



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER

Case No: UI-2022-006591

First-tier Tribunal No:
HU/54702/2021
IA/11772/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:

17th October 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

SUFIA BEGUM

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Walsh (Counsel)

For the Respondent: Mr E Tufan (Senior Home Office Presenting Officer)

Heard at Field House on 19th September 2023.

DECISION AND REASONS

1. The Appellant was born on the 18th of September 1945, she is a citizen of Bangladesh. Her immigration history is set out in the First-tier Tribunal decision of Judge Dyer of the 12th of September 2022. Having arrived in the UK on a visit visa in 2012 the Appellant had overstayed and applied to remain in the UK on human rights grounds in December 2020. The application was refused and the Appellant's appeal heard by Judge Dyer who dismissed the appeal on all grounds in the decision of September 2022.
2. The Appellant sought permission to appeal to the Upper Tribunal in grounds of the 20th of September 2022. The Appellant's argument is that the Judge erred in the approach to the likelihood of the Appellant facing harassment arising from the targeting of family political activities in Bangladesh. It is

argued that the Judge had selectively quoted from the expert's report at paragraph 25. It is asserted that the Judge erred and failed to provide adequate reasons for finding that her vulnerability as an elderly female living alone and paragraph 276ADE. It is also argued that the Judge did not take into account the best interests of the Appellant's grandchildren living in the UK. Permission to appeal was granted by Judge Murray on the 4th of January 2023.

3. At the hearing Mr Walsh referred to paragraphs 17 to 19 in which the Judge quoted from the report of Dr Hoque and at paragraph 20 had referred to his conclusion at its highest. The discussion was at paragraph 23. Referring to the decision in the appeal by Shafique the findings at paragraph 71 were that he had been targeted by the Rapid Action Battalion (RAB) and at paragraph 72 that he had not been a high profile member but held mid-rank positions.
4. The other issue Mr Walsh focussed on in his oral submissions was the finding in paragraphs 21 and 22 that the Appellant would not face very significant obstacles if returned to Bangladesh. He contrasted paragraphs 21 and 22 with paragraph 11, it was argued that for the position of the grandchildren in article 8 to be sustainable their best interests had to be addressed and that included that their grandmother remain here. This was supported by the Independent Social Worker in the report at paragraph 4.11 and following.
5. For the Home Office Mr Tufan submitted that the mistake over the harassment of Shafiqur was not material. The Appellant had not mentioned that or being harassed until years later, it was not credible. Dr Hoque's evidence was that family's are not ordinarily mistreated, paragraphs 20 and 25. Whether it was 1 or 2 was not material and the previous finding was that he was at a low level and parts of the account were rejected.
6. Turning to family life the best interests of the grandchildren had been considered. The evidence was summarised in paragraph 11 and family life was then discussed in paragraph 22 where section 55 was mentioned, there was further discussion at paragraph 48 and proportionality was addressed.
7. In reply Mr Walsh said that the point was that this was a BNP family, the Appellant had not previously been targeted, in general a family would not be targeted but there were exceptions.
8. The Judge cited the evidence of Dr Hoque accurately and fully in paragraphs 18 and 19. His observations were that "ordinarily, to my knowledge, family members of BNP members/activists are not targeted..." Given that there were targeted 2 family members the claim she may be harassed was plausible. In paragraph 19 it was added that as a lone female she would be in the most vulnerable social group in Bangladesh. The summary that followed in paragraph 20 putting the conclusions at its highest was an accurate summary of the report.
9. Paragraph 25 has to be read in the context that the Judge had set out the relevant parts of Dr Hoque's report in full and the summary in paragraph 20 put it at its highest, in the quotes the reference to there being 2 family

members was clear. The findings of Judge Hussain in the case of Shafiqur are limited as indicated and a significant part of his case, that relating to false charges, was rejected as incredible. He was not a high profile individual. The Judge had regard to the Appellant's account and, appropriately, previous decisions and the fact that the Appellant's daughter lives in Bangladesh and had not complained of harassment. That Dr Hoque believed the claim was plausible did not alter his observation that in general such harassment did not take place and in line with that observation there was no evidence that the family member in Bangladesh had suffered. On the evidence the Judge was entitled to find that the evidence did not show that there was a real risk of the Appellant being targeted. The reference to 1 son having been targeted was not material.

10. So far as the position of the grandchildren's best interest it is clear that these were addressed directly. The assessment was made against the evidence of the Appellant's actual level of involvement in their lives. This is set out in paragraph 11 and now these days the Appellant "just sits down and watches them whilst they play." The Appellant no longer has a caring role.
11. Against the background of such a limited role the Judge addressed the situation in paragraph 22. The Judge accepted that the Appellant's return would have a negative impact on the family but observed, correctly, that it would be in the children's best interests to remain with their parents. The children would not be expected to leave the UK and live in Bangladesh but could visit.
12. It is clear that the Judge had regard to the circumstances of the Appellant, her immigration history and the position of her grandchildren. In the light of the Appellant's actual involvement in the children's lives the finding that the enforcement of immigration control was not contrary to their best interests was open to the Judge for the reasons given.
13. The observations by Dr Hoque about the Appellant's position if returned to Bangladesh as an elderly single woman without male protection were made on assumptions about her position based on his understanding of what the position would be. However, as the Judge noted at paragraph 26, there was no evidence from the Appellant's son-in-law to support the claim that she would be refused to have her at his home.
14. The Judge was faced with "significant gaps in the evidence about the Appellant's family life...". In those circumstances the Judge was entitled to find that the evidence did not justify a finding that she would be returning to Bangladesh as a lone female without male protection. The findings that followed under paragraph 276ADE and article 8 outside the Immigration Rules followed from the findings made and were not in error.

Notice of Decision

15. For the reasons given above the decision of Judge Dyer did not contain material errors of law and stands as the disposal of the Appellant's appeal.

Judge Parkes

Judge of the Upper Tribunal
Immigration and Asylum Chamber

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10th October 2023