

**Upper Tribunal
(Immigration and Asylum
Chamber)**
2022-005249



Case No: UI-

First-tier Tribunal No: PA/ 54244/2021

THE IMMIGRATION ACTS

Heard at FIELD HOUSE

On 18 October 2023

**Determination
Promulgated**

2nd November 2023

**Before
UPPER TRIBUNAL JUDGE KEBEDE &
DEPUTY UPPER TRIBUNAL JUDGE BLACK**

Between

SKR

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

ANONYMITY ORDER MADE

Representation:

For the Appellant: Mr Pipe (Counsel instructed by Law & Lawyers solicitors)

For the Respondent: Ms Gilmore (Senior Home Office Presenting Officer)

DECISION AND REASONS

1. The appellant, Mr SKR, is a citizen of India, born on 1 June 1974. He entered the UK on 11 May 2008 as a business visitor and on 1 August

2019 he applied for asylum. He appeals with permission against the decision of the first-tier Tribunal who dismissed his appeal against the respondent's decision to refuse his asylum claim on 4 August 2021. It was accepted by the respondent that the appellant had converted to Christianity on 2 June 2008 and was baptized on 5 September 2009. The respondent did not accept that he faced a real risk of persecution on return to India and considered, in any event, that there was a sufficiency of State protection and internal relocation available to the appellant.

2. The appellant appealed to the first-tier Tribunal (First-tier Tribunal Judge Abdar) ("the Judge") who dismissed the appeal in a decision promulgated on 22nd August 2022. The Judge considered the background evidence on the treatment of Christians, particularly converts, in India. The Judge took the view that the background evidence mostly related to the northern states of India and that the Wikipedia article section on Kerala reported two historic attacks by Islamic fundamentalists on the clergy and an academic [19]. The Judge also considered the extensive background evidence set out in detail in the refusal letter and concluded that the evidence did not demonstrate a real risk on return of persecution by virtue of being a Christian convert [21-23].
3. It was the appellant's case that his family in India, including his brother in law, who was a local politician with the Bharatiya Janta Party ("BJP"), had become aware of his conversion to Christianity and expressed anger towards him because of this. In addition, a local BJP Secretary, Mr N, had made threats. He was a gang leader who targeted converts [33]. For these reasons the appellant was in fear of the ruling party in India.

First-tier Decision

4. In his decision the Judge took into account that the appellant did not claim asylum until August 2019, some 10 years after the inception of the fear and despite being repeatedly informed of the option of applying for asylum; albeit that the appellant had raised the issue in preceding applications made in 2013, 2015 and 2018 [28] & [36].
5. The Judge considered that it was reasonable to expect some supporting background evidence of the existence and position of the local politician Mr N and found that there was none. At [35] the Judge, taking a holistic view, found the appellant's evidence of the threats to him on return to be unreliable, in part due to the inconsistencies and contradictions in the evidence, and the lack of reasonably expected corroborating evidence or at least attempts to obtain such evidence [32-33]. The Judge further considered that the appellant would have State protection available to him on return to India and specifically relied on the background evidence in the refusal letter [38].
6. The Judge went onto consider the human rights claim from [40-53]. The grounds of appeal raise no issue in this regard.

Grounds of appeal

7. In grounds of appeal it was submitted that the Judge erred by failing to consider material evidence. He failed to properly consider and engage with evidence dating back to 2013 and contained in his additional grounds in 2015, in which the appellant had raised his fears and the threats made because of his conversion. Further the Judge made a material misdirection of law by rejecting the evidence of the appellant's brother-in-law and Mr N, the local politician, by reason of a lack of corroborative evidence. Thirdly, the Judge failed to consider material matters and /or made a material misdirection of law by failing to engage with the country evidence as a whole which indicated that persecution of Christians is prevalent across India. Lastly, the Judge erred by failing to consider the appellant's fears of the ruling party in India and/or to address the country evidence demonstrating the absence of a sufficiency of protection in India.
8. **Permission to appeal** was granted by First-tier Tribunal Judge Adio on the grounds that it was arguable that the Judge erred in his consideration of material evidence namely, the background evidence set out in the skeleton argument and in the grounds of appeal (US Dept. State report 2020 on International Religious Freedom: India 12 May 2021). All grounds were arguable.
9. The matter came before us for hearing. There was no rule 24 response. Both parties made submissions and those are addressed in the discussion below.

Discussion & decision

10. Mr Pipe expanded upon the grounds of appeal. He submitted that it was incumbent on the Judge to have considered in detail the evidence relied on by the appellant previously in 2013 and 2015 and to have included that in his analysis and consideration. The Judge specifically stated that little weight would be placed on the evidence of Mr N by reason of a lack of corroborative evidence. There was evidence in the background material of threats and violence against Christian converts. The Judge further failed to address the country evidence that in fact the police failed to take steps to protect converts and in fact would prosecute.
11. Miss Gilmore submitted that the Judge had considered the evidence as a whole including the background evidence, found the appellant's account to be unreliable and not credible against the background of the objective evidence and reasonably sought some evidence in support as to the identity of Mr N and his political profile. The Judge found the appellant's evidence to be inconsistent and contradictory and there was a lack of reasonably expected corroborative evidence or at least evidence of attempts to obtain such evidence. The Judge's approach to the delay in making an asylum claim was perfectly proper and fair.

12. We take the view that this was a clear and thorough decision and reasons in which the Judge’s findings were open to him to make on the evidence before him. The Judge was aware of the previous applications made by the appellant from 2013 and which contained detail of the threats made and his fears [28]. The Judge’s finding of delay in making the asylum claim was open to him on the evidence and was factually correct. He also took into account that the appellant gave a different and contradictory explanation in cross examination [36].
13. The Judge considered all of the background evidence at [19, 20,21, 22, 38] in concluding that it did not support the contention that converts to Christianity would be at risk of persecution on return to India by virtue of being a convert, rather that there was evidence of localized discrimination and threats and violence by non state agents. The Judge found that appellant’s claim was not reliable, but nevertheless considered the background evidence set out in the refusal letter and properly concluded that State protection would be available to the appellant should he require it. The Judge found that internal relocation would not be unduly harsh for this appellant in the event of moving to a different area in India.
14. The Judge was well aware of the appellant’s claim to be in fear of threats and violence from family members and Mr N who was involved in local politics. [33] Whilst accepting that the Judge made reference to the term “corroboration” we are of the view that the Judge was properly and reasonably seeking independent evidence in support as to the identity and political profile of Mr N, of which there was none. We did not consider this to be a requirement for corroboration of the evidence before the Tribunal.
15. We conclude therefore that there is no merit in the grounds of appeal and indeed express surprise that permission was granted by the First-tier Tribunal. We conclude that the grounds failed to identify any errors of law in the Judge’s decision which we uphold.

Notice of decision

The making of the decision of the First-tier Tribunal did not involve a material error on a point of law. The decision to dismiss the appeal stands.

Signed
21.10.23

Date

GA Black
Deputy Judge of the Upper Tribunal

Direction Regarding Anonymity - rule 13 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

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
21.10.23

Date

GA Black
Deputy Judge of the Upper Tribunal