



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: AA/05264/2012

THE IMMIGRATION ACTS

Heard at Bradford  
On 28<sup>th</sup> August 2013  
Prepared

Determination Promulgated

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Before

UPPER TRIBUNAL JUDGE ROBERTS  
UPPER TRIBUNAL JUDGE CLIVE LANE

Between

AYOUB SADIQ  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: *Mr Ficklin* of Counsel  
For the Respondent: *Mr Wardle*, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Appellant, Ayoub Sadiq, was born on 26<sup>th</sup> February 1985 and is a citizen of Pakistan. He first arrived in the United Kingdom on 25<sup>th</sup> March 2012 having been

granted a Tier 4 Student visa. On 16<sup>th</sup> April 2012 he claimed asylum, stating that as an Ahmadi he faced persecution in Pakistan.

2. His application for asylum was refused on 11<sup>th</sup> May and a decision was made to refuse him leave to enter the UK. The Appellant appealed that decision to the First-tier Tribunal on 27<sup>th</sup> June 2012. The First-tier Tribunal dismissed his appeal; the Appellant sought permission to appeal that decision and on 29<sup>th</sup> November 2012 the Upper Tribunal found an error of law in the First-tier Tribunal's decision and remitted the matter to be heard again before a different First-tier Tribunal.
3. The appeal came before First-tier Tribunal Judge Phillips QC and on 3<sup>rd</sup> April 2013, Judge Phillips QC, having heard evidence, dismissed the Appellant's appeal on all grounds; namely asylum, Humanitarian Protection and human rights.
4. The Appellant now appeals with permission to the Upper Tribunal. Judge Kebede in granting permission said,

*"1. It is asserted, in the grounds seeking permission to appeal, that the First-tier Tribunal Judge erred by failing to make clear findings on the level of the Appellant's activities in connection with his Ahmadi faith in Pakistan and in the United Kingdom; that he failed to address a letter submitted from the Ahmadi Muslim Association UK; that he failed to make adequate findings in regard to the evidence of the witness in regard to his involvement in activities in the United Kingdom; that he failed to make proper findings on the expert evidence; that he erred in his application of the evidence to the guidance in MN and others (Ahmadis – country conditions - risk) CG [2012] UKUT 389; and that he failed to consider the Appellant's evidence in the context of the guidance in HJ (Iran) v Secretary of State for the Home Department [2010] UKSC 31.*

*2. I consider that there is arguable merit in the grounds".*

5. The facts of the Appellant's claim are set out in detail in Judge Phillips QC's determination at paragraph 16.

*"The details of the Appellant's claim appear in quite detailed statements of 18<sup>th</sup> June 2012 and 1<sup>st</sup> March 2013, and in the record of the substantive asylum interview, and in his oral evidence before me. The Appellant adopted the contents of his statements, which can be found at pages 1-14 of the Appellant's bundle. Essentially, the Appellant's account may be summarised as follows.*

- (1) *The Appellant was born in Faisalabad. He lived near the Muslim Colony in Rabwah, a mainly Sunni Muslim non-Ahmadi area. His family are Ahmadi. He has dedicated himself to Jama'at Ahmaddiyya. He suffered harassment, including being the victim of stone-throwing, from members of the Sunni Muslim community. (It would have been helpful if Judge Phillips QC had noted that Rabwah is generally speaking an Ahmadi area. It appears that the Appellant despite being an Ahmadi did not actually live in the Ahmadi area of that city).*
- (2) *The Appellant taught the Koran to children, not all of whom were Ahmadi, at a local mosque. He did not talk about the Ahmadi faith unless he was asked about it.*

- (3) *In the summer of 2008, whilst teaching the Koran, the Appellant was attacked by Qazi Sulaman Usmani and his friends. Sulaman Usmani is a local scholar and the son of Qaari Shabeer Ahmad Usmani, a Khatm-e-Nabuwat (KN) Molvi and a senior leader of the Mosque. Sulaman Usmani had caused trouble for him whilst they were at school and thereafter. His clothes were torn, and his mobile phone was stolen. He was warned that if he went to the police a FIR would be lodged against him for preaching the Ahmadi faith. He and his family moved to a house on the other side of Rabwah.*
- (4) *The Appellant received threatening phone calls from individuals acting under the direction of Sulaman Usmani.*
- (5) *In late 2008, the Appellant began working as a bakery salesman in Sarghoda. He experienced difficulties when people were told not to do business with him, and posters were produced by the KN denouncing him.*
- (6) *In August 2009, after some six months, the Appellant moved 300 miles from Sarghoda to work in Mianwali. His problems continued.*
- (7) *On 6<sup>th</sup> December 2009, the Appellant's home was attacked by KN. His mother, brother and sister were held at gunpoint whilst a search was made. The Appellant returned from the mosque. The incident was reported to the police. A FIR was lodged at the request of the Appellant's father on 9<sup>th</sup> December 2009. Two KN members were arrested and released, and the police did not otherwise assist.*
- (8) *The Appellant continued to receive threats. In early 2010, he moved to Faisalabad and stayed with a relative. His family continued to experience difficulties. In June 2010, the KN lodged a FIR against his father and grandfather. His grandfather was held in prison for six months on an unfounded allegation that they were selling drugs in their dry fruit shop. His father is facing on-going court proceedings.*
- (9) *On one occasion, whilst travelling by car past Sarghoda, he was chased by two armed men whom he believed to be KN. He escaped.*
- (10) *In August 2011 he resumed working for Haji Arshad. This upset Haji Arshad's brother, Haji Nadeem.*
- (11) *In 2011, the Appellant moved his business to Multan, Jhang and Toba tek Singh, hundreds of miles from Sarghoda. The victimisation continued, and the KN continued to seek him.*
- (12) *In 2012, the Appellant was informed by a friend that his house in Rabwah had been visited by the police. The Appellant's father was informed by the police that on 1<sup>st</sup> January 2012 Qazi Sulaman Usmani had lodged a FIR against the Appellant for preaching. The Appellant's father agreed to pay the police a bribe of 400,000 rupees in order that the matter would not proceed.*
- (13) *The Appellant received threatening calls to the effect that the KN would not spare him, because he had not ceased his preaching. His father arranged for an agent to*

*obtain a student visa for the Appellant. On 25<sup>th</sup> March 2012, the Appellant travelled to the UK.*

(14) *Whilst in the UK, the Appellant found out how to claim asylum. He fears the police, and he fears that he would be tortured or killed by KN on account of his Ahmadi faith, and cannot relocate safely within Pakistan.*

(15) *Whilst in the UK, the Appellant has introduced several people to the Ahmadi mosque in Huddersfield. In his witness statement dated 18<sup>th</sup> June 2012, the Appellant describes his religious activities in the UK."*

6. There are five grounds of appeal before us which allege:
- (i) The First-tier Tribunal Judge erred by failing to make clear findings on the level of the Appellant's activities in connection with his Ahmadi faith in Pakistan and in the UK.
  - (ii) He failed to address a letter submitted from the Ahmadi Muslim Association UK.
  - (iii) He failed to make adequate findings in regard to the evidence of the witness.
  - (iv) He failed to take into account and properly evaluate the expert evidence.
  - (v) He failed to take into account and apply the Country Guidance and to assess whether the Appellant was entitled to international protection in line with **MN and Others (Ahmadis - country conditions -risk) Pakistan CG [2012] UKUT 389**.
7. Mr Ficklin, on behalf of the Appellant, adopted the grounds seeking permission. He accepted that grounds (i) and (ii) could be dealt with together and submitted there was a failure by the Judge to make clear findings on the Appellant's level of activities, especially in the UK. He said it was not clear from the determination whether the Judge had considered if the Appellant had received attention at the hands of the authorities locally i.e. did the Appellant have a local profile and whether the Judge was accepting the truth of the activities which the Appellant claimed he underwent in Pakistan. He submitted that the Judge's conclusions at paragraph 27 of the determination were inadequately reasoned.
8. We conclude that in his determination the Judge found, after taking into account all the evidence before him, that he could not accept for the most part, that the Appellant was a credible witness. Looking at paragraphs 28 to 33 the Judge sets out in detail, substantial reasons why he arrived at this conclusion. When looking particularly at paragraph 35 the Judge states,

*"...I do not find the Appellant's claims credible that he has received particular attention in his home region, or that he has received attention away from his home area. The Appellant's accounts of the unwelcome attention that he claims to have received are not consistent".*

There then follows a set of reasons why the Judge found the Appellant's claims inconsistent. For example, at paragraph 37, the Judge finds that the Appellant is someone with a low profile of activity and this impression is reinforced by the Judge's finding that the Appellant has made no claim that any religious activities in regions other than Rabwah, have brought him to the attention of **KN** or the authorities.

9. The second ground which Mr Ficklin accepted comes together with ground (i), is that the Judge failed to make reference to the Ahmadi community letter detailing the Appellant's activities in the UK. However, we find that a Judge is not obliged to refer to each and every item of evidence in the reasons given for rejecting a claim and we observe that in paragraph 12 of his determination, the Judge notes that the Appellant's bundle runs to 258 pages and he records that he has considered the documentary evidence. Looking at paragraph 16 (15) it is clear the Judge was well aware of the Appellant's UK activities. We are satisfied therefore that the Judge made clear findings on the level of the Appellant's activities in connection with his Ahmadi faith in Pakistan and in the UK and that the failure of the Judge to mention the letter from the Ahmadi Association in the UK does not amount to an error.
10. The next challenge to the Judge's determination is a claim that the Judge failed to make adequate findings in regard to the evidence of the witness Mr Bhatti and failed to properly assess the expert evidence of Mrs Moeen. This is a challenge that we do not accept has been made out. The Judge records quite clearly that he heard evidence from Mr Bhatti but records at paragraph 39 that Mr Bhatti did not know the Appellant in his home country and has known him only since June 2012, three months after the Appellant's arrival in the UK. So far as the expert evidence is concerned the Judge points out that the expert herself observed that her evidence is subject to the Tribunal's findings in respect of the truth or falsity of the Appellant's claim. Therefore, the expert's evidence has to be looked at in the context that the Judge found with good reason, that he could not accept much of what the Appellant claimed.
11. The final challenge to the Judge's determination is a failure to make findings on discretion. The first question a decision maker must ask is whether the claimant genuinely is an Ahmadi. The Judge was so satisfied in this case.
12. The next step involves an enquiry into the claimant's intentions or wishes as to his faith if returned to Pakistan. This is relevant because of the need to establish whether it is of particular importance to the religious identity of the Ahmadi concerned to engage in paragraph (ii) (a) behaviour as identified in **MN and Others**. The burden is on the claimant to demonstrate that any intention or wish to practice and manifest aspects of the faith openly that are not permitted by the Pakistan Penal Code is genuinely held and of particular importance to the claimant to preserve his religious identity. Behaviour since arrival in the UK may also be relevant.
13. In this case, the Judge found with good reason that much of what the Appellant told him about his activities in Pakistan was simply not credible. He therefore concluded,

as was open to him, that the Appellant was practising his faith, if at all, at a low level. It is clear from the determination that the Judge found that the Appellant is in general unable to be able to show that he wishes to practise and manifest his faith openly on return to Pakistan. Mr Ficklin complained that the judge had failed to make clear findings as to the relevance to this enquiry of the appellant's activities in the United Kingdom. It is, in our opinion, clear that, although the judge has not said so in terms, he found that the appellant's activities on behalf of the Ahmadi community in the United Kingdom had been arose from his desire to impress the Tribunal and to support his claim for asylum and they were not persuasive evidence of the strength of his Ahmadi faith.

## **DECISION**

14. Appeal dismissed.

**Signature**

Upper Tribunal Judge Christine Roberts

**Dated**