application, still more brought the judicial review proceedings, on his own. There was also a reference to background evidence on the persecution of Shi'as in Pakistan.
6. The homosexual application was supported by a 6-page typed English letter [G27-33], purporting to be signed in Urdu script by the appellant himself. The particulars of the judicial review claim run to six pages [F14 – 19] in similar form, bearing the appellant's name in capitals at the foot, but no signature. Both documents, whether well-founded or not, show the kind of legal expertise familiar to those who have to deal with applications of this kind, and it is reasonable to conclude that, whether or not the appellant authorized their production and use, he did not create them himself.

7. The consent order ending the judicial review proceedings purports to be signed, in Roman script, by the appellant himself: as the judge pointed out, there is nothing to link Wilsons of Barking, as a firm, with the proceedings, except that one document was sent on their fax machine.
8. Miss Praisoody suggested that the judge should have given the appellant the ‘benefit of the doubt’ as to whether he had made the homosexual application, and brought the judicial review proceedings himself. However, as I pointed out to her, there is a strong presumption that proceedings brought in the name of a person of full age and sound mind have been authorized by him. While it is perfectly arguable that the judge went too far in finding that the proceedings in question here had been brought entirely by the appellant himself, he was fully entitled on the evidence not to accept that Dr Jawad had had anything to do with them.
9. It might have been possible for a particularly generous judge to find that the initial application had been the brainchild of someone else on the appellant’s behalf; but its continuation by way of judicial review, going as far as the grant of permission, before ending in a consent order purporting to be signed by the appellant in person, was not, and could not reasonably have been accepted by the judge as done without his authority or knowledge.
10. That disposes of the main point on which permission was granted; but, as Mr Avery pointed out, the judge had disbelieved the appellant’s Shi’a claim on four additional grounds (see 4 (b) – (e)) which were completely independent of his findings on the homosexual one. Those findings were not challenged in the grounds of appeal, and, if the appellant were not to be believed on this claim, the background evidence was neither here nor there. There was certainly nothing in it capable specifically of supporting his credibility; and, given the many millions of Shi’a living in Pakistan (between 5 and 20% of the whole population, according to the partial copy of the Home Office Guidance Note in the appellant’s bundle), the judge can hardly be faulted for saying at paragraph 77 that there would need to be “... particular individual circumstances giving rise to a specific fear, in order to find that there was insufficient state protection ...”.

**Appeal dismissed**



(a judge of the Upper Tribunal)

**Date: 01.06.2017**