



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

**Case No.: UI-2022-001939**  
**First-tier Tribunal No:**  
**PA/50587/2023**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 30 September 2024**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MONSON**

**Between**

**FM (BANGLADESH)**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr T Shah, Solicitor, Taj Solicitors

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

**Heard at Field House on 9 September 2024**

**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. The appellant has been granted permission to appeal against the decision of First-tier Tribunal Judge JG Richards promulgated on 11 March 2024 ("the Decision"). By the Decision, Judge Richards dismissed the appellant's appeal against the decision of the respondent made on 13 January 2023 to refuse his claim for asylum or humanitarian protection made on 5 July 2022.

### **Relevant Background**

2. The appellant is a national of Bangladesh, whose date of birth is 16 February 1991. On 29 November 2021 he applied from Bangladesh for a Tier 4 (Student) visa. His application was successful, and he was granted leave to enter as a student from 24 December 2021 until 30 October 2023. He left Bangladesh on 30 December 2021 by airplane using his own passport, and entered the United Kingdom later on the same day. The appellant claimed asylum on 5 July 2022.
3. In the initial contact and asylum registration questionnaire dated 8 July 2022, he was asked to briefly explain all the reasons why he could not return to his home country. He said that his father was a well-known businessman in Bangladesh and was also a member of the BNP. Due to his political activities, he had faced a lot of problems on many occasions. About three months ago, a member of the Awami League Party (ALP) - which was the ruling party in Bangladesh - asked his dad for an amount of money and he refused to give it. They threatened his dad that they would kill him, and they also said that when he returned, they would kill him as well if his dad did not pay the amount of money they were demanding. His father's business had now closed down, and so he could not send fees for his studies. So, he could not continue studying in the UK. If he returned to Bangladesh, he feared for his life.
4. He was asked when he realised that he could not return to his home country. The appellant said it was when his dad started receiving threats that he would get killed if he returned to Bangladesh. This was about 2 months ago. He had decided to claim asylum in June 2022.
5. The appellant subsequently completed a Preliminary Information Questionnaire (PIQ) dated 23 August 2022 and he also made a witness statement on the same date. In the PIQ, he was asked why he feared returning to his home country, and what he feared would happen if he was returned. He answered that when he was in Bangladesh, he was actively involved in student politics with the JCD, the student wing of the BNP. He had attended numerous demonstrations and processions against the current ruling government. He became a target. He received anonymous threats to leave politics, and he became inactive, and left his ties with the JCD. When he refused to quit his political activities, several attempts were made to attack him. He was able to escape those attacks and he did not come to harm.

6. His father was a prominent businessman in their locality. He was also involved in politics with the BNP when he was young. He used to be very active, and everyone in their locality was aware of his involvement in politics. Due to his age and his business, he had become less active in politics for many years now. He did not participate in any demonstrations these days. Also, the current ruling party tried to suppress everyone.
7. In February 2022 some people came to his father's shop. They said they were local AL activists. They started asking about him. His father confirmed that he would be returning to Bangladesh after he had completed his degree, and he asked them why they were asking all these questions. They replied that he (the appellant) was very active in the field of politics, and he had sometimes criticised the Government publicly, which they did not like. They also said that it was good for him that he had left the country, and told his father that they would cut his son's throat if he ever came back to the country and talked against the Government. They were just waiting for him to come back. They then demanded a ransom from his father. His father refused. After they left, his father went to the police station to lodge a complaint against them, but the police refused to file any complaints against them. The people came back again to the shop in March 2022. His father told him that he had no means to pay the amount they were demanding. They threw him out of the shop. They shut the door to the shop and put locks in it. Then they told him that he would have to pay a ransom to get it back. His father tried to reach out to the concerned authorities, but he failed due to the blackmailers' political influences and connections.
8. The appellant attended a substantive asylum interview on 29 November 2022. His solicitors submitted corrections to the interview on 21 December 2022, and made further representations in a letter which was received on 30 December 2022.
9. In his substantive interview, the appellant said that on 1 August 2021 he was involved in a rally at Biswanath College, and the rally was attacked by members of the Youth Wing of the Awami League. He was personally beaten up and left unconscious, and then awoke in police custody. On 2 August 2021, while still in police custody, he was attacked by four or five members of the AL Youth Wing who entered his cell and slapped him in front of a police officer.
10. In the Home Office decision letter dated 13 January 2023, the respondent did not accept that the appellant was or had been a member of the BNP or the JCD. This was because his answers in interview were not consistent with him being a genuine supporter of the party.
11. It was also not accepted that he had come to the adverse attention of the BCL, the Student Wing of AL. This was because (among other things) he had not mentioned any the alleged incidents in August 2021 in either his screening interview or the PIQ/witness statement.

## **The Hearing Before, and the Decision of, the First-Tier Tribunal**

12. The appellant's appeal came before First-tier Tribunal Judge Richards sitting at Birmingham IAC on 6 March 2024. Both parties were legally represented, with Mr Mohammed appearing on behalf of the appellant.
13. In the Decision, the Judge's discussion and findings began at para [10]. The Judge addressed the claim that the appellant had been a member of the JCD for over 20 years, having joined it in 2012. He found that his answers in oral evidence to be rather vague and significantly lacking in detail. He observed that the appellant was asked considerably more questions in his immigration interview, but again he was unable to provide any compelling level of detail. While it was accepted that he was asked questions about the BNP, rather than about the JCD, it was nonetheless somewhat surprising that his answers were so lacking in substantive content.
14. The appellant stated in oral evidence that his father had never had any problems because of BNP membership. The Judge noted that this was inconsistent with his answers in his initial contact and asylum registration questionnaire in July 2022, where he said that due to his political activities, his father had faced a lot of problems on many occasions.
15. At para [14], the Judge held that the appellant essentially relied upon two incidents. The first incident was in August 2021 when he said he was attacked by members of the ALP. He said that he was in the market area, and 15-20 people attacked them. He said he was knocked unconscious and awoke in a police station. While there, he was attacked again. This caused him to stay in bed for a month. He was asked why he said in his asylum interview, in November 2022 that he had no visible injuries, but just pain and bruises. He could not provide a satisfactory answer, saying that only 2-3 people attacked him. He did not explain the apparent inconsistency between being required to stay in bed for a month, yet having no visible injuries save for bruises.
16. The appellant was also asked why he had not mentioned this incident in his initial contact and asylum registration questionnaire, but again he did not provide an explanation.
17. The Judge addressed the second incident at paras [15] and [16] of the Decision. It was said to have occurred in February 2022 after the appellant had entered the UK. The appellant relied upon an affidavit from his father dated 20 February 2024. He was asked why there was no mention of any threats to him in this affidavit. He said that it might be because the incident happened over a year ago, and his father was unwell and had aged.
18. At para [18] the Judge said:

"I have considered all of the evidence, both written and oral, in the round. I do not find the appellant's accounts credible. First, the accounts he has given from his initial contact, through his asylum interview, to his oral evidence before me lack detail. He was vague in responding to questions in cross-examination. Second, there is significant variation in his various accounts. Third, with the exception of his father's affidavit, there is no external supporting evidence for any of his account. He does not claim to have undertaken any *sur place* activity. And in the case of the affidavit, as noted above, this also varies in one significant aspect from his evidence. I do not find the reason given for this variation to be compelling."

19. The Judge went on to hold at para [19] that the appellant had not shown to the required standard that he had any fear of persecution. It was also not reasonably likely that he would be persecuted. There were not substantial grounds for believing that he would face a real risk of serious harm. For the same reasons, there are no obstacles to his integration into Bangladesh. He had his family there and grew up there, being educated to a high level.

### **The Reasons for the Limited Grant of Permission to Appeal**

20. Permission to appeal was refused by the First-tier Tribunal, and slightly modified grounds were presented to the Upper Tribunal for consideration.
21. In a decision dated 28 May 2024, Upper Tribunal Judge Norton-Taylor held that Grounds 2-4 were hopeless. Although the Judge only dealt with Article 8 very briefly, there was virtually no merit in that aspect of the appellant's case and the Judge was unarguably entitled to conclude that removal would not be disproportionate.
22. As to Ground 1, he observed that the Judge's decision was brief, running to only 25 paragraphs in total, 21 of which were engaged with the substance of the case. In principle, there was nothing wrong with brevity. However, in his view there were arguable points arising from Ground 1. Those points included possible unfairness relating to the lack of *sur place* activities and a failure to have actually engaged with the relevant evidence of the claimed attack. It might appear as though the Judge had also introduced a requirement for corroborative evidence, although that was not specifically raised in the grounds.

### **The Hearing in the Upper Tribunal**

23. At the hearing before me to determine whether an error of law was made out, Mr Shah developed Ground 1 of the appeal. On behalf of the respondent, Mr McVeety opposed the appeal, essentially for same reasons as those which were given by the First-tier Tribunal Judge who refused permission to appeal on Ground 1.
24. After hearing from Mr Shah briefly in reply, I reserved my decision.

## **Discussion and Conclusions**

25. I bear in mind the observations of Lord Brown in *South Bucks County Council -v- Porter* [2004] UKHL 33; 2004 1 WLR 1953. The guidance is cited with approval by the Presidential Panel in *TC (PS compliance - "Issues-based reasoning") Zimbabwe* [2023] UKUT 00164 (IAC). Lord Brown's observations were as follows:

"36. The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the "principal controversial issues", disclosing how any issue of law or fact was resolved. Reasons can be briefly stated, the degree of particularity required depending entirely on the nature of the issues falling for decision. The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example by misunderstanding some relevant policy or some other important matter or by failing to reach a rational decision on relevant grounds. But such adverse inference will not readily be drawn. The reasons need refer only to the main issues in dispute, not to every material consideration...Decision letters must be read in a straightforward manner, recognising that they are addressed to parties well aware of the issues involved and the arguments advanced. A reasons challenge will only succeed if the party aggrieved can satisfy the court that he has genuinely been substantially prejudiced by the failure to provide an adequately reasoned decision."

26. Mr Shah does not take issue with the Judge's self-direction that the assessment of the appellant's protection claim hinged entirely on an assessment of his credibility. Mr Shah's overarching submission is that the Judge's assessment of the appellant's credibility was materially inaccurate or was procedurally inaccurate and/or a breach of natural justice.

27. The first alleged manifestation of this mischief is said to arise at para [11] of the Decision, where the Judge acknowledged that the appellant was asked about the BNP in his substantive asylum interview, rather than being asked questions about the JCD. Mr Shah submits that unfortunately the Judge "*erred to give any weight to the appellant's claim on this matter*", which I take to mean that the Judge was wrong not to recognise that the BNP and the JCD are "*different political groups*", as was submitted in the appeal skeleton argument (ASA) at para 7.

28. I consider that this criticism is no more than an expression of disagreement with a finding which was reasonably open to the Judge on the evidence. It was not in dispute that the BNP and JCD were connected organisations, with the JCD being the Student Wing of the BNP. While it is true that the appellant stated in his asylum interview that he had not joined the BNP, he nonetheless treated the JCD and BNP as connected organisations. As is highlighted in the ASA at para [8], in answer to the question from the Interviewing Officer as to how the appellant first became involved with the BNP, the appellant replied that in 2012 he joined the JCD.

29. It was thus reasonable for the Judge to treat the appellant's lack of knowledge of the BNP, as displayed by him in his asylum interview, as

being a significant adverse credibility point against him. It was open to the Judge to approach the issue of credibility on the basis that a genuine and committed JCD activist would have a reasonably detailed knowledge of the BNP. The justification for this is reinforced by the fact that, as the Judge noted at the beginning of para [10], the appellant said in oral evidence that his father was a BNP supporter, so (my emphasis) he had joined the JCD for family reasons. If they were different political parties, this response would be a logical non-sequitur. The Judge reasonably inferred that the thrust of the appellant's oral evidence was that the JCD and the BNP were essentially the same, and thus by supporting the JCD, the appellant was supporting his father and the BNP.

30. The second criticism advanced by Mr Shah is that, according to Mr Mohammed's note of the evidence (which Mr Shah has not disclosed), the appellant was only asked one question by the Presenting Officer about the JCD, and "*the appellant clearly answered the question.*"
31. It does not appear to be disputed by Mr Shah that the answer which the appellant gave is accurately summarised by the Judge at para [10]. Mr Shah's criticism is that the Judge erred in failing to set out the detailed answer he was expecting from the appellant - and also that the Judge failed to identify any inconsistency or irrelevance in the answer, but instead wrongly held that the appellant's answer about the JCD was vague.
32. I do not consider that any error of law is thereby made out. It was open to the Judge to find that the answer which the appellant gave about the JCD was vague. It was not unfair for him to do so.
33. The third issue raised in Ground 1 relates to para [18], where the Judge found that the appellant had not claimed to have undertaken any *sur place* activity. It is submitted that it is procedurally unfair for the Judge to draw a negative inference from this fact, as this was not an issue that was raised at the hearing, and it was also not an issue that had been raised previously.
34. It is apparent from the Home Office decision letter that one of the reasons identified by the respondent for disbelieving that the appellant was a member of the BNP or JCD was his failure to become involved in *sur place* activities for the BNP/JCD since arriving in the UK and/or his failure to give a credible reason for not doing so.
35. It was noted that the appellant had indicated in interview that he had continued to support the BNP since arriving in the UK (AIR Q178). But when questioned further he indicated that he had never visited the BNP Office in the UK and he did not know its location (AIR Q179). He then stated that he would like to support the BNP in the UK but did not know how to do that (AIR Q180). The reason that he gave for not finding out this information was that he was not mentally prepared. The respondent said that this was not a reasonable explanation, as his mental health had only

been poor for a short time and he had not attempted to seek treatment for it at any time.

36. Mr Shah relies on the case of *KK & RS (Sur place activities: risk) Sri Lanka CG* [2021] UKUT 00130 (IAC), where the Upper Tribunal stated, “(5) *sur place activities on behalf of an organisation proscribed under the 2012 UN Regulations is a relatively significant risk factor in the assessment of an individual’s profile, **although its existence or absence is not determinative of risk ...**”*
37. As submitted by Mr McVeety, this authority is irrelevant in the current context. The Judge did not approach the issue of credibility on the basis that, in order to be credible in his account of past persecution as an opposition party activist, it was mandatory for the appellant to be engaged in *sur place* activity.
38. In summary, it was not procedurally unfair of the Judge to draw an adverse inference from the appellant’s political inactivity in the UK, as the issue had been raised in the refusal decision.
39. Mr Shah’s fourth criticism is that the Judge erred in his credibility findings at para [14] relating to the appellant’s account of being attacked in 2021. I do not consider that the Judge wrongly treated the appellant’s account as requiring corroboration, and that is not the criticism made by Mr Shah. The Judge made three adverse credibility findings in respect of the claimed attacks in 2021, and Mr Shah’s criticism is confined to one of them, which is the appellant initially saying he had been attacked by 15-20 people and then saying that only 2-3 people attacked him. Mr Shah submits that this does not accurately reflect Mr Mohammed’s undisclosed note of evidence which was that the appellant said he was mainly beaten by 2-3 people. Nonetheless, this does not render untenable or unfair the finding of the Judge that the appellant had not given a satisfactory explanation for why, despite being allegedly knocked unconscious and hospitalised for a month, he had not – on his own account – sustained any visible injuries.

### **Notice of Decision**

**The decision of the First-tier Tribunal did not contain an error of law, and accordingly this appeal to the Upper Tribunal is dismissed.**

### **Anonymity**

The First-tier Tribunal made an anonymity order in favour of the appellant, and I consider that it is appropriate that the appellant continues to be protected by anonymity for the purposes of these proceedings in the Upper Tribunal.

Andrew Monson  
Deputy Judge of the Upper Tribunal  
Immigration and Asylum Chamber



26 September 2024