



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/12130/2016

THE IMMIGRATION ACTS

Heard at the Royal Courts of Justice, Belfast
On 14 May 2018

Decision & Reasons Promulgated
On 22 May 2018

Before

UPPER TRIBUNAL JUDGE LANE

Between

MD SAIF UDDIN
(NO ANONYMITY DIRECTION)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hollywood

For the Respondent: Mr Duffy, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Md Saif Uddin, was born on 10 September 1993 and is a male citizen of Bangladesh. The appellant's human rights claim had been refused and a decision was taken to remove him as an illegal entrant on 18 October 2016. The appellant appealed against that decision to the First-tier Tribunal (Judge S T Fox) which, in a decision promulgated on 7 September 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.
2. I find that the decision of the First-tier Tribunal should be set aside. My reasons for reaching that decision are as follows. First, I note that there a number of examples in

the decision of a failure of proof reading. The judge's reference to "the 10th of Bangladesh" at [48] is unintelligible whilst it is unclear why the judge has allowed the appeal on humanitarian protection grounds at [62] only to dismiss the appeal on the same ground in the following paragraph. These lapses may, perhaps, be excusable if the remainder of the decision was intelligible but, regrettably, that is not always the case. At [26], the judge wrote:

[The appellant] has presented a number of documents and photographs. With regard to the photographs of the demonstration I would be reluctant to say they were in some way staged. I have no way of knowing. They lend some credence to his claim. However I also note that none of the relevant Appeal documents have been produced in evidence today. I consider this also to be a serious omission. The absence of these documents has not been explained.

3. The judge has failed to explain exactly what he means by "relevant Appeal documents." Any reader of this decision would have no idea what these documents may have been or why their absence might amount to a "serious omission". It also appears that the judge did not ask the appellant at the hearing to explain why these documents were missing so there is no reason why an explanation should have been forthcoming.
4. The judge refers to the photographs adduced in evidence by the appellant at [38]. He states that the "photographs of the demonstrations [contain] translations [which] are not accurate" but fails to identify the 'translations' or indicate in what way they were 'inaccurate.' The judge went on to say that "shadow of doubt was originally cast over the translations regarding the identification". I am not clear what that sentence means. Again, the loser in this appeal, the appellant, has not been given a clear idea as to why he has lost.
5. For the reasons I have set out above, I find that the decision should be set aside. Unfortunately, the errors of law go to the heart of the fact-finding process which means that this appeal will need to be reheard *de novo*. That exercise is better conducted in the First-tier Tribunal to which this appeal is now returned for the decision to be remade.

Notice of Decision

The decision of the First-tier Tribunal which was promulgated on 7 September 2017 is set aside. None of the findings of fact shall stand. The appeal is returned to the First-tier Tribunal (not Judge S T Fox) for that Tribunal to remake the decision.

No anonymity direction is made.

Signed

Date 16 MAY 2018

Upper Tribunal Judge Lane

TO THE RESPONDENT
FEE AWARD

No fee is paid or payable and therefore there can be no fee award.

Signed

Date 16 MAY 2018

Upper Tribunal Judge Lane