



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

Appeal Number: PA/06370/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 22 November 2019**

**Decision & Reasons Promulgated
On 4 December 2019**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**MNB
(anonymity direction made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Maqsood instructed by Syeds Solicitors.

For the Respondent: Mr Tufan Senior Home Office Presenting Officer.

ERROR OF LAW FINDING AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge Howarth who in a decision dated 13 September 2019 dismissed the appellant's appeal on protection and human rights grounds.

Background

2. The appellant is a citizen of Pakistan born on 1 April 1981.

3. The Judge notes the appellant's case between [3 - 10] summarised in the following terms:

- “3. The Appellant has visited the UK on numerous occasions previously. The Appellant claims to have a well-founded fear of persecution for reason of his political opinion, namely his membership of the Kolti Kashmir Liberation Front (KKLF).
4. The Appellant also claims that members of the Inter-Services Intelligence Agency (ISI) or ‘land mafia’ have taken the Appellant's house and made threats against the Appellant's life and the lives of his children.
5. The Appellant states that he last entered the UK with his wife and children on 3 August 2018.
6. The Appellant's father faced problems with ISI from 1998. ISI threatening to take over the property.
7. The Appellant formerly lived at a house in Kotli; his twin brother, [MN], lived next door. When the Appellant came to the UK the ISI took possession of the Appellant's house and left a letter in a shop for the shopkeeper to give to the Appellant's brother.
8. At the end of August 2018 the Appellant's brother also left Kotli and fled to another village as he had also been threatened. The Appellant has not reported any wrongdoing to the police as the police would not listen to him.
9. The Appellant started his own electrical shop in 2005, however, this was closed down in August 2018 and the person that the Appellant had left in charge of the shop abandoned it.
10. The Appellant's political party believes in independence of Kashmir from Pakistan, India and China. The Appellant has previously attended rallies. In February or March 2018 the Appellant was detained in a bazaar. The Appellant was detained as on 11 February 2018, the Appellant was at a rally when an army car was stopped by himself and other party members as it was driving towards the rally. The army would not agree to divert the vehicle. The ensuing altercation resulted in the Appellant being arrested some time afterwards.”

4. The Judge had the benefit of the documentary evidence noted at [22 - 23], noted as being:

- “22. I have before me the Appellant's bundle containing a skeleton argument, witness statement, an envelope showing shipping by DHL, newspaper clippings and translations, warrants for arrest, a membership card, letter from a lawyer, police crime report, documents relating to the Appellant's children and their schooling in the UK and objective evidence.
23. I also have the Respondent's bundle containing the reasons for refusal letter dated 27 June 2019, letter from Read Foundation School dated 16 April 2019, letters from Khadija-Tul-Kubra x 4, letters from JKLF, letter purportedly from ISI, interview record, screening interview and preliminary information questionnaire.”

5. In addition the Judge had the benefit of hearing and seeing oral evidence being given.
6. The Judge's findings are set out between [42 - 71] which can be summarised in the following terms:
 - a) The Judge found inconsistencies in the appellant's evidence. The explanation for inconsistencies as to when the appellant first started facing problems from ISI was accepted by the Judge as plausible [42].
 - b) The appellant's explanation regarding a discrepancy in relation to who was currently living in his house was accepted [44].
 - c) The handwritten document at Annex F of the respondent's bundle was of little evidential value with no distinguishing features and, despite the respondent highlighting the lack of appropriate translation, no translation had been provided and with there being no envelope or details of who the letter is from, resulting in little weight being attached to this evidence [45].
 - d) The letter from the children's school referring to threats from ISL was of concern as it is said the appellant had not mentioned any threats to his children in the screening interview, PIQ or main asylum interview which damaged the appellant's credibility [46].
 - e) The letter from Read Foundation School states the child [AN] is a regular student of the school and 10th in his class with roll number 16. The letter is dated 16 April 2019 but adds nothing to the appellant's claim as there were no details of the threats received and it was considered "odd" the school record [AM] as a regular student when the child had been in the United Kingdom since August 2018, some 8 months before the letter was signed which gives rise to concern that the letters from the schools could be fraudulent [47].
 - f) A number of documents provided from Khadija-Tul-Kubra Girls Science College were noted and the respondent's submissions regarding handwritten amendments in relation to child [AB] rejected by the Judge as more likely to be amendments made by hand to correct mistakes in the letter.
 - g) The Judge noted the letter is signed by the 'Principal' but did not find that lessened the legitimacy of the document. Of more concern to the Judge was that the appellant's son [UN] has a letter written to him in spite of the college purporting to be a Girls Science College. The Judge finds this unusual and secondly that the template used by Read Foundation School and Khadija-Tul-Kubra appear the same despite there being no similarities in the header or footer indicating the two institutions are in any way related. The Judge finds similarities in the letters between two apparently unrelated institutions called into question the content stating the schools had received threats from the land mafia and

that they were therefore issuing the school leaving certificates [49].

- h) The Judge finds the letters from the schools have been drafted at the request most likely of the appellant's brother in order to bolster the appellant's claim in the UK [51].
- i) The failure of the appellant to seek legal advice in respect of his property dispute was not found to damage the appellant's credibility [52 - 53].
- j) Having considered the claim in respect of ISI in the round the Judge finds documents on which the appellant is relying seriously undermined his claim as did his failure to mention earlier in the asylum process threats to his family. The Judge finds the appellant could not succeed with this aspect of his claim [54].
- k) The Judge accepted the appellant's explanation for giving apparently different names when referring to the Kotli Kashmir Liberation Front which was not found to damage the appellant's credibility. [55].
- l) The Judge refused to admit the appellant's membership card of the above group as it was only tendered for admission during submissions by the respondent who claimed there was an error with the state flag on the document [55].
- m) In respect of a letter from Kashmir Law Consultants, the respondent was unable to identify this organisation on the Internet and the content of the letter from this organisation makes reference to activities which the appellant himself made no mention of at any point in his claim. The Judge notes that in re-examination the appellant stated he did not know who the Kashmir Law Consultants were despite them purporting to be instructed by the appellant. The Judge found this extremely damaging to the appellant's claim and that his lack of knowledge of this body indicates strongly that the document is fraudulent which called into question all of the documents on which the appellant sought to rely [57].
- n) The Judge finds having found serious concerns with the legitimacy of some of the appellants documents on which he seeks to rely that all the documents tendered by the appellant are fraudulent and/or truthfully produced [58].
- o) The Judge notes the appellant was asked whether he had ever been arrested in the screening interview but stated he had not. The appellant's explanation for such inconsistency was not accepted by the Judge as being reasonable. The Judge found arrest and detention will be at the forefront of the appellant's mind and his failure to mention his arrest earlier damaged his credibility [59].

- p) The Judge finds the appellant's explanation as to why he did not previously disclose the arrest warrant against him in his visit Visa application was wholly implausible, finding it was most likely it was not mentioned either to ensure the appellant was granted a visa or alternatively because these documents were fabricated at a later date to bolster the appellant's claim [60].
 - q) The appellant was able to leave through Islamabad airport despite purportedly having an extant arrest warrant against him. The Judge accepts the CPIN report makes no mention of whether the appellant would or would not be stopped when exiting but finds it is probable the authorities in Pakistan have means of stopping people exiting Pakistan where they are wanted for crimes, particularly against the state, particularly if the state were going to lengths of issuing newspaper wanted ads as claimed by the appellant. The Judge finds the Refworld article referred to in the reasons for refusal letter at page 12 of 21 details sophisticated measures for identifying wanted persons on exit from Pakistan [61].
 - r) The Judge noted the country information regarding the "wealth of fraudulent documents available from Pakistan" and due to the inconsistencies in documents found it is highly likely that all the appellants documents are fraudulent [62].
 - s) The Judge finds the appellant lacks knowledge of documents submitted which should support his claim and failed to mention key aspects of his claim at appropriate junctures [63].
 - t) The Judge finds the appellant is not a credible witness [64].
 - u) The Judge does not find the appellant has a future fear on return to Pakistan [65].
 - v) The Judge finds there were no very significant obstacles to reintegration [68].
 - w) In relation to article 8 ECHR the Judge notes the appellant and his family came to the UK in August 2018 and have only lived UK for over one year, that the children's removal to Pakistan was unlikely to cause serious disruption to them, and that the best interests of the children will be to return with their parents to Pakistan [70].
 - x) The Judge finds threats made against the children lack credibility and the documents from the school and college are fraudulent and/or untruthfully produced such that it was not found that it would impact on the best interests of the children to return to Pakistan and that contrary to the letters from the school and college, the children could rejoin their schools there.
- 7.** The appellant sought permission to appeal asserting the Judge made perverse or irrational findings on a number of matters material to the outcome, failed to give reasons or any adequate reasons for findings on

material matters, gave weight to immaterial matters, and made a misdirection of law on material matters.

8. Permission to appeal was granted by another judge of the First-Tier Tribunal on 9 October 2019 on the basis that although the grounds lacked clarity it was arguable that the Judge failed to make clear findings regarding whether the appellant was a member of the JKRF and that the Judge failed to consider the best interests of the appellant's children when considering article 8.

Error of law

9. On behalf of the appellant Mr Maqsood attempted a forensic dissection of the Judge's decision in support of his argument the Judge has materially erred in law.
10. It was submitted the credibility assessment is flawed as the Judge was required to take into account all relevant evidence, both from the appellant and the documents provided. The grounds assert the Judge was wrong to reject all the documentary evidence provided by the appellant at [58] without undertaking a full and proper analysis of all such documents.
11. Mr Maqsood referred to the letter from the JKLF considered in the reasons for refusal letter in which it is claimed two points were raised but that it is not clear from reading the determination under challenge whether the Judge actually looked at this letter, what the Judge made of the letter, and why the Judge found it to be forged as per [58].
12. The Secretary of State considered the appellant's claim to be a member of the Kotli Kashmir Liberation Front and any adverse attention he may experience between [40 - 56] of the reasons for refusal letter which was clearly considered by the Judge. In relation to the letter from the Liberation Front it is written:
 - "40. The claim that you are a member of the Kolti Kashmir Liberation Front (AIR 39). You were arrested for your political activities in February 2018 and there is an active warrant for your arrest in Pakistan (AIR 132-144). This aspect of your claim is considered to be inconsistent.
 41. You are asked during the interview what the specific name of the organisation you are a member of is. You replied, Mohammed Maqbool Butt Liberation Front (AIR 105). You provided a membership card (Document G) and a supporting letter (Document H) from the Jammu Kashmir Liberation Front (JKLF) stating that you joined in 2005. It is reasonable to expect you to be consistent with the specific name of the organisation that you have been a member of for 14 years. As you have not been consistent it is considered that your credibility is damaged.
 42. You provided a membership card and supporting letter in connection with your claim (Document G, H). This has been

considered in line with Tanveer Ahmed IAT 2002 UKIAT 00439 STARRED. The card is made of plastic and is printed in full colour, has a date of 10 - 09 - 2005 and card reference number 0832. The state flag of Azad Kashmir in the top right hand corner of the card is incorrect. The JKLF flag in the top left corner has a red line on the left-hand side. This is internally inconsistent with the supporting letter where the line is black. The card is entirely in English including the information on the back for if the card is lost. It is further noted that the card is in pristine condition. There are no scratches to the surface or damage to any of the corners that you would expect as signs of wear on a document that is 14 years old.

43. The supporting letter has a JKLF header and footer section. These appear to be of different print quality to the main text of the letter with a noticeable level of discolouration in the top left-hand corner where the handwritten reference numbers and dates are located. The documents handwritten sections are completed in 3 different pen types. The main body of the text appears to be in 2 different formats with the last 3 paragraphs having narrower spacing between words and also formatted for narrower line spacing. In assessing the information in the footer of the letter, the website <http://www.jklfworld.org/> cannot be accessed. The JKLF Diplomatic Chapter UK address of 44 Westbourne Rd, Luton, Beds, England has been checked. This is a residential property and no link to the JKLF could be found. Furthermore, it is not an address listed on the contact section of the JKLF UK website and as such is considered to be externally inconsistent with available information. In consideration of the content of the letter, it is noted that the information provided is generic noting no specific involvement in any events.”
- 13.** The respondent in light of inconsistencies considered there were serious concerns as to the validity of the membership card and supporting letter such that no weight could be afforded to them.
- 14.** The above has not been shown by evidence provided to the Judge not to be genuine concerns in relation to the weight that could be given to this material. The Judge found no weight could be placed upon the documentary evidence and that the appellant lacks credibility which is a finding relating to all the material provided. It has not been shown to be arguably irrational for the Judge to conclude in light of all the available evidence that these documents could not be found to be genuine or warranted the type of weight being attached to them that the appellant maintains should have been given.
- 15.** It is not legal error for a Judge not to refer to specific aspects of the evidence provided the key points have been taken into account and adequate reasons given for the findings made. In this appeal the Judge has clearly considered all the available evidence in the round and set out reasons why little or no weight could be attached to either the documentary or oral evidence.

- 16.** The assertion there are no clear findings regarding the appellant's claim to be a member of the JKFL is arguably incorrect as his claim to be a member of this group was part of the evidence that was found to lack credibility.
- 17.** The weight to be given to the evidence was a matter for the Judge and it has not been shown that the weight that was given is in any way arguably irrational. The submission that the Judge compartmentalised key aspects has no arguable merit as it is clear that the evidence was considered as a whole.
- 18.** Mr Maqsood challenged the Judge's findings regarding the correspondence from the school to be found in Annex H of the respondent's evidence bundle. It was submitted that the documents provided, which include two leaving certificates, should have been addressed which it is submitted is relevant.
- 19.** It is not disputed are documents described as school leaving certificates including for the child [KN] headed 'Khadija-Tul-Kubra Girls Science College & Iqra Rauza-Tul-Aftaal Academy' but this does not clearly confirm that the Academy teaches both boys and girls in an education system in which there is separation of boys and girls. The first certificate dated 10 October 2018 refers to KN said to have been born on 15 November 2001 who was admitted to Class 5th but who was studying the first year and who was withdrawn on 10 October 2018 which the Judge questions on the basis the appellant, his wife, and their 3 children entered the United Kingdom in August 2018. This is not an arguably irrational conclusion.
- 20.** The correspondence appearing at Annex I of the respondent's bundle refers, as noted by the Judge, to a male child which is arguably irrational in relation to a Girls School and which appears to have the same signature as the person who signed the leaving certificates.
- 21.** The Judge clearly considered the best interests of the children and the proportionality of the decision albeit briefly. The grounds do not establish that the conclusion the best interests are to remain with their family and return to Pakistan is a finding outside the range of those available to the Judge on the evidence. It is also the case that in light of the dismissal of the protection claim and in light of the absence of any contra reason being established on the evidence the finding the decision is proportionate is the only possible outcome available to the Judge. The best interests are not determinative.
- 22.** Whilst the appellant disagrees with the conclusions and feels the Judge should have made a number of alternative or other findings regarding specific aspects of the evidence the grounds fail to establish the Judge did not consider the evidence with the required degree of anxious scrutiny, that the Judge has not given adequate reasons in support of

the findings made, or that the Judge's conclusions are not within the range of those reasonably available to the Judge on the evidence.

- 23.** The appellant has been found to be no more than a failed asylum seeker with no adverse profile preventing his return with his family and their reestablishment within Pakistan.

Decision

- 24. There is no material error of law in the Immigration Judge's decision. The determination shall stand.**

Anonymity.

- 25.** The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I make such order pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

Signed.....
Upper Tribunal Judge Hanson

Dated the 27 November 2019