



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

Appeal Number: PA/07206/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 19 December 2018**

**Decision & Reasons  
Promulgated  
On 18 February 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN**

**Between**

**MR M S A  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr I Khan, counsel instructed by Chancery Solicitors  
For the Respondent: Mr M Mills, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant is a national of Bangladesh, born on 1.10.85. He arrived in the UK as a student on 28.1.10 and claimed asylum on 23.8.13 on the basis of his political opinion. This application was refused in a decision dated 26.5.18. The Appellant appealed and his appeal came before Judge of the First tier Tribunal Cameron for hearing on 6.7.18. In a decision and reasons promulgated on 30.7.18, he dismissed the appeal.

2. Permission to appeal to the Upper Tribunal was sought, in time, on the basis that the Judge erred:

- (i) in failing to assess the sufficiency of protection in light of the Appellant's *sur place* activities in the UK; and
- (ii) in failing to consider the case in the round, in his assessment of credibility; failed to take account of country guidance; made an adverse finding despite the fact that no DVR was submitted and applied the wrong standard of proof at [84].

3. Permission to appeal was granted by Upper Tribunal Judge Gill in a decision dated 16.11.18 in the following terms:

*"It is arguable that Judge of the First tier Tribunal Cameron may have materially erred in law in his assessment of credibility, for the following reasons:*

*1. Arguably, paras 84, 86, 87 and 88 show that he drew the inference, from his finding that the appellant had produced documents that were not genuine, that the appellant's account was therefore untrue. Arguably, this is not consistent with the guidance in Tanveer Ahmed (documents unreliable and forged) Pakistan [2002] UKIAT 00439. Arguably, the correct approach was to consider the reliability of the documents (as opposed to whether they are genuine) on the whole of the evidence.*

*2. Much of the judge's decision from para 53-81 represents recitation of the evidence. As far as I can see, there appears to be little assessment of the credibility of the appellant's evidence. The judge appears to reject the appellant's whole account for the following reasons: (a) his finding that the appellant had produced documents that were not genuine; and (b) the appellant failed to claim asylum sooner. Accordingly, if the judge did err in law in his assessment of the documents, this may be material to the outcome.*

*I do not think there is much in the argument that the judge applied the wrong standard of proof although I will not refuse permission on this or the remaining grounds. Although the judge did refer to the balance of probabilities at [84] it is clear from [96] that this was because he was considering whether the respondent had shown on the balance of probabilities at [84] it is clear from [96] that this was because he was considering whether the respondent had shown on the balance of probabilities that the documents were not genuine..."*

#### *Hearing*

4. At the hearing before the Upper Tribunal, Mr Khan submitted that a strong steer had been provided by Upper Tribunal Judge Gill, who had correctly identified the issue of the reliability of the documents at [52]-[81]. He submitted that there had been no real assessment of the documentary

evidence. He asserted that from [82] to [130] there was no assessment of credibility of the Appellant.

5. In his submissions, Mr Mills submitted that [51] of the refusal letter dealt with the documentary evidence and that, whilst there was no DVR, issue was taken with the alleged FIR as the record book and charge sheet book were checked and there is no record in their record books nor a case registered.

He acknowledged that at [53] the Respondent appears to assert that the documents cannot be relied upon rather than being fraudulent.

6. Mr Mills submitted that the Judge has not overstepped the line and that he had given the case a very fair consideration. There was no written consent to make enquiries the Judge gives a reasoned conclusion why at [84] the checks the Secretary of State has undertaken discharge the burden of proof. The Judge refers to the lower, civil standard and finds it is discharged even in the absence of the DVR. He submitted that the grounds of appeal are nothing more than a disagreement with that conclusion. Mr Mills accepted that, having reached that conclusion and having commented over the page at [89] on section 8 issues due to the delay by the Appellant in claiming asylum, that these are the two main issues the Judge considers and consequently rejects the Appellant's credibility.

7. Whilst Upper Tribunal Judge Gill suggests concern at that approach, it is not far short of determinative that the documents were not found to be authentic which, when coupled with section 8 point, means that the Judge's findings and conclusions were not perverse and were sufficient to justify rejecting the Appellant's credibility.

8. In reply, Mr Khan submitted that the Judge's approach at [84] did disclose a material error of law.

9. I reserved my decision, which I now give with my reasons.

#### *Findings and reasons*

10. It is clear from Tanveer Ahmed [2002] UKIAT 00439 that:

(i) It is for the individual claimant to show that a document is reliable in the same way as any other piece of evidence which he puts forward and on which he seeks to rely [33]; and

(ii) The decision maker should consider whether a document is one on which reliance should properly be placed after looking at all the evidence in the round.

11. When rejecting the FIR 198/2009 as genuine, the Judge at [84] was satisfied that he could place weight on checks made by a member of the British High Commission in the absence of a DVR. A note of the checks carried out is at [68] when it is said that the FIR record book and charge sheet book at Golaponj police station were checked on 1.9.14 and the duty officer confirmed that there was no case registered.

12. The Judge also noted that the Appellant's claim to have been the president of Ward Bhadehswar Union Chhatrashibir had been rejected by the Respondent, based on the fact that the official website of the Islami Chhatra Shibir shows a list of branches for the political party around the country, however, number 9 ward Badeshar Union is not listed. The Judge took into consideration letters of support from Moulana Habibur Rahman, Parvaz Ahmad and Md Abdur Rahman set out at [78]-[80]. He also considered an extract from the Banglapedia National Encyclopaedia, however, the Judge found this evidence to be contradictory to the Appellant's oral evidence as that document, at page 223 of the Appellant's bundle, does not refer to Ward 9.

13. Given that the basis of the Appellant's claim that an FIR had been issued against him was because of his political involvement with the Bangladeshi Islami Chhatrashibir, I consider that the Judge did correctly follow the guidance in *Tanveer Ahmed* (op cit) in that he properly assessed the FIR in light of both the checks conducted by the British High Commission and the other supporting evidence of the Appellant's political involvement and reached sustainable findings in respect of that evidence. Given that it was ultimately for the Appellant to show that the FIR was reliable and that the Judge properly found at [84] that he had failed to do so to the lower standard, there is no material error of law in his decision.

14. Mr Khan did not seek to argue any of the other matters raised in the grounds of appeal before the Upper Tribunal.

### *Decision*

15. For the reasons set out at [11]-[13] above, I find no material error of law in the decision of First tier Tribunal Judge Cameron. The appeal is, therefore, dismissed.

Rebecca Chapman  
Deputy Upper Tribunal Judge Chapman

20 January 2019