



IAC-AR-AR-V1

Upper Tribunal

(Immigration and Asylum Chamber) Appeal Number: PA/08046/2019

THE IMMIGRATION ACTS

**Heard at Field House
On 20 February 2020**

**Decision & Reasons Promulgated
On 5 March 2020**

**Before
UPPER TRIBUNAL JUDGE FINCH**

**Between
MSR**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr P. Jorro of counsel, instructed by Hunter Stone Solicitors

For the Respondent: Mr S. Kotas, Home Office Presenting Officer

DECISION AND REASONS

BACKGROUND TO THE APPEAL

1. The Appellant is a national of Bangladesh. It is his case that he has a well-founded fear of persecution there on account of his political opinion as a member of the Bangladeshi National

Party (“BNP”), the Bangladesh Nationalist Shecchashebok Dal and the Volunteer Party of the UK. He entered the United Kingdom as a Tier 4 (General) Student on 7 November 2013 and his leave in this capacity was subsequently extended until 7 May 2017. On that day he applied for further leave to remain on the basis of his family and private life rights. His application was refused on 10 January 2018 and he applied for asylum on 17 February 2018.

2. His application was refused on 9 August 2019 and he appealed against this decision. First-tier Tribunal Judge Raymond dismissed his appeal in a decision promulgated on 21 October 2019. The Appellant appealed and First-tier Tribunal Judge Holmes granted him permission to appeal to the Upper Tribunal on 16 December 2019.

ERROR OF LAW HEARING

3. Counsel for the Appellant relied upon a skeleton argument, dated 11 February 2020 and both he and the Home Office Presenting Officer made oral submissions and I have taken these into account when reaching my decision below.

ERROR OF LAW DECISION

4. The Appellant’s first ground of appeal asserted that the Judge had failed to take any or any adequate account of highly material evidence or consider it in the context of the background evidence about Bangladesh.
5. In paragraphs 81 to 86 of the refusal letter the Respondent had accepted that the Appellant was presently an Assistant Social Welfare Secretary for the Bangladesh Nationalist Shecchashebok Dal and that he had taken part in demonstrations calling for the release of Khaleda Zia and Tarique Rahman. She also accepted that he had submitted several online news and newspaper articles, photographs and Facebook posts which confirmed that he was engaged in *sur place* political activities in the United Kingdom.
6. The Respondent had also found that the articles which the Appellant had submitted did not talk about him individually or provide any specific details about the nature of his political activities. I find that this is not the case as translated extracts from two of these articles, at pages 273 and 279, name the Appellant as one of a small number of individuals who had

taken part in protests in London and whose identities were known by the Bangladesh High Commission and government intelligence agencies.

7. In his decision, First-tier Tribunal Judge Raymond failed to take into account the volume and detail of the documentary evidence in the Appellant's Bundle and erroneously found in paragraph 50 of his decision that the local articles merely showed the Appellant to have attended events with very many other people.
8. The Judge also failed to assess whether there was a connection between the Appellant's *sur place* activities, threats which the Appellant had received on Facebook, the raid on his family's home in Bangladesh, the false accusations in the FIR, the warrants for his arrest and the wanted posters. This was a particularly important lacuna in the context of actions against him in Bangladesh following from his attendance at protest events in London and the fact that the Human Rights Watch report "*Creating Panic*" *Bangladesh Election Crackdown on Political Opponents and Critics*, confirms that the present government of Bangladesh regularly brings false charges against opponents known to be abroad, as a means of intimidating and persecuting them. The Judge also failed to give appropriate weight to paragraph 6.1.1. of the Respondent's own CPIN *Bangladesh: Opposition to the government*, January 2018, which stated that "the years since the 2014 elections [had] been marked by an increasing tendency to penalize dissent".
9. This was clearly a basic error of law as the Appellant's individual circumstances had to be considered in the context of relevant objective and country evidence.
10. In relation to the second ground of appeal, it is the case that the Judge concentrated his analysis on evidence related to events in Bangladesh, including the video said to be of a raid on the Appellant's home in Bangladesh by the police, the wanted posters and a hospital record of an injury suffered by the Appellant in 2009. When doing so he also failed to consider the evidence in the context of the objective evidence, such as the Human Rights Watch report. For example, when considering what weight to give to the video he speculated that, if this was a true record of a police raid, the family home would have been ransacked and his father "roughed up". In the alternative, in paragraph 34 of his decision, he also sought to re-interpret the incident as being no more than "an over exuberant couple of policemen knocking on a

door at night”. The Judge relied on his own assumptions about what would happen in Bangladesh to find that the scene caught on the video “was a cynically stage-managed event”.

11. The Judge also erred by appearing to acquire further corroborative evidence when his task was to consider the written, oral and documentary evidence before him in the light of the objective evidence.
12. For all of these reasons I find that First-tier Tribunal Judge Raymond’s decision did contain errors of law.

DECISION

- (1) The Appellant’s appeal is allowed.
- (2) Counsel for the Appellant invited me to go on to allow the Appellant’s appeal without a further hearing, but I declined to do so as time was needed to review the evidence ignored by First-tier Tribunal Judge Raymond and also the new evidence which the Appellant now wished to rely upon.
- (3) Therefore, as the credibility findings of the Judge were central to the decision, which has been set aside, the appeal is remitted to the First-tier Tribunal to be heard *de novo* before a First-tier Tribunal Judge other than First-tier Tribunal Judge Raymond or Holmes.

Nadine Finch

Signed
Upper Tribunal Judge Finch

Date 20 February 2020