



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

Appeal Number: PA/08413/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 18 March 2019**

**Decision & Reasons Promulgated  
On 2 April 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE HILL QC**

**Between**

**J A  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms M Jackson, Counsel, instructed by Law Dale Solicitors  
For the Respondent: Ms S Cunha, Home Office Presenting Officer

**DECISION AND REASONS**

1. I make an anonymity direction (see below) in respect of this decision and that of the First-tier Tribunal where anonymity was not originally ordered.
2. This is an appeal from the decision of First-tier Judge Twydell, promulgated on 20 September 2018. The appellant is a citizen of Bangladesh. His appeal was dismissed on asylum grounds, humanitarian protection grounds and under human rights considerations, both within and outside the Immigration Rules.

3. The grounds of appeal seeking permission were expansively drawn and initially permission was refused. On a renewed application Upper Tribunal Judge Chalkley granted permission but on the limited basis identified by reference to paragraph 6 of the Grounds. This concerned a substantial corpus of background evidence that had been placed before the First-tier Tribunal, albeit none was referred to by the judge.
4. A skeleton argument was prepared by Ms Jackson of Counsel, who now acts of the appellant. This developed, in a rather more coherent and attractive way, the matter for determination in this appeal, helpfully setting out the background together with an analysis of the approach adopted by the judge. It also identified the documentary material which was before the First-tier Tribunal dealing with the social and political situation in Bangladesh. The skeleton argument took as its main focus the single ground on which permission was granted but, perhaps inevitably, ventured a little further, for which I make no criticism.
5. Ms Cunha, who acts for the Secretary of State, accepts that the decision was inadequate in that it failed to make reference to any of the background material that had been before the First-tier Tribunal. She contends, however, that although that may have been an error of law, it did not infect credibility assessment and findings of fact which could nonetheless be preserved.
6. This is not a submission which I can accept. First, the judge seemed to regard the appellant's evidence as inherently implausible, in part because it was not analysed in the context of, and by reference to, the background country material. In the circumstances, I cannot be satisfied that the appellant's evidence was subject to proper judicial analysis when the credibility assessment was made.
7. Secondly, as one proceeds through the decision, taking it sequentially in terms of the judge making findings as to what involvement the appellant may or may not have had with the authorities in Bangladesh, the failure to engage with the background country material renders all subsequent conclusions questionable and incapable of being sustained. Anxious scrutiny is lacking throughout.
8. It would not be just or appropriate to preserve any part of the judge's findings, when there has a fundamental error regarding background country material, going to the heart of this decision.
9. This is inevitably a case, regrettable though the additional delay will be, that needs to be remitted to the First-tier Tribunal to be heard afresh by another judge. In the circumstances, having found an error of law, I set aside the decision and I remit the appeal for a rehearing.

### **Notice of Decision**

- (1) An error of law having been found, the decision of the First-tier Tribunal is set aside.

