



Case No: UI-2024-004645

IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

First-tier Tribunal No: PA/56767/2023
LP/01838/2024

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 27 January 2025

Before

UPPER TRIBUNAL JUDGE LINDSLEY
DEPUTY UPPER TRIBUNAL JUDGE GILL

Between

RA
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Rahaman, instructed by Diplock Solicitors

For the Respondent: Ms Isherwood Senior Home Office Presenting Officer

Heard at Field House on 11 December 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 appellant is a citizen of Bangladesh born in February 1997. He came to the UK with entry clearance as a student on 3rd November 2020. He claimed asylum on 7th June 2021. This application was refused on 7th September 2023. The appellant's appeal against the decisions was dismissed by First-tier Tribunal Judge Abdar in a decision promulgated on 16th July 2024.
2. Permission to appeal was granted by Judge of the First-tier Tribunal Hollings-Tennant on 8th October 2024 on grounds 2, 3 and 5 only. It was found to be arguable that the First-tier Judge had erred in law as set out in ground 2 as it was arguable that the appellant might be at risk due to being named in court documents and his house raided, as these matters were accepted, as was the fact that he was a supporter of Islamic Chhatra Shibir (ICS) the unofficial student wing of Jamat-e-Islami (Jel), who opposes the Awami League (AL), and that those associated with this group might be at risk of abuse. It was also found that grounds 3 and 5 are arguable as it was arguable that the First-tier Tribunal Judge had overlooked the documentary evidence relating to the appellant's sur place activities and that he failed to consider evidence that the Bangladeshi authorities monitor such activities and to determine what would happen to the appellant if he continued to express his opinion as a supporter of ICS on return to Bangladesh.
3. The matter now comes before us to determine whether the First-tier Tribunal had erred in law, and if so whether any such error was material and whether the decision of the First-tier Tribunal should be set aside.
4. At the outset of the hearing the appellant's non-compliance with the standard direction, to file and serve a bundle for these proceedings, was addressed. No explanation was provided for why this direction had not been complied with and we stressed the importance of adhering to the President's Practice Direction in this regard. It was however agreed by both parties that in the interests of efficiency of Tribunal time on this occasion that the First-tier Tribunal's 866-page Upper Tribunal Bundle would be used for the purposes of this hearing. Diplock Solicitors should understand that in the future such non-compliance might lead to an adjournment, a wasted costs order or possibly to a referral to the SRA.

Submissions – Error of Law

5. In the grounds of appeal and in oral submissions from Mr Rahaman it is argued, in short summary, that the First-tier Tribunal erred in law as follows.
6. It is argued in ground two, that the First-tier Tribunal erred by failing to take into account the fact that the respondent had accepted that the appellant had been named in court documents and his family house had been raided, and consider the risk this might generate for the appellant on return. Applying paragraph 339K of the Immigration Rules

the First-tier Tribunal should have considered that if the appellant had already suffered persecution or a threat of persecution that this is a serious indication that this will be repeated unless there are good reasons why this will not happen. The appellant relies on the CPIN Bangladesh: Actors of protection April 2020, which states that political affiliation may be a motive for arrest and prosecution of people on criminal charges. In oral submissions Mr Rahaman initially sought to refer to paragraph 2.4.2 of CPIN, Bangladesh: Journalists, the press and social media, published in January 2021. He conceded that this related to published material, which we note is not relevant to the issues raised in Ground 2. Mr Rahaman also sought to refer to the expert's report of Mr Solaiman, in support of ground 2, notwithstanding the fact that permission to appeal Ground 1 had not been granted and therefore the First-tier Tribunal's findings relating to the expert's report are not the subject of this appeal.

7. It is argued in ground 3 that there is an error of law in the decision of the First-tier Tribunal with respect to the appellant's sur place activities. It is said the decision of the First-tier Tribunal 'overlooked' a news report from the Bangla Post in December 2023 and a report from Londonview24, which were before the First-tier Tribunal, and which, it is submitted, corroborated the appellant's activities. It is argued that it was not open to the First-tier Tribunal to conclude that the appellant was not identifiable from his sur place activities given the multiple media sources in which he had appeared, with his name and photograph. Further, it is argued there is a failure to engage with the CPIN Bangladesh: Political Parties and Affiliation, Version 3.0, September 2020 which concludes that the Bangladeshi authorities monitor sur place activities through street level informers and by digital technology. The Tribunal ought in addition to have been guided by WAS (Pakistan) v SSHD [2023] EWCA Civ 894 which concluded that affirmative evidence of monitoring in the UK is not needed where there is a bleak picture of the suppression of political opponents at home.
8. In ground 5 it is contended that the First-tier Tribunal failed to consider whether the appellant would be at risk from his political activities if he returned to Bangladesh, as he would not live discreetly as he had openly been participating in politics in the UK and so would be at real risk of serious harm particularly given Jel's 'illegal' status.
9. In addition, Mr Rahaman disputed that the recent change in government and political landscape in Bangladesh, since August 2024, had resulted in the political ban on Jel being lifted. Mr Rahaman submitted that Jel remained a banned organisation who could not participate in elections, accordingly the risk on return remains. We therefore allowed both parties until 4pm on 18 December 2024 to submit further evidence regarding the current political situation in Bangladesh. The appellant provided submissions supported by a number of news articles, including a TBS report 'last modified' on 9 December 2024, a Dhaka Tribune news article dated 23 September 2024, an article headed "English"

published on 12 August 2024, an article from the United States Institute of Peace dated 19 August 2024, and a Chatham House news report dated 27 September 2024.

10. In oral submissions Ms Isherwood argued that ground 2 relied upon the CPIN, Bangladesh: Actors of Protection, Version 1.0, April 2020, which was not provided to the First-tier Tribunal by the appellant. We note that the First-tier Tribunal had before it, and considered, Actors of protection, Version 2 November 2023 as set out in paragraph 15 of the decision. Ms Isherwood did not dispute that the appellant had been named in court documents or that his family house had been raided, as accepted in the refusal letter dated 7 September 2023. However, she argued that clear consideration was given by the First-tier Tribunal to the First Instance Report (FIR) and house raid at paragraphs 37 and 38 of the decision, as well as to the lack of evidence of any incidents for a period of 2 years at paragraph 39, ultimately reaching a conclusion on the risk on return at paragraph 55, having considered all of the evidence. In respect of the Appellant's sur place activities and associated risk (Grounds 3 and 5), Ms Isherwood argued that from paragraph 46 of the First-tier Tribunal's decision the evidence relating to the appellant's sur place activities is considered and, in particular, at paragraph 51 to 53 of the decision the news articles and photographic evidence are referred to and therefore not overlooked by the First-tier Tribunal. It was submitted that a conclusion on the risk on return from sur place activities was then reached at paragraph 55, having considered all the evidence.
11. In respect of the additional information regarding the current political situation in Bangladesh, the respondent provided submissions and the most recent CPIN Bangladesh, Political Situation, Version 1.0 December 2024.

Conclusions - Error of Law

12. We remind ourselves that we are bound to recognise the special expertise of the First-tier Tribunal. Judicial restraint should be exercised when the reasons that a tribunal gives for its decision are being examined; it should not be assumed too readily that the tribunal misdirected itself just because not every step in its reasoning is fully set out in it: per Lord Hope at [25] in [Jones v First Tier Tribunal & Anor \(Rev 1\) \[2013\] UKSC 19 \(17 April 2013\)](#), [2013] 2 AC 48.
13. In respect of Ground 2 we note that the CPIN, Bangladesh: Actors of Protection Version 1.0 April 2020, which is relied upon in the grounds, was not provided by the Appellant to the First-tier Tribunal. However, the decision indicates the more recent CPIN, Actors of Protection, Version 2, 2023 was considered (paragraph 15). The First Information Report (FIR), evidence relating to the Appellant's family home being raided and an arrest warrant being issued in December 2021 was also considered, as set out in the decision at paragraphs 37 and 38 which

include an analysis of the evidence and chronology of that which preceded and postdated these events. At paragraph 55, having considered the totality of the evidence, the risk on return is addressed with a finding that *'the Appellant's claim for protection is built upon an unfounded political profile in Bangladesh'*, having made earlier negative findings on the Appellant's credibility and findings on the unreliability of the evidence provided, including a finding that fabricated evidence was provided by the Appellant. We find that the Judge did consider the accepted facts and was entitled to reach the conclusion that was reached. We therefore do not find an error of law in respect of Ground 2.

14. The Appellant's sur place activities are considered at paragraphs 46 – 54 of the First-tier Tribunal's decision. The Appellant's submission that the First-tier Tribunal *'appears to have overlooked the evidence'*, of a report by Bangla Post in December 2023 and Londonview24, is rejected. The Bangla Post and Londonview24 evidence is described at paragraph 51 of the First-tier decision, albeit not specifically referred to using the names of the publications. A conclusion is reached at paragraph 54 of the decision, having considered this evidence, and the risk on return resulting from sur place activities is addressed at paragraph 55, albeit briefly. The decision does not assert that evidence of monitoring activities is required (paragraph 15 of the Grounds of Appeal), but instead reaches conclusions which it is entitled to make about the lack of obtainable evidence, as well as the reliability and provenance of the evidence provided. We therefore do not find any errors of law in respect of Grounds 3 or 5.
15. In any event, even if a material error of law had been found in respect of this appeal, the recent CPIN, Bangladesh Political Situation, Version 1.0, dated 17 December 2024 makes it clear that the political landscape in Bangladesh has changed following the establishment of an interim government on 8 August 2024, under the leadership of Muhammed Yunus. As a result of which several mayors and public representatives who were loyal to the Awami League (AL) have been replaced (3.1.10). It is confirmed that supporters of the Bangladesh National Party (BNP) and Jamaat-e-Islami (Jel) and their auxiliary (student and youth) organisations are unlikely to face persecution or serious harm from the state (3.1.1). We have considered the news articles provided by the appellant and note that they all predate the most recent CPIN. Therefore, we find, there no longer remains a risk of serious harm for this appellant on the facts of his case on return to Bangladesh.

Decision:

16. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
17. We do not set aside the decision.

18. We uphold the decision of the First-tier Tribunal dismissing the appeal of the appellant on all grounds.

Ashwinder Gill
Deputy Upper Tribunal Judge
Immigration and Asylum Chamber
5th January 2025