IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-004551

First-tier Tribunal No: PA/50712/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

6th February 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE CHAMBERLAIN

Between

JH
(ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Not represented
For the Respondent: Ms. J. Isherwood, Senior Home Office Presenting Officer

Heard at Field House on 23 January 2024

Order Regarding Anonymity

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant 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. Failure to comply with this order could amount to a contempt of court.

DECISION AND REASONS

1. This is an appeal by the appellant against a decision of First-tier Tribunal Judge Reid, (the "Judge"), dated 22 August 2023, in which she dismissed the appellant's

©CROWN COPYRIGHT 2024

appeal against the respondent's decision to refuse his protection and human rights claim. The appellant is a national of Bangladesh who claimed protection on the basis of his political opinion.

2. Permission to appeal was granted by Deputy Upper Tribunal Judge Haria in a decision dated 11 December 2023 as follows:

> "3. The first ground is arguable on the basis that the Judge should have expressly addressed the issue of fairness to both parties in line with the guidance in Nwaigwe (adjournment: fairness) [2014] UKUT 418 in deciding not to admit late evidence.
>
> 4. There may be some merit in ground seven in that it is arguable that the Judge misunderstood the lawyer's letter. In addition it is further arguable that the Judge failed to expressly consider whether the appellant on return to Bangladesh would live discreetly and if so whether he would do so to avoid persecution or whether his political activities if continued would pose a risk.
>
> 5. The remaining grounds may also be argued although they have less merit. Adopting the pragmatic approach encouraged by para. 48 of the JOINT PRESIDENTIAL GUIDANCE 2019 No 1: Permission to appeal to UTIAC, I do not seek to restrict this grant of permission."

3. The respondent did not provide a Rule 24 response.

The hearing

4. There was no attendance by or on behalf of the appellant. The file indicated that his previous representatives were no longer instructed. Notice of the time and place of the hearing had been sent to the appellant himself at the address last notified to the Tribunal. The clerk tried twice to contact him on the phone number given to the Tribunal but there was no response. He had not applied for the hearing to be adjourned. Given that he is no longer legally represented, and given that it was an error of law hearing, I considered that it was in the interests of justice to proceed with the hearing in the absence of the appellant in accordance with rules 2 and 38 of the Tribunal Procedure (Upper Tribunal) Rules 2008.

5. I heard oral submissions from Ms. Isherwood. I reserved my decision.

Error of law

6. I have carefully considered the grounds of appeal, which are lengthy, and which overlap. The grant of permission was not limited. I have considered all of the grounds, but given the overlap in the matters that they address, and especially as the appellant is no longer represented, as far as is possible I have gone through the decision in order.

Ground 1

7. Ground 1 asserts that the Judge erred in her failure to assess whether her decision not to admit the late evidence was "fair to the Appellant, rather than focusing on the conduct of his lawyer". It is submitted that, in line with the case of Nwaigwe (adjournment: fairness) [2014] UKUT 418 (IAC), the Judge was required to assess whether there would be unfairness to the parties. Instead, she "sought to penalise the appellant for failures by his legal representative".

8. At [11] to [13] the Judge states:

> "11. The Appellant's representative made an application for 9 documents to be admitted at 10am. They were provided only in paper form, had not yet been provided to the Respondent's Counsel and had not been uploaded to CCD. The reason for the lateness was said to be that the Appellant's representative had only picked up the (paper) documents from his office that morning from a colleague, having been away himself at a hearing in Newcastle for two days.
>
> 12. It was arranged that the documents would be emailed to the Respondent's Counsel but by 12.25 he had not received them, although they had been uploaded to CCD by then (which the Respondent's Counsel did not have access to). Although the Appellant's representative had earlier explained the relevance of the new documents (which were reports and articles) the Respondent had not had the opportunity to review them to even know what they were about, before having to decide whether/on what basis to object to them. The Respondent had however indicated that in any event the application was objected to.
>
> 13. I therefore refused the application at 12.25 because the application was made on the day of the hearing providing paper copies only meaning that the Respondent had been unable to review them in advance of the hearing. By 12.25 the Respondent's Counsel still did not have the documents. The reason given (being in court the previous two days) was insufficient given the supplementary bundle had been uploaded on 2 August 2023 and these documents could have been included."

9. The Judge sets out the chronology of the hearing, and the attempts made to provide the respondent's representative with the late evidence. The hearing was on 11 August 2023. The bundle had been uploaded on 2 August 2023. The Judge finds that the late evidence could have been included in the bundle on 2 August 2023, and it has not been submitted that the Judge erred in so finding. No explanation was provided to her for why these documents were not uploaded with the rest of the bundle.

10. Even in the grounds before me the materiality of these documents has not been explained. The Judge states that appellant's representative had stated that the documents were "reviews and articles". The Judge states that the application was for nine documents, and it has not been asserted that this is wrong. Neither has it been asserted that the Judge failed to set out any fuller explanation as to the relevance of these documents to the appellant's appeal made as part of the application to admit them.

11. Ms. Isherwood accessed the documents on the First-Tier Tribunal system. She submitted that they were not material. She stated that there were three documents uploaded to the system on 11 August 2023 entitled BNP membership 1, 2 and 3. She submitted that one was the title page for an article written in 2010.

12. I have considered the documents. "BNP membership 1" is a photograph of one side of A4 printed from Wikipedia entitled "Bangladesh Nationalist Party". It contains basic information about the BNP. "BNP membership 2" is the front page of a document entitled "Response to information requests" from the Refugee and immigration board of Canada dated 26 August 2010. The subject of the request is membership documents issued by the BNP. "BNP membership 3" is a photograph of the title page of document entitled "BNP's 19 points programme".

13. None of these documents are specific to the appellant. They all contain information available elsewhere and arguably, in the case of the Wikipedia document, from more authoritative sources. The Canadian document was 13 years old at the date of the hearing. The title page of the final document contains very little text and merely states that the BNP formulated a 19 point programme.

14. The grounds assert that the Judge failed to consider the unfairness to the appellant of not admitting the documents. I find that she correctly considered whether the appellant had good reason for applying to admit them so late. No explanation was provided as to why they had not been included in the bundle uploaded on 2 August 2023. Even were I wrong in this, it is has not been shown how these documents are material, especially given that the documents uploaded to the system on the date of the hearing are, in order, from Wikipedia, 13 years old, and merely the title page of a longer document. Ground 1 is not made out. It has not been shown that the Judge was procedurally unfair.

Grounds 2 and 3

15. These grounds assert that the Judge "appears to have taken the delay in claiming asylum as a starting point in her credibility assessment, as opposed to considering it as a factor in the round" with reference to [35] and [37]. Delay was the first substantive issue considered. It was submitted that this was an error with reference to SM (Section 8: Judge's process) Iran [2005] UKAIT 00116 which states in the headnote:

> "Even where section 8 applies, an Immigration Judge should look at the evidence as a whole and decide which parts are more important and which less. Section 8 does not require the behaviour to which it applies to be treated as the starting-point of the assessment of credibility."

16. It is further submitted that at [54] the Judge concludes that even if documents had been verified by the Respondent, "there would still be a live issue as to why the Appellant became of interest some 7 years after his departure (hence the charges) in the context of (i) a considerable delay in applying for asylum". It was submitted that it was "apparent that the FTT has taken the delay in claiming asylum as not only the starting point, but a significant point in isolation which goes against the A, rather than looking at this in the round".

17. Ground 3, the assertion that the Judge has failed to give adequate reasons, is connected to this given that it is a criticism of her findings and her approach to the evidence. The grounds make specific reference to [43], and the fact that there appears to be no credibility assessment of the appellant's wife, and no engagement with the evidence of the appellant's siblings in Bangladesh.

18. Ms. Isherwood submitted that the Judge was entitled to place weight on the delay. The appellant's statements had been silent on the issue of delay. He had come as the dependent on a student in 2011. His statements were silent on the applications that he had made under the EEA since then. In relation to ground 3, she submitted that the Judge continually gave reasons. Regarding the appellant's wife's evidence, she submitted that her statement merely reiterated the appellant's evidence, with particular reference to [4] of that statement.

19. I have carefully considered the Judge's findings which start at [30]. At [30] and [31] the Judge finds, with reference to the medical evidence, that she does not

accept that the appellant had any memory problems at the time of the hearing or at the time of his asylum interview. This was a finding that was open to her, on the basis of the evidence, and which is clearly relevant to her overall consideration of credibility. Her first finding when considering credibility is not in relation to delay and section 8.

20. From [32] to [37] she makes findings under the heading "The Appellant's history of applications February 2011 (first visa application to join his wife) – February 2019 (asylum application)". At [32] she finds that there is a discrepancy in his evidence regarding when he applied to join his wife, which is significant as she finds "It therefore remains the case that he applied for the visa before the final incident which he says was the final trigger for the application". This does not relate to the delay in applying for asylum and is a significant inconsistency in the context of his claim.

21. At [33] and [34] she finds:

> "Between August 2012 and April 2014 and the Appellant made four applications of different types and did not claim asylum despite the claimed past problems and the claimed reason for leaving Bangladesh. The final of these four applications was appealed but permission to appeal to the Upper Tribunal was refused in May 2016. The Appellant then did nothing.
>
> On 21 November 2017 he was served with a notice of liability for removal at which point he made the first of three EEA applications (made in December 2017, June 2018 and July 2018) on the basis of dependency on his cousin. Again the Appellant could have claimed asylum but did not, despite the claimed past problems and the claimed reason for leaving Bangladesh."

22. These findings were open to the Judge and are clearly relevant to an assessment of credibility. The appellant's explanation for the delay in claiming asylum is considered at [35].

> "His explanation for the delay until he applied in February 2019 (WS para 5,8) is that he was waiting to see how things were in Bangladesh to see if he could return but his case is that he left Bangladesh in fear in 2011 (see also interview Q240 page R176) and yet did not apply for asylum when he was making multiple different applications over a prolonged period. He knew he was having difficulties with getting leave to remain since around 2014 when his wife had been unable to extend her visa and that difficulty was being driven home with each refusal of each application."

23. At [36] she refers to the appellant's "back up argument" where he said at the end of his asylum interview that he had a "fear of what his in laws would say or do because he and his wife had not had a baby in 10 years of marriage". She finds that the appellant "then said to ignore that when asked further". She then states:

> "This had the feeling by now of it being the case of the Appellant hedging his bets and apparently about to make yet another type of claim/application in the hope that something else might work, though he then discounted it when asked further if that was now the basis of his claim."

24. At [37] she concludes:

> "The delay in applying and the concurrent multiple failed attempts in different ways to obtain leave damage the Appellant's credibility. Even if his case is that it was only at the end of 2018 that he realised he could not return (due to the claimed false charges – see below), that is against the backdrop of a history of failed applications of various types and it is therefore more plausible that saying it only became a real problem in 2018 is his way of explaining away that delay and those applications. This was not a situation where the Appellant was safely in the UK and didn't need to worry because he had leave to remain in the UK, which might make that explanation more plausible as being the reason for the problem only becoming immediately real in 2018."

25. She has considered the delay in failing to claim asylum, which she must do. However, she has not made any conclusive findings in relation to his credibility as a result of this. She has also made other findings which go to credibility, including a significant discrepancy in the timing of his application to come to the United Kingdom, which does not have anything to do with any delay.

26. Credibility is an holistic assessment, and I have considered the Judge's overall approach. The Judge then turns to consider the evidence of the appellant's claimed past membership, and offices held, in Chatra Dal. She makes a positive finding at [38] that he was a member, and further that he should not be criticised for providing letters which the respondent had described as "self-serving". She finds that "he was endeavouring to show as was expected of him that there was evidence of what he was claiming".

27. At [40] she finds that the letters support that he was a member since 2001, "but do not support his account of the specific roles he held". She gives reasons for finding that the letters did not support his claimed roles. At [41] she finds that the appellant left Bangladesh "without any difficulty, consistent with no significant adverse interest him as a low level member (and of no interest thereafter – see findings below)". At [42] she cites the respondent's CPIN to support her finding that the authorities would have had little interest in him. She states that this is consistent with her "findings below regarding the claimed 2018 false charges because I do not accept that false charges were likely to be generated after an absence of 7 years for what had been low level membership, when the Appellant did not claim significant public activities supporting the BNP in the UK during this period 2011 to 2018".

28. At [43] she makes the specific finding:

> "Taking into account the above credibility findings and the findings set out below about the claimed 2018 false charges (said to follow on from this past activity), I do not find that the four incidents of mistreatment/violence/threats he claims happened in March 2009, September 2009, January 2010 and March 2011 occurred; though he may have been caught up in scuffles at meetings or rallies, as any member might be, he was not individually targeted, beaten or threatened in the way claimed."

29. This finding is made with reference both to her earlier credibility findings, and her further findings below. It is an holistic assessment of the evidence.

30. In relation to her alleged failure to make a credibility finding in relation to the appellant's wife, while the grounds cite [4] of his wife's statement, I find, as submitted by Ms. Isherwood, that this is a reiteration of the appellant's own evidence. Paragraph [4] of the appellant's wife's statement begins "my husband has informed me" that he has been attacked on four separate occasions. She

then states "I cannot confirm his first 2 attacks as I was not married to my husband at the time, however I do not doubt him due to our close relationship". I find that this does not add to the appellant's own evidence. Regarding the evidence from siblings in Bangladesh, the Judge refers at [40] to letters from family members in Bangladesh in relation to his membership of the Chatra Dal. She is clearly aware of the letters and has considered them as part of the evidence before her. She found that they did not support his claimed "senior role in politics" as asserted in the grounds.

31. I find that the Judge has not erred in her consideration of delay and section 8. I find that she has given adequate reasons for her findings in these paragraphs. She has made an holistic assessment of the evidence before her. Grounds 2 and 3 identify no material errors of law.

Grounds 4, 5 and 7

32. The Judge then turns to consider "The 2018 claimed false ie invented charges (FIR, magistrates' orders, charge sheet and arrest warrant)" at [42]. Grounds 4 and 5 take issue with her consideration of these documents. Ground 4 alleges that the Judge has not followed the approach set out in Karanakaran [2000] EWCA Civ 11 and the guidance given there. It is asserted that she has not been mindful of the low standard of proof. It is also submitted that she has gone beyond the guidance in Tanveer Ahmed, as "in the absence of positive evidence from the Respondent (such as a document verification report) seems to suggest some documents are not genuine, i.e. false".

33. Ground 5 submits that the Judge erred at [54] in concluding "that verification of the documents, such as the Court documents and Arrest warrant would not allay concerns about delay and absence of significant BNP activity in the UK". It is submitted that if the documents were verified as genuine, "that would inevitably mean that there is a real risk on return". It is again submitted that the Judge failed to apply the lower standard of proof.

34. Ground 7 is also concerned with these findings, alleging that the Judge has not considered the evidence properly with specific reference to [46] and her alleged misunderstanding of the lawyer's letter. Ground 7 also alleges that the Judge failed to consider and apply the guidance in RT (Zimbabwe) [2012] UKSC 38 in relation to the appellant's need to live discreetly in Bangladesh, which I will consider later.

35. Ms. Isherwood submitted that the Judge rejected the submission that the respondent should have verified the documents at [54]. There was no reference in the grounds to the failure to provide the lawyer's bar registration documents. When considering the lawyer's letter, she had also considered the other documents provided in evidence, not only the dates. She submitted that the Judge had considered the appellant's claim in the alternative and referred to [53] to [58] of the decision.

36. I have carefully considered the Judge's treatment of the documentary evidence relating to the false charges. The appellant's evidence is that he found out about them in December 2018 from his brother and obtained copies of the documents in 2020. At [45] the Judge refers to the delay in obtaining these documents, despite having applied for asylum in February 2019. The Judge finds that this was a "significant delay in obtaining the evidence he had said in February 2020

had existed and regarding a case he had known about since December 2018. He also delayed in obtaining the documents from Bangladesh between December 2019 when he completed his PIQ referring to the 'case documents' and saying they would be provided (page 124). These delays in obtaining evidence he knew existed affects his credibility and the reliability of the documents themselves".

37. At [46], when considering the lawyer's letter, she finds that his bar registration documents have not been provided. It is this, as well as her findings relating to the date in the letter, which leads her to cast doubt on the reliability of the letter, yet there is no reference in the grounds to this lack of documents. In relation to the alleged misunderstanding of the dates, she states:

> "His letter said the charge had been 'framed' in June 2019 but the charge sheet is dated December 2018 (page R61). The arrest warrant is dated June 2019 (page R73) but despite accepting that things may be done differently in other legal systems, the lawyer was incorrect to say that the charge had been 'framed' in June 2019 – if referring to June 2019 it would have referred to the arrest warrant or if referring to the issue of the charge would refer to December 2018 based on the charge sheet."

38. The grounds states that the lawyer's letter says "In this case charge has been granted on 12/06/2019 upon which arrest warrant has been issue against you…" and therefore "It is clear that the date of June 2019 relates to issuance of an arrest warrant. The FTT has misunderstood the evidence and not applied the lower standard."

39. This is not what the letter says at page 245 of the respondent's bundle. It does not state "granted" but, as the Judge has set out, it states "framed". The sentence reads "In this case charge has been framed on 12/06/2019 upon which arrest warrant has been issued against you by the respected Court". It is not clear whether it refers to the date on which the charge has been "framed" or when the arrest warrant was issued. In any event, even if the Judge has misunderstood the lawyer's letter, as I have set out above, this is not the only reason why she finds that it should be given less weight. I find that there is no material error of law in the Judge's treatment of the lawyer's letter.

40. The Judge continues to consider the documents and finds that there are discrepancies relating to the dates in them, [47] and [49]. She notes that the appellant said that this was "just an error", but is entitled to find that it is "an error relevant when assessing this evidence in the round". At [50] she finds further inconsistencies in the names of defendants listed on the documents. She states

> "The Appellant said that this was a mistranslation (page AS1 – covering letter with supplemental bundle dated 2nd August 2023) but no further re- translation had been provided despite the Appellant apparently being aware of the claimed problem at least a week before this hearing."

41. Both the error, and the failure to provide a new translation are matters which the Judge was entitled to consider. She concludes at [50] "that the arrest warrant was not mistranslated and does contain both names, which casts doubt on its reliability taking into account the name of Rezaul Hoque does not feature anywhere else so is also unlikely just to be a mix up of names by the translator. I therefore find that a wrong second person's name, not that of the Appellant, was also included in the arrest warrant as a named defendant. That casts doubt on its

reliability". This finding was open to her. The finding that there is a different name in one of the documents is a matter which she was entitled to take into account when considering the reliability of the documents before her. This is not an error of law.

42. At [51] she states:

> "The Respondent identified that one of the charges on the arrest warrant was attempted murder under penal code 307 (reasons para 72). The Appellant had not mentioned this charge at his interview (Q253 page R178). Although the Appellant's case was that at the stage of the interview he had not seen the actual documents about the charges (and if that were the case would not necessarily know the detail) that was a very serious specific other charge not to have been made aware of by his brother. It was potentially a charge leading on from the allegation about beating up the driver and setting fire to a bus but the Appellant was noticeably not aware of it until he says he saw the documents."

43. The grounds identify no particular error in this paragraph. Considering the Judge's treatment of the evidence of the false charges, I find that she was entitled to consider the fact that the appellant had not mentioned such a serious charge at his interview.

44. At [53] and [54] the Judge states:

> "I recognise that false cases can be brought as a form of harassment (CPIN Political Parties paras 10.2.6-10.2.19; Odhikar report October 2022, page A1 85)) and that the police can be used as a tool to silence opposition (para 9). However as the Appellant was not of interest in 2011, that form of harassment whether for past activity and/or for current activity (see below) is not plausible given his low level membership some 7 years prior to the claimed charges. Further, fraudulent documents are available (CPIN Bangladesh: Documentation March 2020, para 5, particularly 5.3.6) and I have identified errors and inconsistences which taken together are relevant to the assessment of whether the documents can be relied upon as genuinely issued by the authorities against the Appellant.
>
> I have considered whether the Respondent was in all the circumstances obliged to verify these documents. That duty arises rarely where the document is central to the claim and if the document is authenticated, is likely to mean that there are no live issues as to the reliability of its contents. In this appeal even if authenticated there would still be a live issue as to why the Appellant became of interest some 7 years after his departure (hence the charges) in the context of (i) a considerable delay in applying for asylum despite saying he had been forced to leave Bangladesh (but making multiple other applications), (ii) an absence of significant public BNP supporting (or similar) activity in the UK (which might reinvigorate adverse attention) (see below) and (iii) his delays in obtaining and providing these documents if he was genuinely in fear of return because of false charges. In all the circumstances I conclude that the Respondent was not therefore obliged to verify these documents."

45. At [12] of the grounds of appeal it is asserted that the Judge has gone beyond the guidance in Tanveer Ahmed in seeming to suggest that some documents are not genuine in the absence of positive evidence from the respondent. I find that the Judge has recognised at [53] that false charges can be brought, but has given reasons for why she does not find it plausible that it would happen in the appellant's case. She has not found that the documents are not genuine, but has given reasons for placing less reliance on them, which findings are open to her and she has fully explained her reasoning in the preceding paragraphs.

46. The Judge has then given consideration to whether the respondent was obliged to verify the documents at [54], and has given reasons for why she considers that the respondent was not obliged to do so. There is no error of law in this approach. She has found that there are discrepancies in the documents which mean that she attaches less weight to them. I have found above that there is no error in her consideration of the documents. Her consideration at [54] of whether or not the respondent should have verified them does not alter her findings in relation to these documents, in particular the discrepancies as to the dates, the names of the defendants, and the lack of verification as to the lawyer's credentials. There is no material error at [54] which is a consideration of an alternative scenario where they had been authenticated. As I have found that there is no material error of law in her assessment of the documents, there is no material error in her approach at [54].

47. I find that the Judge's conclusion at [55] in relation to the documents was open to her on the basis of her previous findings. She states:

> "Taking the above findings into account including the general credibility findings arising from his history of applications I conclude that the documents about claimed false invented charges against the Appellant are not reliable to show that a false case has been brought against him and that consequently he is at risk on return as claimed as a result of them."

Ground 6

48. This concerns the Judge's treatment of the appellant's sur place claim. It is asserted that the Judge has not adequately considered the consequences of the appellant's sur place activities, and in particular has not assessed (i) the CPIN evidence at 2.4.6 which states that "digital technology is used to monitor and surveil opposition leaders and activists both domestically and abroad", (ii) whether therefore the appellant's activities may have come to the notice of the Bangladeshi authorities, and (iii) has failed to engage with the letter from the Movement for Democracy confirming the "important role" the appellant has played.

49. Ms. Isherwood submitted that there was no error of law. The Judge had found that he was a member with no particular official role. She had noted that Mr. Raz, the author of the letter referred to at (iii) did not attend the hearing. She found that the appellant's participation in the United Kingdom was consistent with his member-only participation in Bangladesh. Her finding that it would not lead to adverse interest on return was open to her.

50. The Judge finds from [56] to [61]:

> "56. The Appellant is an ordinary member of the BNP in the UK and has attended events since 2018 (photos page R164). All but two of the photos supplied were from events after he applied for asylum (reasons para 59-60). He does not hold any particular official role and the photos only show that he attended events (often one of many attendees and the photos not supported by evidence that these were widely publicised meetings or events). They also show he attended some public rallies but there is no evidence that his photo or involvement was publicised and is any more than a friend taking a photo of him at a rally, without more. He said he had turned down a UK position but the letter of support from the BNP in the UK (page R263, Mr Raz) did not say that he had been offered one.

> 57. Mr Raz did not attend the hearing, despite having provided a letter of support regarding both BNP UK and Movement for Democracy involvement (see below). He therefore could not be asked any questions.
>
> 58. The Appellant provided a photo labelling himself at a Movement for Democracy meeting (page R195). He had not said anything at his interview in January 2020 about that organisation despite it being claimed that he had been active within it since 2019 (page R264).
>
> 59. Mr Raz referred to the Appellant being a regular poster of opposition opinion on social media but no social media posts were provided. The Appellant said at the hearing that it was only around 2018 that he started posting on Facebook but no posts from 2018 were provided either. He also said that between 2011 and 2018 he was not actively posting, which ran contrary to his case that a false case had been filed against him in 2018, because any UK social media activity had not been present which might plausibly lead to such charges.
>
> 60. The Appellant's member only involvement in the UK was consistent with what I have found to be his member only involvement in Bangladesh.
>
> 61. The Appellant's activities in the UK of themselves are not plausibly going to lead to adverse attention on return to Bangladesh. It is also not plausible that they ignited a reactivation of past interest in the Appellant despite the years of absence, because it is not accepted that he had been a significant figure in Bangladesh."

51. I find that there is no error of law in the Judge's consideration of the evidence relating to the appellant's sur place activities. She has found that there are discrepancies in the evidence between the claims of the appellant and the evidence from Mr. Raz. Mr. Raz did not attend the hearing, and he had written both on behalf of the BNP and the Movement for Democracy. His written evidence that the appellant regularly posted on social media was not supported as no evidence of social media posts was provided by the appellant. The Judge considered the lack of social media evidence at [59]. Her findings were open to her. There has been no challenge to the finding that the appellant was not actively posting between 2011 and 2018, which is a significant finding in the context of the claimed false charges.

52. While the Judge has not referred to the CPIN, she has found that his participation in Bangladesh and in the United Kingdom is limited to member-only. No evidence of any social media activity had been provided. He provided a photograph, but this is not sufficient to show an interest from the authorities in Bangladesh, especially given her finding that he was not of interest prior to coming to the United Kingdom. I find that this is not a material error of law.

53. In relation to the appellant continuing his activities in Bangladesh, and the case of RT (Zimbabwe) [2012] UKSC 38 the Judge has found that his limited member-only activities did not bring him to the attention of the authorities in Bangladesh prior to coming to the United Kingdom and have not done so now. There was no evidence of any significant involvement in the United Kingdom. The skeleton argument before the Judge sets out the issues at [5]. It does not seek to argue that the appellant would be at risk on account of this, and there is no reference to RT (Zimbabwe). While the Judge has not specifically considered this, in the context of her overall findings, and her thorough and holistic assessment of the evidence, I find that there is no material error of law.

54. I find that the decision does not involve the making of material errors of law. The Judge carefully considered the evidence before her and assessed it in the round. She pointed out several deficiencies in that evidence, and it has not been asserted in the grounds of appeal that she erred in this.

Notice of Decision

55. The decision of the First-tier Tribunal does not involve the making of material errors of law and I do not set it aside.

56. The decision of the First-tier Tribunal stands.

Kate Chamberlain

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber
5 February 2024