



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/08093/2016

THE IMMIGRATION ACTS

Heard at Field House

On 1 December 2017

**Decision & Reasons
Promulgated
On 15 January 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN

Between

**[M T]
(ANONYMITY DIRECTION MADE)**

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

Respondent

Representation:

For the Appellant: Mr L Rahman, Counsel, instructed by Edward Alam & Associates

For the Respondent: Mr K Jarvis, Home Office Presenting Officer

Anonymity:

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

DECISION AND REASONS

1. The appellant is a citizen of Bangladesh born on [] 1973, whose protection claim was refused by the respondent on 21 July 2016. The appellant appealed to the First-tier Tribunal where his appeal was heard by Judge Cockrill. In a decision promulgated on 1 September 2017 the judge dismissed the appeal. The appellant is now appealing against that decision.
2. The appellant entered the UK in July 2003 unlawfully.
3. In July 2009 he applied for leave to remain in the UK on the basis of his private and family life under Article 8 ECHR. The application was refused and subsequent appeal dismissed. A further application which was also unsuccessful was made under Article 8 ECHR in 2012.
4. On 12 January 2016 the appellant lodged an asylum and human rights claim.
5. The appellant claims that he has been a member of the Bangladeshi Nationalist Party (BNP) in Bangladesh since 1995. He claims that his role was to organise party meetings and welcome party leaders as well as to distribute leaflets and flags.
6. He also claims that he joined the BNP in the UK between 2008 and 2010 and that he has attended BNP meetings in the UK. He claims that the Bangladeshi Government has filed a case against him due to his involvement with BNP activities in the UK and that he has broadcast BNP meetings in this country that have been relayed to Bangladesh.
7. He claims to fear that he will be killed by Awami League leaders due to his BNP involvement whilst in the UK.
8. The respondent did not accept that the appellant had been a BNP member in Bangladesh or that he is full and active member in the UK. Accordingly, the protection claim was rejected.

Decision of the First-tier Tribunal

9. The judge observed that the appellant's case centres on his involvement in and membership of the BNP in the UK. The judge found that the appellant has demonstrated his association with the BNP particularly through the Cambridge Group. However, the judge did not find the appellant credible and gave several reasons.
 - (a) Firstly, he attached very considerable weight to the respondent's document verification report which concluded that there was no substance to the appellant's claim to be subject to a case against him in Bangladesh and no weight to the documents provided by the appellant to counter the verification report. At paragraph 44 the judge stated:

“The short point is that the document verification report concludes that there is really no substance in what the appellant has been saying. Although the appellant was anxious to try to counter that conclusion by reference to his lawyers’ involvement in Bangladesh and communication from the police, I find that that document verification report is a document to which I attach very considerable weight. What it tells me, and I have no hesitation in stating this, is that the appellant was simply not wanted, in the way that is described, by the Bangladesh governmental authority.”

- (b) Secondly, the judge took into account that there were no witnesses provided on the appellant’s behalf to give oral evidence about his political engagements whilst in the UK.
- (c) Thirdly, the judge found the appellant’s credibility to be undermined by his explanation of why he left Bangladesh in 2003, a time when the BNP was in ascendancy. The appellant claimed that the reason that he left Bangladesh was that he received advice from a senior member of the party that he should leave because the BNP would not be successful in the next election. The judge stated at paragraph 46:

“The BNP back in 2003 really would not know whether or not they were going to be successful in the future and it does seem to me that it is an extraordinary state of affairs to be encouraging active members of your own party to be leaving the country rather than to stand by the party and to do the best to ensure continuance of the BNP in power.”

Grounds of Appeal

- 10. The first ground of appeal argues that the judge’s assessment of the respondent’s verification report was irrational and/or lacking in sufficient reasoning. The ground submits that the judge failed to give reasons why he did not rely on the letters received from the appellant’s lawyer and the police officer in charge of the station. It was also submitted that the judge failed to explain why he placed very considerable weight on the verification report and that the judge failed to take into account the fundamental flaws in the report. These flaws are said to be that the police officer is not named and that it is not credible that a British High Commission official could walk into a police station and demand to see confidential documents concerning criminal charges or have sight of information concerning complaints about other crimes.
- 11. The second ground of appeal concerns the appellant’s sur place activities. It is argued that the judge failed to assess the risk the appellant would face and has ignored the objective evidence which shows that activities outside of Bangladesh are monitored by the authorities.

Consideration

- 12. In order to support his claim to be a risk on return to Bangladesh, the appellant submitted a First Information Report (FIR), which was numbered 62/14, from the district of Sylhet, stating that he have been charged with

the offence of “assisting and provoking [sic] in antistate activities and creating anarchy in the country in conspiracy of occupying power illegally being gather [sic] illegally...”

13. The respondent obtained and submitted a Verification Report, dated 28 May 2017, which contained a statement from an Officer of the British High Commission (BHC) in Dhaka stating that on 16 May 2017 he visited an officer of Osmani Nagar Police Station, Sylhet, introduced himself as an official from the British High Commission, and asked if he could verify the FIR and Charge Sheet relevant to the appellant. The statement of the BHC officer says that the officer in the police station physically located the register and manually searched the records, before advising him that the FIR and Charge Sheet for the appellant did not exist. The BHC officer also states that he requested to look at the register himself, which he was permitted to do. He found that none of the names and dates in the documents submitted by the appellant matched the details contained in the register.
14. The appellant submitted a letter from his lawyer in Sylhet, dated 31 July 2017, in which the lawyer stated that he conducted the case for the appellant in 2014. The letter expresses disbelief that the relevant documentation would not be at the police station. The appellant also submitted a letter from the officer in charge of the police station where the verification report was obtained, stating that on 16 May 2017 he was present at the police station and did not know that an investigating officer from the BHC came to the station. He also confirmed that the relevant FIR is in existence.
15. The judge had before him contradictory evidence about whether the appellant had, as he claimed, been charged with a crime in Bangladesh whilst he was living in the UK. On the one hand, there were the documents provided by the appellant (the FIR, letter from a lawyer and letter from a police officer) all of which pointed to there having been a case against him. On the other hand, there was a verification report obtained by the BHC which stated unambiguously that the names and dates submitted in the appellant’s documents did not match that which was held at the police station.
16. Whilst it was a matter for the judge to decide upon the weight to give to the documents, it is difficult to see how any judge would not place substantially higher weight on the BHC verification report than on documents obtained by the appellant. It is challenging for a judge to assess whether a document purporting to be an FIR or a letter from a lawyer or police officer in Bangladesh is genuine. In contrast, absent evidence to suggest otherwise, it is clearly reasonable to assume that an official report provided by the BHC via the Home Office is genuine. The judge was entitled to give substantial weight to the BHC report and in doing so no error of law was made.

17. Mr Rahman argued that the judge did not give adequate reasons why the BHC report was believed over the material adduced by the appellant. Read as a whole, the judge's reasons are clear: the BHC report is accepted because it is from a UK governmental body carrying out an official function.
18. Mr Rahman also maintained that the verification report is so flawed that it was irrational for the judge to rely on it as what the report describes as occurring "simply could not happen". The implication of Mr Rahman's argument is that the official from the BHC was dishonest - as if what the BHC official describes as occurring "could not happen" then he must be lying when he says that it did occur. I reject this argument. The BHC official describes visiting a police station and being provided with the FIR register so that he could ascertain for himself whether the appellant's case was recorded. It is not inconceivable that this occurred and the fact that the BHC officer describes it as occurring, is a strong indication that it happened. Accordingly, I am satisfied that it was not irrational for the judge to rely on the BHC official's report.
19. The judge found that the appellant's sur place activities would not place him at risk on return. The grounds argue that the judge erred by reaching this conclusion without considering the objective evidence which shows that dissidents from Bangladesh are watched and subject to surveillance.
20. The difficulty with this argument is that the judge found the appellant to not be a "dissident" from Bangladesh. The objective evidence about Bangladesh indicates that there is surveillance of BNP activities outside Bangladesh. However, it does not show (applying the lower standard of proof) that someone fitting the appellant's profile, as found by the judge (that is, someone who has never been of interest to or attracted the attention of the authorities who has got involved with the BNP in the UK to try and bolster an asylum claim), would be at risk on return to Bangladesh.

Decision

21. The appeal is dismissed.
22. The judge has not made a material error of law and the decision of the First-tier Tribunal stands.

Signed



Deputy Upper Tribunal Judge Sheridan

Dated: 17 December 2017

