IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-003322

First-tier Tribunal No: HU/53383/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

23rd October 2023

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MOHAMMED MATAB UDDIN
(ANONYMITY ORDER NOT MADE)

Respondent

Representation:
For the Appellant: Mr. N. Wain, Senior Home Office Presenting Officer
For the Respondent: Mr. S. Karim, Counsel instructed by Liberty Legal Solicitors LLP

Heard at Field House on 3 October 2023

DECISION AND REASONS

1. This is an appeal by the Secretary of State against a decision of First-tier Tribunal Judge Atreya (the "Judge"), dated 15 March 2023, in which she allowed Mr. Uddin's appeal against the Secretary of State's decision to refuse leave to remain on human rights grounds. Mr. Uddin is a national of Bangladesh who applied for leave to remain on the basis of his private life.

2. For the purposes of this decision I refer to the Secretary of State as the Respondent and to Mr. Uddin as the Appellant, reflecting their positions as they were before the First-tier Tribunal.

3. Permission to appeal was granted by First-tier Tribunal Judge Oxlade in a decision dated 2 August 2023 as follows:

> "The grounds disclose arguable material errors of law for the following reasons: the Judge
>
> > (i) failed to engage with evidence filed by the Respondent which addressed the reasons for the Appellant's leave as a student being curtailed, which was not due to the ETS proxy problems, but the student's own failure to attend;
> >
> > (ii) conflated asserted historic injustice as reasons to find that there would be very significant obstacles, without assessing the likely circumstances of return to Bangladesh, which is the appropriate focus in R 276ADE(1)(vi) of the Rules;
> >
> > (iii) failed to consider Article 8 ECHR in the alternative by reference to s117B, and to consider the immigration history, the weight to be given to the public interest in the maintenance of effective immigration control, and that little weight should be given to a private life established when in the UK without leave.
>
> 3. There are arguable errors of law and so permission to appeal is granted."

The hearing

4. The Appellant attended the hearing. I heard oral submissions from Mr. Wain and Mr. Karim, following which I stated that found the decision involved the making of a material error of law. I set the decision aside. I then heard oral evidence from the Appellant, and further submissions from both representatives before reserving my decision on the remaking of the appeal.

Error of law

5. I note at the outset that it does not appear that the Judge proofread her decision, and that while this does not always make a material difference, in this case I find that it lends weight to the submissions that the Judge did not give proper consideration to the appeal before her. For example, there are unfinished sentences at [7] and [13] which read as follows:

> "The respondent's case is that the appellant"
>
> "Counsel for the appellant made detailed submissions and adopted h"

6. At [12] she appears to have quoted some of the Appellant's evidence but the sentence does not make sense:

> "The appellant has been here since 2009 and has been held back in his education and I wont have a good life there. I want to establish my life in the UK."

7. Paragraphs [13] to [17] similarly do not have complete sentences:

> "The appellant is credible and the ETS saga and whilst no deception allegations. The appellant took an ETS test and was subsequently victimised because he couldn't obtain any further sponsorship because of the ETS saga. Newsnight (p 158)

> On page 174 ministerial statement of Sajid Javid may have been caught up who did not cheat but was caught up. Nature of ETS scandal that employers did not want to touch him
>
> ETS saga has had a wide ranging effect from 181 many sponsors lost their licence – left the appellant in a bit of quandry
>
> Page 23 /para 8 he could not extend his leave when queensbury college lost his licence he couldn't get a sixty day extension"

8. Mr. Karim in his submissions stated that paragraphs [14] to [16] set out the basis of the Appellant's case. However, the Judge did not set out the Respondent's case at all.

9. The grounds assert that the Judge failed to engage with the Respondent's decision and the evidence put forward by the Respondent. The grounds state:

> "The FTTJ has failed to engage with the reasons for refusal, review, CID screen shots and evidence that leave was not granted due to the appellant being tarnished with the ETS brush but due to non-compliance, failure to attend classes, the college had its licence revoked, the appellant's failure to contact the Home Office and ensure he had lawful leave."

10. I have set out above that the Judge left the sentence unfinished when setting out the Respondent's case. I find that this is indicative of the fact that she did not properly consider the basis of the Respondent's case as set out in both the decision and the Review. In her findings the Judge has focused solely on the alleged historical injustice suffered by the Appellant because he was caught up in the ETS episode. She is aware that there was no allegation of deception against the Appellant, but she finds at [20] that the Appellant "has been derailed in his educational plan because he has been caught up as a victim in the ETS saga". She makes no reference to the issues outlined by the Respondent in her decision.

11. At [22] to [24] the Judge sets out her reasons for this:

> "I accept his account that because he used an ETS certificate sponsors were not willing to sponsor him and tarred him with the same brush as others. I accept there has been no deception on his part and the evidence from the BBC is that innocent people have suffered prejudice as a result of their ETS test and the ministerial statement at [ag4e (sic) 145 states that *"some people who did not cheat may have got caught up"*
>
> I accept the appellant falls into this category because he did not have any ETS allegation made against him by the respondent but by the very nature of the ETS saga sponsors did not offer him sponsorship when they found out he had used an ETS certificate in the context of many colleges and sponsors losing their licences at the time. Put in another way the appellant was not touched with a barge pole because of his ETS certificate and the ETS saga at the time.
>
> I accept that the respondent's own policy accepted that individuals such as the appellant was caught up in the system as confirmed in a ministerial statement and beyond that the respondent agreed to give an opportunity to these people. This has not been disputed by the respondent at any stage of the appeal."

12. In her decision the Respondent stated that the Appellant's leave "was curtailed on 28 March 2014 because you failed to report to Docklands College in that semester and your sponsor subsequently withdrew sponsorship from you, not

because you had submitted a ETS TOEIC certificate". The Respondent went on to state:

> "You then subsequently gained CAS from Queensbury College for new Sponsorship which was valid from 19th June 2014 to 23rd February 2016. Once this leave expired you consciously decided to overstay in the UK.
>
> The Home Office does not accept this overstaying had any connection to ETS TOEIC certificate as you subsequently gained sponsorship with a college up to 2016, post-curtailment. Your previous T4 General student leave that was curtailed had no link to ETS TOEIC, it was due to non-compliance of the Visa you were issued."

13. The Judge has made no reference to this in her decision. She has made no findings as to the reasons for the curtailment of the Appellant's visa, but has assumed that all of his alleged problems in obtaining further leave were caused by the fact that he had an ETS certificate. The Respondent had submitted evidence from her CID system which showed that the reason for the curtailment of the Appellant's visa was because he had not attended his course. The Judge failed to consider this evidence when finding that he was a victim of the ETS saga by virtue of having an ETS certificate.

14. The Appellant subsequently obtained another student visa, as set out above. In his witness statement he states that he "could not extend my leave to remain thereafter as the Respondent revoked the sponsorship licence of Queensbury College in June 2014 [same month I was granted leave to remain]."

15. Again the Judge has made no findings on this issue. While it was the Respondent who removed the licence from the college, had the Appellant attended his first course and his visa not been curtailed, he would not have been in this position. However the Judge does not consider this but assumes that all of the problems the Appellant claims to have encountered were due to having an ETS certificate.

16. I find that the Judge has failed to engage with the Respondent's decision and the evidence provided. I find that this is a material error of law.

17. The Judge sets out her consideration of paragraph 276ADE(1)(vi) and whether the Appellant could return to Bangladesh at [26] and [27]:

> "I accept that the Appellant has got caught up in the ETS episode and could not progress his academic studies and life in the UK as a result of being perceived to have been deceptive in his applications could not complete his studies and fulfil the aims for which he came to the UK and invested time and money. The very purpose he came for was denied him. In the 14 years he has been in the UK he has worked, contributed to the economy and built ties to the UK.
>
> The respondent analyses that his residence in Bangladesh up to the age of 40, his ability to speak the language and knowledge of life and culture mean that he would not face significant obstacles to reintegrating.. However I disagree. Th appellant has clearly suffered a significant injustice in the UK. He came to study and develop his personality, thinking and opportunities and was diminished by what he perceives as his failures not to have been able to pursue his academic studies and now be in debt. I find that he will not be able to meaningfully participate in society in Bangladesh until he has had an opportunity to pursue academic studies in the UK and remedy the injustice."

18. The Judge confirms at [29] that it is due to the injustice he has suffered "by not being able to pursue and complete his education before returning to Bangladesh" that there would be very significant obstacles to his integration in Bangladesh. The Judge has failed to adequately explain why this would prevent him from reintegrating into Bangladesh, or why he could not "meaningfully participate in society". She has failed to consider his circumstances as a whole. She has found that he was a "barrister/advocate" in Bangladesh [21], yet she now finds that someone with this level of education, who has lived in Bangladesh for the majority of his life, will be unable to "meaningfully participate in society" on account of not being able to complete his education in the United Kingdom. She has dismissed the factors taken into account by the Respondent. I find that this failure to consider his circumstances on return to Bangladesh, and the failure to explain how his inability to complete his education amounts to a "very significant obstacle", is a material error of law.

19. It was submitted by Mr. Wain that the Judge had erred in finding that the Appellant had suffered historical injustice in any event. He referred to the case of Ahmed (historical injustice explained) [2023] UKUT 00165 (IAC). This case was promulgated on 3 July 2023 after the Judge's decision, but further clarifies Patel (historic injustice; NIAA Part 5A) India [2020] UKUT 351 (IAC) to which the Judge has referred. She cited [3] of the headnote to Patel which states that "*Cases that may be described as involving "historical injustice" are where the individual has suffered as a result of the wrongful operation (or non-operation) by the Secretary of State of her immigration functions*".

20. I find that the Judge has not shown how the Appellant has suffered "as a result of the wrongful operation (or non-operation) by the Secretary of State of her immigration functions". The curtailment of the Appellant's leave was due to his failure to attend his course. The Judge has not identified any "wrongful operation (or non-operation) by the Secretary of State of her immigration functions".

21. As submitted by Mr. Wain, it is difficult to see how the Respondent's investigation of ETS amounts to a "wrongful operation (or non-operation) by the Secretary of State of her immigration functions". The investigation into ETS was not the fault of the Secretary of State. He further submitted that the Appellant did not have to use his ETS certificate but could have used an alternative provider. However he had not done so. The Appellant had not shown how his inability to complete his education was linked to the actions of the Respondent in the course of her immigration functions, and therefore the Judge had not identified any historical injustice.

22. I find that the failure to explain how the Appellant has suffered historical injustice with reference to the relevant caselaw, which the Judge had cited in her decision, is a material error of law. Further, consideration of historical injustice is a matter for Article 8 outside of the immigration rules. It does not fit into a consideration of whether there would be very significant obstacles to an individual reintegrating into their country of origin.

23. Mr. Karim submitted that even if there was an error of law in the Judge's consideration of paragraph 276ADE(1)(vi), this was not material because she allowed the appeal under Article 8 outside the immigration rules having carried out a proportionality assessment. However, as set out above, while the consideration of any historical injustice would fall to be considered in the proportionality exercise, I have found above that the Judge failed to show how the

Appellant was the victim of historical injustice with reference to the relevant caselaw.

24. Further, the Judge made errors in her findings relating to section 117B. At [34] she has erred when stating that "The appellant has entered lawfully and behaved in accordance with immigration laws at all times. However his leave has been precarious and he has no right to remain in the UK." This reflects her finding at [21] that "It is not disputed that he has lived in the UK for 14 years lawfully and/or with the authority of the state". This is incorrect. Earlier in the decision she has set out that he was last granted leave from 13 June 2014 to 23 February 2016. The Appellant has not had leave to remain, and therefore has not "behaved in accordance with immigration laws" since 2016. The Appellant admits in his statement at [9] that he has been an overstayer since 2016. I find that this error is material to her consideration of the proportionality of the Respondent's decision.

25. Taking all of the above into account, I found that the grounds were made out.

Remaking

26. I heard oral evidence from the Appellant. He adopted the contents of his witness statement and was cross-examined by Mr. Wain. There was no re-examination.

27. I have taken into account the documents contained in the Respondent's bundle (59 pages, "RB"), the Respondent's Review, the CID notes dated 28 March 2014, the documents contained in the Appellant's bundle (180 pages, ending with the ETS Casework instructions from page 164, and the Respondent's decision from pages 175 to 180, "AB"), and the Skeleton Argument dated 29 November 2022.

28. The issues before me, as agreed by the representatives, are whether the Appellant meets the requirements of paragraph 276ADE(1)(vi) and/or whether his appeal falls to be allowed outside the immigration rules under Article 8.

29. The burden of proof lies on the Appellant to show that the Respondent's decision is a breach his right to a private life under Article 8 ECHR. The standard of proof is the balance of probabilities.

<u>Immigration rules</u>

30. In order to meet the requirements of paragraph 276ADE(1)(vi), the Appellant must show that there are very significant obstacles to his integration into Bangladesh.

31. I have considered the Appellant's circumstances on return. I find that he is 44 years old. I find that he came to the United Kingdom in 2009 when he was 30 years old (not 40 as stated by the Respondent in her decision). I find that he spent the first 30 years of his life in Bangladesh, including his childhood, formative years, and over ten years of his adult life. I find that he is educated to a high level and qualified as an advocate/ barrister in Bangladesh. He obtained some further qualifications in the United Kingdom. He gave evidence that he had no medical conditions and was not seeing a doctor. I find that he is healthy. I find that his parents remain living in Bangladesh. He gave evidence at the hearing that he had contact with family and friends living in Bangladesh. I find that he speaks the language spoken in Bangladesh.

32. I find that the Appellant has not lived in Bangladesh for 14 years. However given my findings above I find that this in of itself will not present him with very significant obstacles to his reintegration. He is a healthy 44 year old man who has previously worked in Bangladesh, albeit some 14 years ago. He has no medical conditions that will prevent him from finding work. I find that he will have support from family and friends while he reintegrates into life in Bangladesh. He has strong family, social, cultural and linguistic ties to Bangladesh. I find that the Appellant has failed to show that there would be very significant obstacles to his reintegration into Bangladesh.

Article 8

33. I have considered the Appellant's appeal under Article 8 in accordance with the case of Razgar [2004] UKHL 27. It was not submitted that the Appellant had a family life in the United Kingdom. In relation to his private life, I find that the Appellant has been in the United Kingdom for fourteen years and has built up a private life during this time sufficient to engage the operation of Article 8, albeit that I have limited evidence of this private life. I find that the decision would interfere with his private life.

34. Continuing the steps set out in Razgar, I find that the proposed interference would be in accordance with the law, as being a regular immigration decision taken by UKBA in accordance with the immigration rules. In terms of proportionality, the Tribunal has to strike a fair balance between the rights of the individual and the interests of the community. The public interest in this case is the preservation of orderly and fair immigration control in the interests of all citizens. Maintaining the integrity of the immigration rules is self-evidently a very important public interest. In practice, this will usually trump the qualified rights of the individual, unless the level of interference is very significant. I find that in this case, the level of interference would not be significant and that it would be proportionate.

35. I have taken into account all of my findings above. In assessing the public interest I have taken into account section 19 of the Nationality, Immigration and Asylum Act 2002. Section 117B(1) provides that the maintenance of effective immigration controls is in the public interest. There is a significant public interest in refusing leave to remain to those who do not meet the requirements of the immigration rules. However, the weight to be given to the public interest in the maintenance of effective immigration controls would be less were the Appellant to have suffered historical injustice, and therefore I have carefully considered whether the Appellant has suffered historical injustice as claimed.

36. I find that the Appellant's leave was first curtailed because he failed to attend his college. I have considered the evidence provided by the Respondent consisting of the CID note dated 28 March 2014. This indicates that the Appellant's sponsorship was withdrawn as "student not reported to the present semester". It is curtailed with reference to paragraph 323A(a)(ii)(2) and 323(ii) "where the student has stopped attending/ deferred their course".

37. I find that the reason that the Appellant's course at Docklands College was curtailed had nothing to do with the fact that he had an ETS certificate but was due to his failure to attend. The Appellant gave evidence in his witness statement and at the hearing that Docklands College had not provided a quality education. It was a "bogus college". He said that he was threatened by them when he raised the issue of the quality of the education they were providing. He

had attended the college, but there was no teaching, just an office. He alleged that he had been threatened by the college and that it had been a personal attack on him.

38. I have no evidence to corroborate these claims. The Appellant has provided no evidence to show that Docklands College was a "bogus college", nor that it consisted of just an office, with no teaching taking place. I do not find it credible that he was personally targeted. Even if this were the case, the point still stands that it was not action or inaction on the part of the Respondent that led to the Appellant's leave being curtailed.

39. In any event, I find that the Appellant was granted another student visa by the Respondent after this. The Appellant states in his witness statement "As part of that application, I submitted the English language test result from Trinity College, London" [7]. At [13] he refers to having an IELTS test certificate. I find that this evidence was contradicted by his evidence at the hearing. When he was asked why he had not obtained an alternative English language certificate, he said that it was a long process to get an alternative, which is why he had chosen ETS/ TOEIC. He was asked whether the reason he had not obtained an alternative certificate was because it would have taken longer, and he replied "yes". He was asked whether he could have obtained an alternative certificate, and he replied "yes". I find it casts doubt on his credibility that he has claimed in his witness statement that he submitted a test result from Trinity College, and also refers to having an IELTS certificate, but also that he did not obtain an alternative certificate as it would have taken too long.

40. On the evidence in the Appellant's witness statement, in 2014 he obtained sponsorship from another college by submitting a Trinity College English language test result. There is a copy of a certificate issued by Trinity College on 5 June 2014 (page 15 AB). However, there was no reference to this in his evidence at the hearing, nor in Mr. Karim's submissions.

41. The Appellant asserts that this leave was then curtailed as the Respondent removed the sponsorship licence from the college. However, it does not appear that the visa was curtailed given that the Respondent's own evidence shows that his visa expired on 23 February 2016 (see the CID note dated 21 May 2020). He said in his statement that "at the same time, the Respondent published a policy where it was mandatory to have an academic process [….] I was stuck in the system again." The Appellant has not explained why the fact that the Respondent's policy now required him to show academic progress meant that he was "stuck in the system". It has not been submitted that this in any way amounts to an historical injustice, or that the Respondent was not entitled to introduce this policy.

42. The Appellant states at [9] of his witness statement:

> "I confirm that I became really scared by the Respondent ETS TOEIC investigation on that time. I knew I had submitted the ETS certificate as part of my application in 2013. I tried to take admission in several colleges and universities. I contacted many students' agents on those days. The first question I was asked if I have sat for ETS test. As soon as I responded yes, no sponsor agreed to process my eligibility for a course. Above all, my sponsor licence was revoked due to ETS TOEIC investigation by the Respondent."

43. This is the core of the Appellant's evidence in relation to his claim that he has suffered an historical injustice.

44. I have considered the case of Ahmed. The headnote states:

> "As is clear from the decision in Patel (historic injustice; NIAA Part 5A) [2020] UKUT 351(IAC), the phrase "historical injustice" does not connote some specific separate or freestanding legal doctrine but is rather simply a means of describing where, in some specific circumstances, the events of the past in relation to a particular individual's immigration history may need to be taken into account in weighing the public interest when striking the proportionality balance in an Article 8 case. In relation to the striking of the proportionality balance in cases of this kind we make the following general observations:
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> a. If an appellant is unable to establish that there has been a wrongful operation by the respondent of her immigration functions there will not have been any historical injustice, as that term is used in Patel, justifying a reduction in the weight given to the public interest identified in section 117B(1) of the Nationality, Immigration and Asylum Act 2002. Although the possibility cannot be ruled out, an action (or omission) by the respondent falling short of a public law error is unlikely to constitute a wrongful operation by the respondent of her immigration functions."
>
> b. Where the respondent makes a decision that is in accordance with case law that is subsequently overturned there will not have been a wrongful operation by the respondent of her immigration functions if the decision is consistent with the case law at the time the decision was made.
>
> c. In order to establish that there has been a historical injustice, it is not sufficient to identify a wrongful operation by the respondent of her immigration functions. An appellant must also show that he or she suffered as a result. An appellant will not have suffered as a result of wrongly being denied a right of appeal if he or she is unable to establish that there would have been an arguable prospect of succeeding in the appeal.
>
> d. Where, absent good reason, an appellant could have challenged a public law error earlier or could have taken, but did not take, steps to mitigate the claimed prejudice, this will need to be taken into account when considering whether, and if so to what extent, the weight attached to public interest in the maintenance of effective immigration controls should be reduced. Blaming a legal advisor will not normally assist an appellant. See Mansur (immigration adviser's failings: Article 8) Bangladesh [2018] UKUT 274 (IAC)."

45. I find that the Appellant has failed to establish that there has been a "wrongful operation by the respondent of her immigration functions". I find that he has failed to show that the action or inaction of the Respondent led to him having issues in obtaining sponsorship.

46. Mr. Karim relied on the ministerial statement and submitted that the Appellant was one of those people who had been caught up. The relevant part of the statement is found at page 155 of the Appellant's bundle and states:

> "Despite this, there have remained concerns that some people who did not cheat may have been caught up and I am aware that some people found it hard to challenge the accusations against them".

47. I have no evidence of any accusations being made against the Appellant. He has given no evidence that he was accused of cheating by anyone. Further, and

significantly, I have no corroborative evidence that the Appellant made any further applications or approached any other colleges in an attempt to obtain sponsorship beyond his statement that he did so. He has not given any details of which colleges he approached, how he approached them, or how they communicated to him that they would not process his application because of his ETS certificate, even though he did not have to rely on it. Given the difficulties which he claims to have experienced, it is reasonable to expect that he would have given more detailed evidence than that contained in his witness statement at [9]. At [13] of his statement the Appellant claims that he "attempted to convince that I have done alternative tests i.e. IELTS and Trinity college test". Again, he has given no details of who he attempted to convince.

48. Mr. Wain made submissions on the basis of the Appellant's oral evidence which was that he had not obtained an alternative English language certificate because it would have taken longer. On this basis Mr. Wain submitted that the Appellant had taken no action to mitigate the fact that he had an ETS certificate. With reference to (d) of the head note to Ahmed he "could have taken, but did not take, steps to mitigate the claimed prejudice". I agree with this submission. However, as set out above, the evidence in the Appellant's bundle shows that he did obtain an alternative English language certificate. I find that it casts doubt on his credibility that he did not admit to having done this at the hearing. I further find, given the lack of evidence of the steps the Appellant claims to have taken to secure sponsorship from other colleges, that the existence of these certificates is not enough to show that he took steps to mitigate the claimed prejudice.

49. The Appellant goes into much detail in his witness statement about the ETS test. At [21] he states that the Respondent "alleged everyone of fraudulent activity". However the Appellant has not been accused by the Respondent of fraudulent activity. At [23] he states:

> "I am a competent user of English and I have not used any deception. The Respondent still failed to provide any evidence against me. The allegation they made are just a mare (sic) comments against me, nothing else. Every time, I see the mess, I have gone through, I see only one to blame. That is the Respondent."

50. The Appellant has not provided evidence of the "mess" he has gone through. He has not provided evidence of how he has suffered beyond his witness statement, and I have found above that he has not been a reliable witness.

51. The Appellant's leave expired in February 2016. He made no attempts to regularise his stay after that, either as a student or on some other basis. He was encountered by the Respondent in May 2020 and placed on immigration bail. He did not make this application until over a year later, in June 2021. In his witness statement at [10] he said:

> "I did not have an option to leave the United Kingdom. Firstly, I did not complete my course from the United Kingdom. I have wasted so much time of my life and money in the United Kingdom. I achieved nothing in return"

52. There was nothing to stop the Appellant from leaving the United Kingdom and returning to Bangladesh. He chose not to return. He had obtained qualifications in the United Kingdom prior to attending Docklands College, e.g. the HND in Business at Level 5 (page 30 AB), so it is not correct to state that he has achieved nothing.

53. Taking all of the above into account, I find that the Appellant has failed to show that he suffered historical injustice on account of having an ETS certificate. I find that the weight to be given to the public interest in the effective maintenance of immigration control is not reduced.

54. In relation to the other factors under section 117B, the Appellant speaks English (section 117B(2)). I have no evidence of his financial circumstances to show me that he is financially independent. He does not have permission to work (section 117B(3)).

55. Section 117B(4) and 117B(5) provide that little weight should be given to a private life established when a person is in the United Kingdom unlawfully or with precarious status. The Appellant came to the United Kingdom as a student in 2009 and has been an overstayer since 2016. I do not accept that he had no option to leave the United Kingdom. He knew that he was an overstayer, but made no attempts to regularise his stay until a year after he was encountered by the Respondent.

56. Section 117B(6) is not relevant.

57. I have given very careful consideration to the evidence before me. I have no evidence of any exceptional circumstances. I have no evidence of the Appellant's private life beyond the evidence of the Appellant. I have no evidence of any community participation. I have no evidence of any attempts made to apply for further study. I have no evidence of employment, which I would not expect as the Appellant is not entitled to work. I have found above that he has no medical issues. I have found that the Appellant has not suffered from historical injustice related to the ETS situation. I have found that he there are no very significant obstacles to his reintegration into Bangladesh. I find that he will be able to reestablish a private life in Bangladesh.

58. Taking all of the above into account, I find that the Appellant has failed to show that the decision is a breach of his right to a private life under Article 8, or indeed any other rights protected by the Human Rights Act 1998.

Notice of Decision

59. The decision of the First-tier Tribunal involves the making of material errors of law and I set the decision aside.

60. I remake the appeal, dismissing it on human rights grounds.

Kate Chamberlain

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber
12 October 2023

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