



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**  
*Ex tempore decision*

Case No: UI-2022-002185

First-tier Tribunal Nos: PA/52705/2020  
IA/02356/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 21 June 2023**

**Before**

**UPPER TRIBUNAL JUDGE STEPHEN SMITH**

**Between**

**JC (BANGLADESH)  
ANONYMITY DIRECTION IN FORCE**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr M. Moriarty, Counsel, instructed by Luqmani Thompson & Partners

For the Respondent: Ms A. Everett, Senior Home Office Presenting Officer

**Heard at Field House on 22 May 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant. Failure to comply with this order could amount to a contempt of court.**

## **DECISION AND REASONS**

1. By a decision dated 4 May 2022, First-tier Tribunal Judge P-J S White (“the judge”) dismissed an appeal brought by the appellant, a citizen of Bangladesh born in 1987, against a decision of the Secretary of State dated 16 November 2020 to refuse his asylum, humanitarian protection and human rights claim. The appeal to the judge was brought under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 (“the 2002 Act”).
2. The appellant now appeals against the decision of the judge with the permission of Upper Tribunal Judge Lane.

### **Factual background**

3. The appellant arrived in the United Kingdom as a student in March 2010. Due to delays in his documents being checked upon his arrival, he was not able to commence his studies until sometime later, by which point matters had overtaken events and he was unable to commence at his chosen institution. Thereafter, tragically the appellant was exploited by criminals and was kept against his will in captivity from 2012 to 2014 while he was exploited for the purposes of forced labour.
4. A Conclusive Grounds decision by the Competent Authority dated 18 November 2020 accepted that account on the part of the appellant; that narrative formed part of the background to the appellant’s general credibility and vulnerability in the proceedings before the judge.
5. The nature of the appellant’s claim for asylum, however, was not based on his experience of being a victim of human trafficking. The basis of the claim was that his father was involved with a political party, the Jamaat-e-Islami (“Jel”) in Bangladesh. The appellant’s father became the secretary of the local branch, and the appellant sometimes attended events with his father. The meetings of the Jel occasionally became violent. There were times when his father was attacked and went into hiding. That was particularly so at the time of elections. When the appellant turned 18, partly because of those difficulties, he moved to Sylhet where he lived with his uncle and attended college and university. While he was there, he became involved with the Islami Chhatra Shibir (“ICS”), the student wing of the Jel. On the appellant’s case, he took a leading role, he attended many protests, he was active at election time. In 2008 the Awami League took power. That resulted in the conditions for Jel and its supporters becoming much worse. Some of the leaders were put on trial for war crimes allegedly been committed during the 1971 War of Independence. People associated with the party were arrested, interrogated, and tortured. The appellant’s case is that his father went into hiding and his uncle advised him to continue his studies in the United Kingdom. It was those events which, on the appellant’s case, led to him applying for and being issued with his visa.
6. Following his escape from the conditions in which he was kept for the purposes of forced labour, the appellant spent some time moving around the United Kingdom being supported by various mosques. He found out through various

contacts, who enabled him to make contact with his family, that his father had been in and out of hiding, and that in 2013 Jel had been banned. He also found out that in April 2017 a First Information Report was issued against his father, who had then fled to India. One of the appellant's brothers was living and working in Dubai, and the other who also feared that he would be a target went into hiding, and later joined his father in India. The appellant's mother and sister remain in Bangladesh but they have moved close to the Indian border on the basis that they may need to be able to escape quickly. The appellant had been advised not to return. He secured a copy of the First Information Report that had been issued against his father, and, on the basis of that document, claimed asylum on account of the risk arising through association with his father, and imputed political opinion. The claim for asylum appears to have taken a considerable amount of time to process, having initially been made to the respondent in 2017 and not resulting in a decision until November 2020. The cause for the delay appears to be attributable, in part, to the Conclusive Grounds decision.

7. The respondent rejected the appellant's case on credibility grounds. I shall return to the reasons in more depth in due course, but the respondent considered that the dates provided by the appellant were inconsistent, and the details concerning the arrest warrant that had been provided were vague and inconsistent. The appellant had been unable to demonstrate or explain by whom the warrant had been obtained. He had not provided the envelope in which it purportedly came. There were discrepancies concerning the dates surrounding the arrest warrant and the date the appellant had acquired it. In light of those factors, the respondent did not accept that the appellant had been involved in politics in Bangladesh and did not accept that he would be at risk of being persecuted on his return. The respondent noted that low level members of the opposition were unlikely to be of adverse interest to the authorities in Bangladesh.
8. The appeal was heard by the judge in March 2022. At the appeal, Mr Moriarty, who also represented the appellant before me, highlighted the appellant's vulnerability from his status as a victim of trafficking and also emphasised the mental health conditions which the appellant claimed that he experienced as being a factor that was relevant to the assessment of his credibility. Mr Moriarty emphasised the necessity of the judge addressing the First Information Report. In his decision at [17], the judge noted that the respondent's decision had "not suggested that the document relating to the appellant's father... is other than a genuine document". The judge also noted that the respondent had not contended that section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 ("the 2004 Act") should be considered as damaging to the appellant's credibility. In addition, the judge noted the appellant's account of having been trafficked had been accepted. He went on to make the following findings:

"It is, nonetheless, the case that the claim is very dependent on the appellant's own evidence. He claims to have been involved with Jel, as a supporter, or member of [*sic*] local student leader, for some time in Bangladesh, but has provided no confirmation from the party itself or from anyone claiming to know of his participation. He claims that his father was a local leader, but again there is no other confirmation of his role, although he was presumably rather more prominent than the

appellant. I acknowledge that corroboration is not and cannot be required in an asylum claim, but it is nonetheless potentially very useful, and one would expect it to be produced if available. Similarly, the appellant claims that his family in Bangladesh are all variously in hiding, while his brother in Dubai feels unable to return, and that he has been informed of the position, and provided with the FIR, by a family friend in Bangladesh with whom he has been in touch, but no evidence from any of these people has been provided. The FIR has been produced, in which the appellant's father is only one of 13 accused, but there is no evidence of any further proceedings in the 5 years since it was apparently issued, against any of the accused. This Tribunal regularly sees FIRs such as this, with lists of defendants and accusations of riot or similar offences, but often they are followed by arrest warrants for nonattendance and convictions in absence, evidenced by lawyers who have been instructed in Bangladesh. Here there is nothing of the kind". (Paragraph 17)

9. The judge went on to address the appellant's claimed mental health conditions. He found that there was minimal evidence relating to those matters before the Tribunal. Although the appellant had provided letters from support workers at a charity working with victims of trafficking, the authors of those letters were not qualified to speak to medical issues. The judge had been referred to a country expert report from Dr Ashraf-ul Hoque. The judge had concerns about the weight the report of Dr Hoque should attract. At [19] of his decision, the judge was critical of the Hoque report's conclusions that the appellant would face a risk of being persecuted through what was described as a "multigenerational association". The author of the report had provided little evidence to demonstrate that such a phenomenon existed, and the background information in the respondent's Country Policy and Information Note suggested that low level members of opposition groups, let alone mere supporters, were unlikely to be at risk of mistreatment amounting to persecution. The judge observed at [19] also that the appellant had not claimed to have been targeted himself even when he was in Bangladesh. At [22] the judge summarised the credibility concerns raised by the respondent in the refusal letter and reached the following global conclusion, at [23]:

"I have considered all this evidence with care and in the round. I have borne in mind the low standard of proof, the passage of time and the fact that the appellant undoubtedly has some mental health issues as a result of his experience of trafficking. I am nonetheless not satisfied that the appellant's account of matters in Bangladesh is reliable. I am not satisfied that he was politically active in Bangladesh, or believed to be such, I am not persuaded that his father was or is a leader at any level of Jel and I am not persuaded that the appellant is, because of any activities of his own or his father's, of adverse interest to the government or AL, or at risk of persecution".

The judge dismissed the asylum and humanitarian protection limbs of the appeal. He then found that there were no reasons under Article 8 of the European Convention of Human Rights in favour of a grant of leave to remain. The judge dismissed the appeal.

## **Issues on appeal**

10. There are three grounds of appeal to the Upper Tribunal.
11. First, that the judge failed to give sufficient reasons relating to the First Information Report. Specifically, Mr Moriarty submits that the judge failed expressly to find whether he accepted the document to be genuine or not. It was incumbent upon him to do so, he submitted. The failure expressly to address that key plank of the appellant's claim infected the remaining credibility analysis conducted by the judge, submitted Mr Moriarty, such that the entire assessment the judge conducted must be set aside.
12. Secondly, it is submitted that the judge's analysis of the Hoque report was flawed. The criticism levied by the judge at parts of the report for a failure to cite evidence was not borne out by an analysis of the terms of the report itself, and the judge's criticism of the overall conclusions of the report and its methodology was taken against the background of his failure to make express findings concerning the First Information Report and as such, the errors by the judge in those earlier findings of fact clouded his analysis of the terms of that report.
13. The final ground of appeal relates to the judge's overall assessment of the weight to be ascribed to the appellant's evidence. It is suggested that the judge failed to take sufficient account of the impact of the appellant's status as a victim of trafficking and his confinement from 2012 to 2014 on his ability to provide the corroboration and other evidence the judge expected from him. The grounds of appeal submit that it was relatively unsurprising that the appellant failed to provide evidence relating to those matters in light of his detention during the period in question.
14. On behalf of the Secretary of State, Ms Everett said that although there was an extent to which the judge's findings concerning the First Information Report were somewhat left in limbo, overall, the judge gave sufficient reasons for reaching the conclusions that he reached. In relation to the judge's analysis of the First Information Report it was clear, she submitted, that whatever the judge's express findings in relation to it would have been, that the judge ascribed no significance to it. In relation to the analysis of the Hoque report, Ms Everett submitted that the judge analysed the report in terms that were open to him. Concerning the appellant's vulnerability and the broader assessment of his credibility, Ms Everett submitted that the judge was clearly aware of the appellant's background and made multiple references to it throughout the decision. He was fully aware of the trafficking background to the appellant and took account of it in a manner open to him.

## **The law**

15. The central thrust of Mr Moriarty's submissions focused on the judge's claimed failure to give sufficient reasons for his findings concerning the First Information Report. The leading authority on sufficiency of reasons is *English v Emery Reimbold & Strick Ltd* [2002] EWCA Civ 605. At [119] the then Master of the Rolls said this in relation to challenges based on the sufficiency of reasons:

"An unsuccessful party should not seek to upset a judgment on the ground of inadequacy of reasons unless, despite the advantage of considering the judgment with knowledge of the evidence given and

submissions made at the trial, that party is unable to understand why it is that the Judge has reached an adverse decision”.

See also the judgment of Lord Justice Lewison in *Fage UK Ltd v Chobani UK Ltd* [2014] EWCA Civ 5 at [114]. There it was held that the expertise of a trial judge is in determining what facts are relevant to the legal issues to be decided, and what those facts are if they are disputed. Secondly, the trial is not a dress rehearsal; it is the first and last night of the show. Thirdly, in making his decisions the trial judge will have regard to “the whole of the sea of evidence presented to him, whereas an appellate court will only be island hopping”.

16. In *Perry v Raleys Solicitors* [2019] UKSC 5 at [52] Lady Hale summarised the principles concerning appeals made on the grounds of errors of fact. She said this, that the principles “may be summarised as requiring a conclusion either that there was no evidence to support a challenged finding of fact, or that the trial judge’s finding was one that no reasonable judge could have reached”.

### **The judge gave sufficient reasons in relation to the First Information Report**

17. It is necessary when examining the primary ground of appeal advanced by Mr Moriarty to understand what it is that, properly understood, the judge had decided. In this respect the decision must, of course, be read as a whole.
18. The operative findings relating to the First Information Report may be found at [17]. The judge reminded himself that section 8 of the 2004 Act had not been engaged, he recorded Mr Moriarty’s submission that the refusal letter had not suggested that the document was not genuine, and it was also not in dispute that the appellant had suffered as a victim of trafficking. The judge recorded those features; but it is also the case that, later in the decision, the judge recorded that there were credibility concerns about the document that the Secretary of State set out in the refusal letter.
19. Those concerns related to the First Information Report document itself. For example, at [61] the refusal letter records how the appellant had been asked in the asylum interview to explain how he came into possession of the document. The respondent considered that the appellant’s replies were vague and lacking in depth and information. There were concerns at [62] arising from the timing of when the document had come into the possession of the appellant; he had suggested that the document itself was six to seven months old from the time of the interview, but in addition he had explained that it was either seven to eight months or a year old. Those dates, which themselves were inconsistent, were then assessed by reference to the date of the document itself, which was dated only five months prior to the interview date. Those dates, considered the refusal letter, were internally inconsistent.
20. At [65] the refusal letter concluded that taken in the round the First Information Report was externally consistent and it featured what was expected to be included in it. However, no weight was ascribed to the document because at its highest it merely demonstrated that the appellant’s father was being sought for criminal activities.

21. It is necessary, therefore, to approach the refusal letter's final conclusions in relation to the First Information Report against the background of those earlier criticisms of it.
22. Against that background, one must examine the reasons given by the judge in order to address whether he reached findings which are sufficiently clear from the reasons that he gave or which, as submitted by Mr Moriarty, were insufficient and failed to address this issue.
23. I accept that it may have been possible for the judge to have reached the findings which I will set out that I find that he did make with greater clarity. However, when applying the test in *English*, in my judgment, the test for sufficient reasons is met. The reasons given by the judge for rejecting the credibility of the appellant's account overall were that: first, there was no confirmation of his role in Jel in Bangladesh; secondly there was no evidence relating to his father's role; thirdly although there is no requirement for corroboration as a matter of international law, where it would be possible for such corroboration to be provided it should be produced if it was available; fourthly, there had been no evidence from the friend who had produced or provided the First Information Report and passed it on to the appellant; and fifthly, there had been no evidence of further proceedings in the five years that have elapsed since the document had been issued. The latter five year period included the absence of any arrest warrant and any details relating to convictions postdating the First Information Report itself.
24. Although there is a criticism in the grounds of appeal of the judge's approach to documentary evidence on similar issues in other cases he had heard ("*This Tribunal regularly sees FIRs such as this, with lists of defendants and accusations of riot or similar offences, but often they are followed by arrest warrants for non-attendance...*" etc.), in my judgment, the judge was rationally entitled to conclude that it was significant that there had been no evidence from any lawyers in Bangladesh who had been instructed to represent the defendant in criminal proceedings. It was entirely reasonable for the judge to have concerns that there was an absence of evidence of that sort.
25. Further, at [22] the judge adopted the credibility concerns contained in the refusal letter to which I have already referred. Those included a lack of clarity and consistency in relation to the First Information Report itself. The judge said in the final sentence of [22]:

"His [the appellant's] and his father's roles in Jel and the issue of this FIR are at the heart of the asylum claim, and a lack of clarity and consistency on them is inevitably of concern".
26. One then must turn to [23] when the judge said that he was, as I have already observed, "not satisfied that the appellant's account of matters in Bangladesh is reliable". The test for this Tribunal is to determine whether the reasons given by the judge, taken in the round, reveal that he has failed to make a finding concerning the First Information Report. In my judgment, taken together, the judge found that the document was not reliable. So much is clear from the judge's express statement that he was "not satisfied" that the appellant's account of matters in Bangladesh was "reliable". That was a conclusion that was reached following a number of credibility concerns set out by the judge. Some of

those had featured in the original refusal letter by the respondent, others featured in the judge's own analysis. What is clear is that the findings reached by the judge were based on the evidence that he had heard, and that the attempt to ascribe determinative significance to the absence of express findings in relation to the arrest warrant amounts to a form of island hopping of the sort deprecated in *Fage v Chobani*. The judge gave sufficient reasons.

27. I turn to the second issue.

### **The judge's approach to Dr Hoque's evidence was open to him**

28. The grounds of appeal criticise the judge's conclusion at [19] that the "multigenerational risk" ascribed to the appellant by Dr Hoque's report was without foundation. The grounds contend that the report itself featured extensive evidence and sourcing for the conclusions that were drawn in that respect.

29. In my judgment, it was open to the judge to ascribe significance to the lack of specific source material concerning the claimed intergenerational risk, and, in any event, there was only one generation, father and son. This was not a case where there were many generations who were said to be at risk, or further family members. The judge, of course, had observed that there was no broader evidence from any of the individuals concerned relating to the claimed risk the appellant said they were subject to. The materials quoted at [51] of the Hoque report related to false charges being levied against leaders and more prominent supporters of opposition parties. This is an appellant who was at one time in the past a low level student supporter.

30. The remaining criticism of the Hoque report was open to the judge. The judge noted that the report adopted the medical conclusions written by two support workers with the anti-trafficking charity with which the appellant was associated. The judge found that it was not open to the expert to ascribe significance to the medical conclusions purportedly contained in those letters, since the authors of those letters had no expertise to make those assertions. The same could be true in relation to Dr Hoque's own analysis of those issues. For example, at [21] the judge said this:

"While acknowledging that he [Dr Hoque] has no medical expertise he feels able to say (at paragraph 79) that the appellant requires complex and multifaceted support and long-term psychological intervention, (at paragraph 86) that he is at risk of suicide and (at paragraph 117) that he would be unable to find work because of his mental health issues. I can discern no basis for these (inexpert) opinions. In these specific instances, and in its tone more generally, I find this report to be significantly over-stated and I am not persuaded that I can rely on it to the extent argued".

Those observations were entirely open to the judge in light of his analysis of the evidence in the case in the round.

### **The judge took all material factors into consideration**

31. As I conclude, I turn to the third ground of appeal. This ground criticises the judge's approach to the appellant's vulnerability as a victim of trafficking, in



particular during the years 2012 to 2014. He could not have been expected to obtain corroboration in light of the fact he was being held against his will.

32. I agree that it was necessary for the judge to ascribe significance to the impact of the appellant's vulnerability on his ability fully to recall and obtain corroboration that would otherwise reasonably be expected. However, looking at the decision as a whole, it features repeated self-directions and reminders concerning the appellant's status as a victim of trafficking.
33. See the record of Mr Moriarty's submissions in that respect at [16]. At [18], the judge accepted that there is a degree to which it is wholly unsurprising that the appellant will have some mental health concerns. At [23] when reaching the overall credibility findings upon which the operative conclusion the appeal was based, the judge recalled that the appellant's mental health issues as a result of his experience of trafficking were relevant factors. Finally, at [26], when addressing the appellant's private life human rights claim (in relation to which there was no challenge and so I say little more) there was again a reference to the fact that the appellant was held against his will whilst being forced to conduct labour on behalf of those who were exploiting him.
34. I therefore find that throughout the decision, and expressly in relation to the appellant's credibility, the judge took into account the impact of the appellant's vulnerability on his credibility and his ability fully to present and prepare a case concerning his protection claim.
35. As I conclude, I observe that it is nothing to the point that the appellant was detained from 2012 to 2014; the thrust of his case before the judge below, and before the Upper Tribunal, was that the First Information Report was issued in 2017, some three years after his release from detention. While of course it would be unlikely to be appropriate to find that during the time the appellant was detained against his will he would have been able to obtain corroboration, nothing about the prior detention experiences of the appellant meant that the judge was prohibited from ascribing significance to developments that took place three years later, at a time when the appellant had been at large and supported by people from the mosques which had been assisting with his accommodation from time to time.
36. Drawing this analysis together, I find that the grounds of appeal are a series of disagreements of fact and weight and do not reveal the presence of an error of law on the part of the judge.
37. This appeal is dismissed.

### **Anonymity**

38. The judge made a direction for anonymity. In light of the appellant's status as a victim of trafficking, it is appropriate that the order be maintained.

**Stephen H Smith**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

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**Transcript approved 9 June 2023**