



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

Case No: UI-2024-000550  
UI-2024-000551, UI-2024-000552  
UI-2024-000553, UI-2024-000554

First-tier Tribunal No: PA/50169/2023  
PA/50179/2023, PA/50175/2023  
PA/50176/2023, PA/50178/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 8<sup>th</sup> of November 2024

**Before**

**UPPER TRIBUNAL JUDGE KAMARA**

**Between**

**MH & Ors.**  
**(ANONYMITY ORDER MADE)**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the Appellant: Mr A Arafin, counsel instructed by Shahid Rehman Solicitors  
For the Respondent: Ms S Lecointe, Senior Home Office Presenting Officer

**Heard at Field House on 5 November 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellants are granted anonymity. No-one shall publish or reveal any information, including the name or address of the appellants, likely to lead members of the public to identify the appellants. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

Introduction

1. The appellants have been granted permission to appeal the decision of First-tier Tribunal Judge MM Thomas who dismissed their appeals following a hearing on 15 November 2023.
2. Permission to appeal was granted by Deputy Upper Tribunal Judge Saini on 14 March 2024.

#### Anonymity

3. An anonymity direction was made previously and is maintained because these appeals have a protection element.

#### Factual Background

4. The appellants are nationals of Bangladesh. The principal appellant, MH, entered the United Kingdom with a visit visa on 27 September 2019 and applied for asylum the same day. The remaining appellants are the wife and minor children of MH (hereinafter referred to as the appellant) who are dependent upon his claim. The appellant's claim is based on his political activities in Bangladesh, mainly in relation to the BNP as well as his attendance at demonstrations in the United Kingdom. The appellant fears persecution at the hands of members of the Awami League and state agencies owing to his activities.
5. In refusing the appellant's claim, the Secretary of State accepted that he had been a member of the BNP in Bangladesh and in the United Kingdom. His claims to have been adversely treated in Bangladesh were rejected owing to a want of credibility. Nor did the respondent accept that the appellant had attended demonstrations in the United Kingdom. In relation to the Article 3 medical claim, it was not accepted that the appellant was at risk of suicide or that there was no treatment available in Bangladesh. The removal of the appellant and his family was considered to be proportionate.

#### The decision of the First-tier Tribunal

6. At the hearing before the First-tier Tribunal, the appellant attended along with two witnesses. The appellant was treated as a vulnerable witness and reasonable adjustments were made to accommodate his needs. The judge attached little weight to the opinion of Dr Ahmed, a country expert. He found the appellant's claim to be lacking in credulity and his supporting evidence to be unreliable. The appellant's sur place activities were accepted but considered to be low level and that they would not bring him to the adverse attention of the Bangladeshi authorities or Awami League. The judge rejected the appellant's claim under Article 3 as well that relating to his child MA, aged 10.

#### The appeal to the Upper Tribunal

7. The grounds of appeal upon which permission was granted are five-fold in that it is contended that the judge;
  - (i) erred in his approach to the expert evidence and omitted consideration of the CPIN,

- (ii) erred in his approach to the evidence inconsistent with *Karanakaran* [2000] EWCA Civ 11,
- (iii) discounted evidence on surveillance measures in the UK
- (iv) omitted consideration of material evidence and
- (v) failed to consider material evidence in relation to mental health issues against the CPIN in the context of very significant obstacles under paragraph 276ADE(1)(vi).

8. Permission to appeal was granted on the basis sought.

9. The respondent filed no Rule 24 response.

#### The error of law hearing

10. The matter comes before the Upper Tribunal to determine whether the decision contains an error of law and, if it is so concluded, to either re-make the decision or remit the appeal to the First-tier Tribunal to do so.. A bundle in two parts was submitted by the appellant containing, inter alia, the core documents in the appeal, including the appellant's and respondent's bundles before the First-tier Tribunal.

11. The hearing was attended by representatives for both parties as above. Ms Lecointe indicated from the outset that the appeals were opposed. Both representatives made submissions and the conclusions below reflect those arguments and submissions where necessary. Mr Arafin relied on the grounds but only made submissions in relation to grounds one and two.

12. At the end of the hearing I announced that the decision of the First-tier Tribunal contained no material error of law and it follows that the decision was upheld. I give my reasons below.

#### Discussion

13. The complaint in the first ground concerns the judge's rejection of the evidence of an expert witness, whose expertise was not called into question. A linked complaint is that the judge did not raise this matter at the hearing. Other matters are referred to under this ground but only the aforementioned matters have any substance, at least on the surface.

14. The judge's assessment of the expert report can be found at [28-36] of the decision and reasons. The findings are thorough and careful. The judge notes that the respondent submitted that the report was not reliable as it was based on an acceptance of the appellant's account at face value [28]. The judge provides an overview of the report at [31] in the following terms

"I would state at this juncture that I find Dr Ahmed's report to be lacking in many respects, in short, I find that it lacks the detail and objectivity that I would expect of a country expert."

15. No challenge has been made to that global finding, which the judge supports with sustainable reasons which include serious and material inconsistencies between Dr Ahmed's report and the account given by the appellant.

16. Of particular concern in this appeal is the judge's rejection of Dr Ahmed's description of having verified that there are outstanding criminal cases involving the appellant at the Metropolitan Magistrates Court in Dhaka and Lakshmipur. The judge took into account that Dr Ahmed said in his report that he had carried out a 'personal investigation' and that 'those cases are found to be correct and those are under trial.'
17. The judge noted at [33] that Dr Ahmed's report provided no explanation of what was involved in the verification of the criminal cases, stating that no methodology was identified and no details of any communications made for the purpose of obtaining that information were provided. Neither the grounds nor Mr Arafin's submissions gave any indication that the judge was incorrect in this. Indeed, a cursory glance at this somewhat brief report reveals that the judge was undoubtedly correct in his assessment of this material.
18. I will now address the argument that the judge did not ventilate his concerns at the hearing and that unfairness ensued. Firstly, there is no evidence adduced as to what was said by the judge or any party at the hearing. The claim made in the grounds is unsupported by a note from counsel. No application has been made to listen to the recording of the hearing before the First-tier Tribunal and no witness statement has been adduced from counsel who appeared at that hearing. Lastly, it would have been obvious to the appellant's representatives that the report of Dr Ahmed was lacking and therefore the judge's assessment cannot have come as a surprise.
19. The second ground contains criticism of the judge's rejection of the appellant's documentary evidence in relation to the claimed criminal cases brought in 2018 and 2019, set out at [48] of the decision. No public law error is identified in the grounds, which resemble a long list of disagreements with the judge's findings. Contrary to what is claimed under this ground, the judge considered all the evidence in the round as can be seen from [48] itself. Furthermore, in the foregoing paragraphs, the judge provides more than adequate reasons for rejecting the supporting evidence. Neither the grounds nor Mr Arafin's submissions begin to undermine these findings.
20. The content of the third ground, which addresses the judge's findings as to the lack of risk to the appellant from his sur place activity, again amounts to mere disagreement. The grounds wrongly state that the judge did not consider the background country material when it is apparent from [57-68] that the judge carefully incorporated that evidence into his assessment of the appellant's activities. Again, the judge confirmed at [68] that he had considered all the evidence in the round. There is no error in the judge's conclusion at [67] as to the lack of risk to the appellant notwithstanding his accepted membership of the BNP in Bangladesh and the United Kingdom, which is set out here for completeness.

"As detailed within the CPIN political parties there are several million members of the BNP in Bangladesh. Equally, within each branch there are numerous committee members. The fact that a person is a BNP member, or in this instance, a BNP committee member I find is not sufficient to equate to a political profile which would bring them to the adverse attention of the Bangladeshi authorities/ Awami League."

21. The fourth ground contains a series of factors which it is said that the judge did not consider. There is no further commentary linking this list with any of the judge's discrete findings. Furthermore, a consideration of the judge's highly detailed decision reveals that there was no area of the evidence which went unaddressed. It follows that this ground is not deserving of further comment.

22. Lastly, it is briefly contended in the grounds that the judge failed to have regard to the background country evidence in assessing the medical claims. Again, a cursory glance at the decision demonstrates that the judge considered all the evidence relating to the human rights claims including that in the CPIN [74-82]. Ultimately, the grounds fail to establish that there was likely to be a breach of Article 3 or 8 ECHR were the appellant and his family to be required to return to Bangladesh. Mr Arafin declined to say anything further in support of this ground. It follows that the judge's findings in respect of the health claims was unimpeachable.

23. This is a case where permission ought never to have been granted.

### **Notice of Decision**

**The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.**

**The decision of the First-tier Tribunal shall stand.**

T Kamara

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**6 November 2024**

### **NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.

3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.

5. A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is “sent” is that appearing on the covering letter or covering email