



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

Case No: UI-2024-003433

First-tier Tribunal No: PA/51341/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 28 October 2024**

**Before**

**UPPER TRIBUNAL JUDGE MEAH**

**Between**

**MA**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr T Shah, Taj Solicitors

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

**Heard at Field House on 23 October 2024**

**DECISION AND REASONS**

**Introduction and Background**

1. The appellant, a citizen of Bangladesh who was born on 02 August 2003, appeals against the decision of First-tier Tribunal Judge Mehta promulgated on 18 April 2024 ("the decision"). The appellant claimed he feared return to Bangladesh as his father was a supporter of the Bangladesh National Party (BNP). He claimed he feared the (then) ruling Awami League Party (ALP).
2. By the decision, the First-tier Tribunal dismissed the appellant's appeal against the respondent's decision dated 21 February 2023, refusing his protection claim in the UK after he was transferred from Greece under the Dublin Convention, having originally claimed asylum there as an unaccompanied child asylum seeker.

3. The appellant first arrived in the UK on 28 July 2021, and he claimed asylum on the same day. That application had been refused by the respondent on 07 June 2019. This appeal relates to the refusal of that application.

### **The Grounds**

4. In summary, out of the four grounds of challenge the first is a complaint about the FtTJ's assessment of the appellant's credibility in relation to his asylum claim where it is stated that findings on the appellant's credibility were materially inaccurate and based on speculation and on a hypothetical assessment which was done in the absence of any concrete evidence. The other three grounds are in relation to the assessment of the claim under Article 8 ECHR, within and outside the framework of the Immigration Rules. It was averred that the assessment here was materially inaccurate, inadequate and incomplete on the consideration afforded to 'very significant obstacles' and that the assessment on section 117B of the Nationality, Immigration and Asylum Act 2002 (NIAA 2002) was incorrect.
5. Permission to appeal was granted by Upper Tribunal Judge Mahmood on 14 August 2024, in the following terms:
  - "1. The appellant, a national of Bangladesh, seeks permission to appeal a decision of First-tier Tribunal Judge Mehta dated 18 April 2024 dismissing his appeal against a decision refusing his protection claim and human rights claim.
  2. Permission to appeal was refused by First-tier Tribunal Judge Aldridge by way of a decision dated 10 July 2024.
  3. It is arguable that the Judge erred in his assessment of credibility at [13-20] when noting that the Appellant was a child when he arrived in the United Kingdom from Greece pursuant to the Dublin Convention.
  4. The grounds of appeal are not particularly clear, but I do not restrict permission to appeal and so all grounds may be argued at the oral hearing."
6. There was no Rule 24 response from the respondent.
7. That is the basis on which this appeal came before the Upper Tribunal.

### **Documents**

8. I had before me a composite bundle which included the salient documents including the bundles relied upon by the parties in the First-tier Tribunal.

### **Hearing and Submissions**

9. The hearing was conducted with myself sitting at Field House, whilst the representatives attended via Cloud Video Platform.
10. Both representatives made submissions which I have taken into account. These are set out in the Record of Proceedings and need not be repeated here.

## **Discussion and Analysis**

### Ground 1

11. Mr Shah stated that this comprised the main thrust of appellant's complaint against the findings made by the FtTJ in relation particularly to the asylum claim. He stated the FtTJ did not consider bespoke country background material entitled 'Odhikar Annual Human Rights Report 2022 Bangladesh', two articles from the Dhaka Tribune from 2014 and 2018, and a further article from November 2023 from 'Benar News'. Mr Shah also contended that the FtTJ erred by considering the CPIN's from April and September 2020 on Bangladesh, and by not considering more up to date CPIN's which contained further information which the FtTJ should have also considered.
12. I however, do not accept that the FtTJ erred in his assessment of the appellant's asylum/protection claim for the following reasons.
13. The FtTJ correctly sets out the basis of the appellant's claim at [5]-[6] of his decision. He then notes the issues in dispute that are to be resolved and decided at [8]-[9]. The legal framework is set out at [11]-[12] and his findings on the asylum/protection claim are contained at [13]-[20].
14. The Judge made allowances at [14] that the appellant was a child at the time of the alleged incidents in Bangladesh upon which he relied to support his fear on return, although he did not find the claim to be credible. The FtTJ rejected a claim that the appellant's father's land had been set on fire as the appellant was not able to say how much land his father owned or provide specific details of the fire and of any financial impact. The FtTJ also rejected the claim that the appellant's family house in Bangladesh had been vandalised and that he had been physically and verbally assaulted, as the appellant could not explain, when given the opportunity at his main asylum interview, details of how the family had been abused. The appellant was also unable to provide details of how he and his family were harassed by the ALP.
15. The FtTJ further rejected the appellant's claims of being kidnapped by the mafia in Iran after he had left Bangladesh and/or that his father, whom the appellant had claimed he did not like or 'hated' as put by Mr Shah, would have paid for his release when he was held by the Iranian mafia. The FtTJ noted this as implausible. The FtTJ further rejected the claim that the appellant's father was a 'big political figure' in Bangladesh as there was no external evidence of his profile. The FtTJ further decided on this key point, owing to the appellant's incredibility and inconsistencies, that he was not satisfied regarding the claimed political profile of the appellant's father. The FtTJ did not find the appellant was a member of the opposition party in Bangladesh, or that there had been any reported incidents or issues from the opposition party towards the appellant's father or other family members since the appellant had left Bangladesh. The FtTJ then stated at [20] that:

"Having considered the evidence in the round, I find that the appellant's account is not credible. I find that the appellant's implausible evidence set out above about the circumstances in which his family were at threatened undermines his account. I have also set out above other concerns with the appellant's account. For all these reasons I find that the appellant's account is not credible. Having rejected the appellant's

account, I do not accept that he has a subjective fear of persecution or serious harm and so dismiss his appeal on asylum and humanitarian protection grounds.”

16. In my judgement I find the FtTJ's findings were open to him based on the evidence presented to him which he properly considered. On Mr Shah's complaint that the FtTJ had not considered the bespoke evidence in the form of the material specific to Bangladesh, I do not accept this as it is trite that a judge is not required to list every piece of evidence and omitting to do so does not mean such evidence was not considered.
17. On the issue of the 2020 CPIN's considered by the FtTJ, he makes specific reference at [19] to the September 2020 CPIN. I note in the appellant's bundle that was before the FtTJ that it was only this and the April 2020 CPIN that he was presented with in evidence. He cannot therefore be criticised for not looking at or considering later CPIN's that were not presented to him. It was up to the appellant and those acting for him to bring to the attention of the FtTJ any other evidence, including any later CPIN's, if they wished to rely on such evidence.
18. In other words, it was not up to the FtTJ to go looking for evidence outside of the evidence presented to him for alternative evidence that might have supported the appellant's case. I therefore find that this submission by Mr Shah in relation to the FtTJ not looking at and/or considering the later CPIN's was misconceived as there is otherwise no requirement for a FtTJ to consider CPIN's or any other such documents. This is in contrast to how there is a requirement to consider relevant applicable Country Guidance cases. There was therefore no error in the FtTJ's approach to any of the documentary evidence relied upon by the appellant, and I find that the FtTJ considered all the evidence he was presented with as this is apparent from the overall reasoning he gives in his decision.
19. On the issue of the appellant being a child aged 15 years at the time of the alleged incidents in Bangladesh which led him to flee, Mr Shah argued that the FtTJ expected too much of the appellant to have to remember such incidents from when he was a child. Mr Mullen stated the appellant was now an adult in any event. Furthermore, the key point is that he is still in contact with his mother and other family members in Bangladesh hence details could have been ascertained from them to explain what might have happened and to support the basis of the asylum claim.
20. I reject Mr Shah's argument on this point as the appellant is now aged only 21 years so the incidents to which he refers which made him flee Bangladesh when he was aged 15 years, was not that long ago. Therefore the FtTJ was entitled to find against the appellant on his inability to recall details of the claimed incidents. This argument may have had some force if the appellant was much younger at the time of the claimed incidents and much older now, so that the gap in age and ability to recall particular events might plausibly be more difficult. However, that was not the case here as the appellant was aged 15 years only around six years ago in 2018, so the FtTJ was entitled to make the adverse findings against him on the lack of recollection of incidents which he should have reasonably been expected to remember given the poignancy of these. This was especially so given that these events would, if true, have been major and possibly traumatic, which in turn made the appellant flee his country of birth and residence. Further and in any event, the FtTJ did nonetheless take

account of the fact that the appellant was a child of 15 years at the time which he noted in his decision which I have cited above at [14].

#### Grounds 2, 3 and 4

21. Mr Shah stated that although these grounds were not being conceded, he was not pursuing these with any vigour. Mr Shah, in noting Upper Tribunal Judge Mahmood's comments in the grant of permission that these grounds were not very clear, stated that his caseworker at his firm had prepared these.
22. I shall, in any event, deal with these grounds together given that they are all in relation to the FtTJ's assessment of the appellant's claim under Article ECHR, both within and outside the Immigration Rules, and given Mr Shah's comments that he was not conceding these grounds.
23. Having set out the legal framework specifically on Article 8 ECHR at [12], the FtTJ dealt with the claim on this from [22]-[43]. He properly considered first whether Article 8 ECHR was engaged at [22]. Then at [23] he finds that it was engaged under both the private and family life headings. He considers at [24]-[32] the claim within the framework of the Immigration Rules concluding that there would not be any very significant obstacles to reintegration for the appellant if he returned to Bangladesh giving reasons including that the appellant spoke the language and that he could seek assistance from the family members there with whom he is still in contact.
24. The FtTJ then considered the claim outside the Immigration Rules under a separate 'proportionality' heading from [33]-[43] weighing the 'pros' and 'cons' in terms of factors for and against the appellant and the respondent in the assessment of the maintenance of immigration control as required in Article 8 ECHR claims pursuant to consideration of section 117B of the NIAA 2002.
25. The Judge properly self-directs by way of citing applicable relevant caselaw including **Hesham Ali v SSHD [2016] UKSC 60**, **Kamara v SSHD [2016] EWCA Civ 813**, **Parveen v SSHD [2018] EWCA Civ 932**, **SSHD v Kamara [2016] EWCA Civ 813** and **R. (Agyarko) v SSHD [2017] UKSC 11**. There is no misapplication or misdirection in law and the FtTJ followed the correct approach in his assessment to all of the issues arising in the appellant's Article 8 ECHR claim, and there was no error of law here either. I suspect this is also why Mr Shah chose not to expand on these grounds.

#### Conclusions

26. Accordingly, the Upper Tribunal interferes only with caution in the findings of fact by a First-tier Tribunal which has heard and seen the parties give their evidence and made proper findings of fact. An appellate Court or Tribunal may not interfere with findings unless they are 'plainly wrong' or 'rationally insupportable' as per **Volpi & Anor v Volpi**. That high standard is not reached here. The appellant's appeal must therefore fail.
27. In all, I do not find when reading the FtTJ's decision as a whole, that he failed to consider any of the evidence with the required degree of scrutiny. The decision is properly structured and a proper contextual reading of the decision shows that the FtTJ, having carefully analysed the evidence alongside all the

arguments and submissions put to him, gave sustainable reasons, concluding ultimately as stated in the decision. It was in my judgement open to the FtTJ to find that the appellant would not be at risk upon return to Bangladesh for the reasons that he gave. The reason the appeal was dismissed was that the weight given to the evidence did not enable the appellant to succeed. The requirement is for reasons to be adequate, not perfect. A reader of the decision is able to understand why the FtTJ came to the conclusion set out in the decision. Whilst the appellant may disagree with the FtTJ's decision, I find in light of the issues set out above, that the appellant has failed to establish arguable legal error material to the decision to dismiss the appeal sufficient to warrant the Upper Tribunal interfering any further in this matter. No material legal error is made out.

28. I am satisfied that there was no identifiable errors of law in the decision by the FtTJ, and the law was applied correctly, with clear findings and sufficient reasons provided. The grounds advanced by the appellant, in my view, constitute disagreement with the conclusions reached by the FtTJ. I am satisfied that the FtTJ correctly identified the correct tests and legal thresholds which it was required to apply in considering this appeal.

### **Notice of Decision**

29. The appeal is dismissed.

30. The decision by the First-tier Tribunal dismissing the appellant's appeal shall stand.

### **Anonymity**

31. The Anonymity Order made by the First-tier Tribunal is maintained.

***S Meah***  
**Judge of the Upper Tribunal**  
**Immigration and Asylum Chamber**

**25 October 2024**