



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2022-005621

First-tier Tribunal Nos: PA/55134/2021  
IA/15524/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 17 September 2023**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE JUSS**

**Between**

**Md J A T**

**(ANONYMITY ORDER MADE)**

**and**

**The Secretary of State for the Home Department**

Appellant

Respondent

**Representation:**

For the Appellant: Ms A Bachu (Counsel)

For the Respondent: Mr P Lawson (Senior Home Office Presenting Officer)

**Heard at Birmingham Civil Justice Centre on 27 July 2023**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, [the appellant] (*and/or any member of his family, expert, witness or other person the Tribunal considers should not be identified*) is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the appellant, likely to lead members of the public to identify the appellant (*and/or other person*). Failure to comply with this order could amount to a contempt of court.**

## **DECISION AND REASONS**

1. This is an appeal against the determination of Judge Chohan, promulgated on 26<sup>th</sup> September 2022, following a hearing at Birmingham Civil Justice Centre on 16<sup>th</sup> September 2022. In the determination, the judge dismissed the appeal of the Appellant, whereupon the Appellant subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

### **The Appellant**

2. The Appellant is a male, a citizen of Bangladesh, who was born on 8<sup>th</sup> September 1998. He appeals against the refusal of a decision of the Respondent to grant him his protection claim, in a decision dated 8<sup>th</sup> October 2021.

### **The Appellant's Claim**

3. The essence of the Appellant's claim is that he is a member of the Bangladesh National Party (BNP), where he claims to have been engaged in the recruitment of new members. He gave a speech, as he claims, at a rally on 11<sup>th</sup> June 2019, against the ruling government, headed by the Awami League. The police broke up the rally and the Appellant was arrested, and subsequently beaten and ill-treated. He was taken to court on 17<sup>th</sup> June 2019, but the court bailed him after payment of 20,000 takas by his father, because the police had no charge sheet. Upon his release, the Appellant applied for a student visa to come to the UK, which application was granted, on a visa valid until 19<sup>th</sup> August 2020, and the Appellant arrived in the UK on 18<sup>th</sup> September 2019. However, when the Appellant's sponsorship was withdrawn on 7<sup>th</sup> November 2019, and his visa stood to be curtailed, he claimed asylum on 14<sup>th</sup> January 2020. The Appellant now fears that return to Bangladesh would put him at risk at the hands of the Awami League and the Bangladeshi authorities.

### **The Judge's Findings**

4. The judge gave no less than six reasons for refusing the Appellant's claim. First, that at his screening interview he claimed to have been involved in politics since 2012, when he would have been 14 years of age (as stated in his witness statement), but during his asylum interview he claimed that he was introduced to the BNP in college in 2017, when he would have been 19 years of age. Second, on the one hand the Appellant claimed (AIR, Q.131) that he attended all meetings of the BNP and quickly moved up the ladder and was given a job by them. On the other hand he also claimed (AIR, Q.133) that he had no specific role or type of role or title and was simply responsible for recruiting new members. Third, if the Appellant was arrested on 17<sup>th</sup> June 2019 (as he claimed, following the demonstration against the Awami League on 11<sup>th</sup> June 2019), his claim to have then come out of jail in August 2019, two months later (AIR, Q.13), did not make sense. In fact, the Appellant in his witness statement (at paragraph 25) maintains that on 17<sup>th</sup> February 2020 he received the court judgment of seven years' imprisonment, but in the same witness statement (at paragraph 28) he also went on to say that the court sentence was in June 2020, which made no sense whatsoever. Fourth, the court judgment itself is dated 13<sup>th</sup> June 2021, and not 17<sup>th</sup> February 2020, and the Chief Magistrates' document also refers to an incident on 11<sup>th</sup> June 2017, and not to an arrest on 11<sup>th</sup> June 2019. Fifth, as regards the Appellant's release from detention, he relied on a document entitled

“bail bond”, dated 17<sup>th</sup> June 2017, where the Appellant promises to present himself to the court on 15<sup>th</sup> July 2017. However, if the incident happened in 2019, and not 2017, this does not make sense. Furthermore, the Appellant had always maintained that he had been released without any conditions, so again this did not make sense. Sixth, the arrest warrant refers to the Appellant’s conviction and sentence, but there is no mention of the date of the conviction and sentence. Although the Appellant’s Advocates’ letter of 3<sup>rd</sup> July 2021 refers to the Appellant’s case being heard on 23<sup>rd</sup> December 2019, on 6<sup>th</sup> January 2020 and on 9<sup>th</sup> February 2020, there is no reference therein of when the Appellant’s sentence took place. For all these reasons, the judge dismissed the appeal.

### **Grounds of Application**

5. The grounds of application state that the judge failed to consider important evidence which affected his findings on credibility. On 18<sup>th</sup> November 2022 permission to appeal was given by Judge Lodato in the First-tier Tribunal on the basis that the judge had failed to consider the correspondence from the BNP student wing in Bangladesh, supporting the Appellant’s allegation of torture and ill-treatment before he left the country. Permission was also given on the basis that the judge had proceeded to hear the appeal without an interpreter, even though a request had been made in advance and the Appellant made plain his desire to be assisted by an interpreter, which raised an issue of procedural unfairness.

### **Submissions**

6. At the hearing before me on 27<sup>th</sup> July 2023, Ms Bachu, for the Appellant, drew my attention to a Rule 15 statement from the Appellant which had just arrived this morning. This states that,

“On the day of my hearing, I was told that there was no Bengali interpreter of Sylheti dialect was available despite requesting one. I was encouraged by the judge, that since I had a decent understanding of English from my time as a student in the UK, I should consider giving my testimony in English. The judge also offered his support if I were to get stuck.” (At paragraph 2).

7. The Appellant’s statement goes on to say that, “I felt uncomfortable speaking in English directly because my asylum claim was very important to me, and I wanted to make sure I expressed myself accurately” (paragraph 3). He goes on to say that, “I wasn’t familiar with how the UK court processes work, which added to my nervousness during the hearing ...” (at paragraph 5). The statement is dated 26<sup>th</sup> July 2023. Ms Bachu submitted that, “What he is saying is that the judge encouraged him to go ahead”, although “the appellant is not disputing that he agreed to go ahead but that he did so reluctantly ...”. She submitted that “there is a fairness point here”. Mr Lawson, for the Respondent, stated that he had the Presenting Officer’s note of the day. This states that, “*case heard. It proceeds as appellant spoke very good English and it was accepted by his own representative that he could continue to the correct level.*” Mr Lawson also submitted that insofar as there had been a request earlier, the judge had expressly explained that it was a request for an interpreter for the witness present – but not for the Appellant.
8. Second, Ms Bachu submitted that the judge had failed to factor into his assessment of the Appellant’s credibility other evidence, such as the Appellant’s

father's affidavit (at page 38), and he also had not referred to the documentation from Bangladesh, including the student wing of the BNP (at page 70). There was also the Appellant's lawyer's letter (at page 34) which had not been considered. The Appellant's *sur place* activities were rejected even though there were UK letters commenting upon his involvement in seminars.

9. In reply, Mr Lawson submitted that the judge did consider at length the evidence in the round, and it is well-established that he does not have to consider everything individually, before making his findings. Insofar as witnesses were not cross-examined, it is well-established in the case law that the absence of cross-examination does not imply acceptance of the evidence. The judge had plainly rejected the Appellant's involvement with the BNP (at paragraph 9) and he had done so expressly on the basis of the Appellant's own evidence. For example, in the screening interview, the Appellant states that he was involved with the BNP as early as 2012, but in his asylum interview he states that this only happened seven years later in 2019 when he was at college. As for the Appellant's *sur place* activities in the UK, the judge expressly refers to three letters from the BNP (at paragraph 19) and rejects them. In short, this was nothing more than a disagreement with the judge's findings.
10. In reply, Ms Bachu submitted that the fact that the judge had found (at paragraph 19) that the Appellant was not involved in any antisocial activities in Bangladesh, does not mean to say that he was not involved in such activities for another organisation (see page 70 which refers to his being attacked).

### **No Error of Law**

11. I am satisfied that the making of the decision by the judge did not involve the making of an error on a point of law. My reasons are as follows. First, there is the important issue at the outset of whether the judge erred in proceeding with the Appellant's evidence in the absence of an interpreter. There is nothing in this point. The judge's analysis of this issue bears full consideration:

"At the commencement of the hearing, Mr Martin [for the appellant] stated that oral evidence would be given by the appellant, his sister, Mrs Fahmida Akhter Najmin, and a witness by the name of Mr Abdul Hamid Khan Heaven. However, Mr Martin pointed out that Mr Heaven would require an interpreter. I pointed out to Mr Martin that an interpreter had not been requested and furthermore, the witness statement of Mr Heaven did not indicate that an interpreter had been used to translate his witness statement. Mr Martin requested a few minutes to take instructions, which I granted. When the tribunal reconvened, Mr Martin maintained that Mr Heaven required an interpreter. However, Mr Evans made it clear that he would not have any cross-examination for Mr Heaven. In the circumstances, Mr Martin did not make an application for an adjournment." (At paragraph 4).

12. It is clear from this that Mr Martin only requested an interpreter for Mr Heaven. When the judge made it clear that the Respondent did not wish to cross-examine Mr Heaven, Mr Martin proceeded without making an application for an adjournment. As far as the Appellant himself was concerned, it is clear that, in a case where the Appellant was represented by Counsel, there was agreement to proceed with the Appellant giving evidence in English. This is indeed confirmed by the note of the Presenting Officer that Mr Lawson has read out before me today.

13. Second, as far as the findings of the judge in themselves are concerned, it is well-established that all that the Appellant needs to know is why he failed or succeeded on his claim. The judge made this amply clear in the six reasons that I have cited above, by relying on the Appellant's own evidence, which was so discrepant as to be wholly unreliable with respect to the claim that was being put forward. For example, not only did the Appellant provide discrepant evidence as to whether he joined the BNP when he was 14 years of age or whether he was 19 years of age, but in relation to an alleged demonstration against the Awami League on 11<sup>th</sup> June 2019 the Chief Magistrate in Sylhet provides a document referring to an incident in 2017, and not in 2019. The same is the case with respect to the bail bond which is dated 17<sup>th</sup> June 2017, and not 2019. A document from the Human Rights Development Association (HRDA) of Bangladesh, dated 30<sup>th</sup> June 2021 also confirms that the Appellant had not been involved in any antisocial or anti-state activities, which the judge said was "somewhat odd bearing in mind that it is the Appellant's claim that he had been involved in political activities, particularly targeted at the ruling party, the Awami League" (at paragraph 19). Ultimately, the Appellant has to demonstrate that any alleged error by the judge is a material one which would have altered the outcome of the decision. On the facts here, this is simply not the case.

### **Notice of Decision**

14. There is no material error of law in the judge's decision. The determination shall stand.

**Satvinder S. Juss**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**12<sup>th</sup> September 2023**