



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

Case No: UI-2024-003596  
FtT No: PA/60267/2023

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 05 November 2024**

**Before**

**UPPER TRIBUNAL JUDGE O'CALLAGHAN**

**Between**

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

Appellant

**and**

**SA (BANGLADESH)**  
**(ANONYMITY ORDER MADE)**

Respondent

**Representation:**

For the Appellant: Mr A McVeety, Senior Presenting Officer

For the Respondent: Mr P Richardson, Counsel, instructed by Lawmatic Solicitors

**Heard at Field House on 31 October 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**

## **Introduction**

1. The parties are referred to in this decision as SA and the Secretary of State.
2. The Secretary of State appeals the decision of First-tier Tribunal Judge Ficklin (“the Judge”) allowing SA’s asylum and human rights appeal. The Judge’s decision was sent to the parties on 9 June 2024.

## **Anonymity Order**

3. The Judge issued an anonymity order. Neither party requested that it be set aside. As SA seeks international protection, I am presently of the view that his rights protected by article 8 ECHR outweigh the right of the public to know his identity as a party to these proceedings, the latter right protected by article 10 ECHR.
4. The anonymity order is detailed above.

## **Brief Facts**

5. SA is a national of Bangladesh and is aged 30. He secured a Master's degree whilst in Bangladesh.
6. He subsequently entered the United Kingdom in August 2019 having secured entry clearance as a Tier 4 (General) Student.
7. He claimed asylum on 15 October 2019 stating that whilst in Bangladesh he was politically engaged with the Bangladesh Islami Chattra Shibir (BICS), the student wing of the Bangladesh Jammāt-e-Islami (BJEI). He details that he joined BICS in 2010 becoming general secretary of his branch in 2014 and then branch president in 2017. He states was re-elected for a second term as president in 2019. In his role he organised and attended protests and strikes. His political activities established enemies in the Chattra League, the student wing of the then ruling Awami League. Both he and fellow party members were attacked many times by Chattra League supporters.
8. The Secretary of State refused the application for international protection by a decision dated 27 October 2023. She did not accept SA to be credible as to his personal history, observing his ability to leave Bangladesh on his own passport despite, on his account, the authorities being adversely interested in him consequent to his political activity. Additionally, she noted inconsistencies in his evidence as to his account of detention and court appearance(s).
9. I observe that the registration of BJEI was cancelled by the Bangladesh Supreme Court on 1 August 2023, the party being declared unfit to contest national elections. BJEI was banned on 1 August 2024, as was BICS. Both banning decisions were reversed on 28 August 2024 following the fall of the Awami League government headed by Sheikh Hasina on 5 August

2024. The Bangladesh parliament is presently suspended with the country being run by an interim government led by Muhammad Yunus.

### **The First-tier Tribunal Decision**

10. The appeal came before the Judge sitting at Manchester on 24 May 2024. SA attended and was represented by Counsel, not Mr Richardson. The Secretary of State was not represented. The Judge was informed that no Presenting Officer was available. The Secretary of State's request for an adjournment was refused.
11. The Judge allowed SA's appeal. He addressed various documents filed by SA, at [13] of his decision, and observed the guidance in *Ahmed (Documents unreliable and forged) Pakistan* [2002] UKIAT 00439; [2002] Imm A.R. 318, at [14].
12. The entirety of the Judge's reasoning is located at [15]:

"15. I accept that the documents are reliable and that the Appellant is at risk for the reasons he gives. I find that the Appellant has reasonably explained how he left the country lawfully, because he was not in custody at that time but on bail. The background evidence shows that genuine BICS/opposition activists may be at risk from the government and Awami League affiliates, and that there would be no sufficiency of protection in that case. The Appellant has been consistent since [sic] his screening interview about the reasons he claimed asylum. He described the incident that led to his arrest at the first opportunity. The Appellant gave a detailed description of his activities for BICS in his asylum interview. He says that the threats and attacks on him increased as he progressed in the party. He says that he sought a visa to the UK because it was a way to gain entry to claim asylum. The Appellant's evidence is clear and consistent throughout, and is consistent with what he says about the documents he provided."

### **Grounds of Appeal**

13. The Secretary of State advances a reasons challenge identifying her concern that the Judge failed to adequately, if at all, engage with her position as advanced in her refusal letter, particularly as to:
  - (1) the documentary evidence relied upon by SA being unreliable; and
  - (2) SA being incredible as to how he was able to leave Bangladesh on his own passport when on bail.
14. The Secretary of State contends that it was incumbent upon the Judge to consider all issues in the round when reaching a decision as to the reliability of documentary evidence, including the issues of credibility highlighted by her in her decision letter and the objective evidence detailing the prevalence of false documents available in Bangladesh.

15. In granting permission to appeal by a decision sent to the parties on 28 August 2024, Upper Tribunal Judge Kamara reasoned, *inter alia*:

“It is arguable that the judge failed to adequately resolve the concerns raised by the respondent with the appellant’s evidence in both the decision under challenge as well as in the Respondent’s Review.”

16. SA filed and served a Rule 24 response prepared by Mr Richardson.

### **Discussion**

17. It is well-established that although there is a legal duty to give a brief explanation of the conclusions on the central issue upon which an appeal is determined, these reasons need not be extensive if the decision as a whole makes sense, having regard to the material accepted by the Judge: *Shizad (Sufficiency of reasons: set aside)* [2013] UKUT 85 (IAC).
18. The duty to give reasons only bites on substantial issues requiring adjudication between the parties. It is trite that reasons should permit the parties to know what conclusion the Judge has reached on the principal controversial issues, *per* Lord Bridge in *Save Britain’s Heritage v Number 1 Poultry Limited* [1991] 1 WLR 153.
19. I am mindful that a challenge on reasons grounds should not seek to enforce a counsel of perfection, nor be used to justify a qualitative assessment of the reasons to see if they are wanting, perhaps even surprising, on their merits. Judicial restraint is properly to be applied, and the Upper Tribunal should not assume too readily that the First-tier Tribunal has misdirected itself just because not every step in its reasoning is fully set out.
20. I observe that SA accepted at [4] of his skeleton argument filed with the First-tier Tribunal, dated 29 February 2024, that there was dispute between the parties as to whether he was of adverse interest to members of the Awami League. This is proper recognition of the respondent’s concerns as to credibility.
21. The Judge identified the Secretary of State’s position at [12] of his decision, observing that the claim was rejected on the basis of inconsistency and implausibility. It was noted that the Secretary of State found that the timeline of SA’s problems with the Awami League and his ability to leave the country through normal means, namely a commercial flight with a Bangladeshi passport, established that his account as to his personal history was not genuine. It was further observed that the Secretary of State did not accept that SA would be at risk of persecution from government agents, namely the Awami League, even if his account were true.
22. The Judge’s identifies at [15] that SA had been consistent since his screening interview about the reasons for his asylum claim. However, the Judge does not expressly address the Secretary of State’s concerns as to

purported inconsistency and implausibility in SA's stated personal history in Bangladesh. It is appropriate in this matter to set out the Secretary of State's reasoning in her decision letter as to why she did not accept SA to be a credible witness. She observed that SA had provided inconsistent evidence without reasonable explanation, and that the evidence lacked detail, expressly noting:

"You have provided an arrest warrant dated 26/11/2018, in relation to what you claim is a politically motivated charge (SCR). However, you managed to obtain a visa and leave Bangladesh via an airport in Aug 2019. It is considered implausible you would [be] issued a visa and allowed to exit this way, if you had an outstanding warrant against you. Therefore this damages your credibility. In relation to this, you claimed you were arrested and detained on the night of the 26th October 2018 (AIR 68). In your SCR you stated 'went to court sep 2019, went to prison 26/11/18 for a month until 7/01/19'. In your AIR you stated 'Initially when they detained me they kept me in court without a trial [sic]. I later requested bail and it was granted. I was given a court hearing which I did not go to and after that there was a warrant against me'. Your statements regarding your court appearance are internally inconsistent. Therefore, your explanation of being arrested due to the clash with the police and not attending court resulting in a warrant against you lacks credibility. These documents have been considered in line with the case-law of Tanveer AHMED IAT 2002 UKIAT 00439. This means that it is for you to show that any documents you rely on to support your case can be relied on. Your documents have not been viewed in isolation. This means that they have been considered as part of all the available evidence that they relate to."

23. The Secretary of State identified inconsistency in SA's account of his arrest and detention. At question 4.1 of his screening interview, conducted on 15 October 2019, SA confirmed that the police attended the meeting on 26 November 2018 and attacked attendees. He was taken to jail on that date. He was released on 7 January 2019, a period he details as being a month. He stated, "this went to court, September 16<sup>th</sup> 2019, police issued a charge sheet". SA stated that after his release in Jan 2019, "I was moving from place to place. My life was threatened by members of the Awami League."
24. However, in his substantive interview held on 13 October 2023, SA confirmed at question 67 that, "Initially when they detained me they kept me in court without a trial. I later requested bail and it was granted. I was given a court hearing which I did not go to and after that there was a warrant against me."
25. Therefore, before the Judge, there was on its face an inconsistency as to whether SA went to court after his arrest and was granted bail, or whether the first court hearing was held in or around September 2019 after he had left the country.
26. At [14] of his witness statement, dated 1 March 2024, SA detailed:

“14. On 26 November 2018, a fabricated political case was filed against me and my other political co-activists by Mohammad Selim Miah, Officer in Charge, Kotwali Model police station, S.M.P Sylhet. It was falsely alleged that we have conducted unlawful assemblies and processions at behind the dormitory (student House) in the north-west corner of the Alia Madrasah ground adjacent to Chauhatta and have attacked and injured the police officers with traditional weapons, stones, sticks, rods etc. A charge sheet was issued on 16/09/2019, and an arrest warrant was issued against me on 17/09/2019. Since then, I have feared for my life. The political situation in Bangladesh is extremely bad, and I feel genuine risk if I return.

...

20. ... I was in Bangladesh when the case was filed and the police arrested me, and put me before the court. After that, I was released on bail from this case. I further confirm that there was no arrest warrant while I was in Bangladesh. The arrest warrant was issued on 17 September 2019 when I already left the country. ....”

27. The witness statement is suggestive that after his arrest the appellant was released by a court on bail, which is potentially inconsistent with the personal history he gave at his screening interview. Whilst it may be open for a judge considering this appeal to reasonably find in favour of SA, inconsistency on this issue was at the forefront of the Secretary of State’s concern as to credibility and so the favourable finding required adequate reasoning. Such reasoning is entirely absent in the Judge’s decision. I consider it insufficient in the circumstances for the Judge to find that SA’s evidence “is clear and consistent throughout” without expressly engaged with the Secretary of State’s position.

28. Returning to the Secretary of State’s decision:

- “• You state you feared the Awami league due to them threatening you which is why you fled. Prior to your police incident there was no mention of being at risk by the Awami league other than them not agreeing with your role. You claim you applied for a student visa in march 2019 (AIR 35-37) because of the pending fear of the Awami league and the threat of them coming to your village to kill you (SCR) you dated this as Sep 2019 but you arrived in Manchester on the 30/08/2019, you stated that you were arrested and on bail which is inconsistent with statements that you left the country via airport with no issues (AIR 67-69, SCR 4.1). This in turn creates lack of credibility towards your fear of threat and harassment from the Awami league.
- Your basis [of] claim is fearing the awami league and chhatra shibir, but as you have stated in your AIR and SCR this political activity has been going on since 2010, with this you have not stated any actions taken by these other parties to create a real fear of persecution. Your family remain in Bangladesh in the family home and have not fled. ‘It is inconsistent that your family have faced

no issues since you departed Bangladesh nor have you received any issues due to fleeing bail conditions (AIR 44-48)''

29. SA's case is that he felt threatened by members of the Awami League and in September 2009 members attended his village and threatened to kill him if they saw him. However, on his own evidence, he had been in hiding since January 2019, while securing a university place in the United Kingdom and subsequently securing entry clearance as a student. This process took from March to September 2019. The Secretary of State's position is not expressly engaged with by the Judge.
30. The Secretary of State's case was clearly identified in her response dated 30 March 2024. In respect of the documents relied upon by SA, the Secretary of State observed:
  - “7. The ASA refers to documentary evidence which includes case documents from Bangladesh (FIR, complaint, charge sheet, etc), newspaper report and reference letters from Ashraful Islam and Mr Muqhit. Firstly, the Respondent would note that these documents have already been submitted to the decision-maker and are contained within the Respondent's bundle, therefore they have already been considered by the Respondent. With regards to the letter from the lawyer Mr Muqhit, there is no corresponding evidence to show that this person is a qualified lawyer in Bangladesh and that he has had the instruction and ability to gain access to the Appellant's claimed court documents in Bangladesh. There is nothing to suggest that this lawyer has been paid for this service. In relation to the letter from Ashraful Islam, there is no corroborating ID from this person and there is no evidence to show that Mr Islam has even met the Appellant in person or that they know each other. The Appellant has failed to explain how he was able to get this letter from Mr Islam and also has not explained how he has obtained the other documents he has provided. Furthermore, in Mr Islam's letter, he refers to the Appellant's family home being raided. This has never been mentioned by the Appellant. The Respondent refers to question 47 of the Appellant's asylum interview record which refers to threats, but it has not been mentioned by the Appellant at all that his family home was raided. This casts doubt over the reliability of the document.”
31. At [8] of her response, the Secretary of State drew the Judge's attention to the significant prevalence of fraudulent documents in “Bangladesh: CPIN; Bangladesh: Documentation”, Version 2.0 dated March 2020”.
32. There is no engagement by the Judge with this element of the Secretary of State's stated case at [15] of his decision.
33. Mr Richardson properly accepted that the Judge did not engage with the Secretary of State's reliance upon SA failing to declare to an Immigration Officer on arrival that he was in fear of his life. This was said to damage his credibility.

34. Again, it may be open to a reasonable Judge to find in favour of SA on these identified issues, but express, cogent and lawful reasoning would be required as these are central issues in the appellant. As I indicated to Mr Richardson at the conclusion of the hearing, the substance and nature of the Secretary of State's concerns as to inconsistency and implausibility raised within her decision letter, simply cannot be read as being adequately and lawfully addressed within [15] of the decision. Indeed, it is noticeable that there is no express reference at all to the issue of inconsistencies. The Judge finds that SA has been consistent throughout, without more. In the circumstances, the only proper course is to allow the Secretary of State's appeal and set aside the decision of the First-tier Tribunal.

### **Resumed Hearing**

35. Both parties requested that the matter be remitted to the First-tier Tribunal to permit both to address the present circumstances in Bangladesh.
36. I observe the guidance in *Begum (remaking or remittal)* Bangladesh [2023] UKUT 00046 (IAC); [2023] Imm A.R. 558. As I have set aside the Judge's decision in its entirety, and being mindful of the likely detailed fact-finding process required in this appeal concerned with international protection, I consider it proper that the remaking decision be remitted to the First-tier Tribunal.

### **Notice of Decision**

37. The decision of the First-tier Tribunal sent to the parties on 9 June 2024 is set aside in its entirety for material error of law.
38. The appeal is remitted to the First-tier Tribunal sitting in Manchester to be listed before any Judge other than First-tier Tribunal Judge Ficklin.
39. An anonymity order is confirmed.

*D O'Callaghan*  
**Judge of the Upper Tribunal**  
Immigration and Asylum Chamber

**4 November 2024**