



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

Case No: UI-2023-005539

UI-2024-000250

First-tier Tribunal No: PA/54102/2022

PA/54102/2022

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

16<sup>th</sup> February 2024

**Before**

**UPPER TRIBUNAL JUDGE NORTON-TAYLOR**

**Between**

**EA**

**(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the appellant: Mr A Badar, Counsel Saint Martin Solicitors

For the respondent: Ms A Ahmed, Senior Presenting Officer

**Heard at Field House on 5 February 2024**

**Order Regarding Anonymity**

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**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**

### **Introduction**

1. The appellant, a citizen of Bangladesh, appeals with permission against the decision of First-tier Tribunal Judge Morgan (“the judge”), promulgated on 25 September 2023, following a hearing on 21 September of that year. By that decision, the judge dismissed the appellant’s appeal against the respondent’s refusal of his protection and human rights claims.
2. In essence, the appellant’s protection claim was as follows. He had lived in a district in the Sylhet Province of Bangladesh. He claimed to have been active in the student wing of the Bangladesh National Party (that wing is known as the Bangladesh Jatiatabadi Chatradal, or “BJC”). An uncle of the appellant, Mr M, was involved in the local Awami League (“AL”) and took against the applicant’s political activities. The appellant claimed to have encountered problems whilst in Bangladesh as a direct result of the uncle’s influence in the local political scene. On the appellant’s case, he went into hiding and then left Bangladesh for the United Kingdom in March 2022. He claimed that family members had been harassed by the AL in his local area.
3. In refusing the protection claim, the respondent raised a number of credibility issues. In addition, it was said that the appellant could obtain sufficient protection from the authorities, or in any event could internally

relocate. Article 8 was considered, but it was concluded that removal would not be disproportionate.

### **The judge's decision**

4. The judge set out the relevant immigration history, the evidence which was before him, and he then summarised the appellant's claim and the respondent's position.
5. At [10], the judge recorded that the appellant did not attend the hearing. On instructions, the appellant's counsel (not Mr Badar) informed the judge that the appellant had positively decided not to attend and had wanted his case to be decided "on the papers". There was no explanation for this. Further, Counsel confirmed that he was not instructed to make any submissions on the appellant's case. This state of affairs is of some importance when one comes to consider the judge's findings: the appellant was well-aware of the points being taken against him by the respondent and chose not to take the opportunity of attending the hearing in order to give evidence in his own cause.
6. The judge's findings on the protection claim are set out at [23]-[26]. The judge considered that the appellant's credibility was somewhat damaged by his failure to have claimed asylum at the earliest opportunity. The judge observed that the appellant's non-attendance at the hearing, without any explanation, meant that the points raised by the respondent remained unresolved. The two most important aspects of the judge's analysis and findings are at [25] and [26]:

"25. However the real difficulty for the appellant, in my judgment, is that even accepting the appellant's basis of claim I am unable to find, on the evidence before me, his fear emanated from his uncle and there was little if any evidence before me to justify finding either that his uncle would still be looking (*sic*) to him or that he would have the desire or capacity to find him throughout Bangladesh. The tenor of the appellant's evidence was that his uncle was embarrassed by the appellant's political activities in Bangladesh in his local area. And even if the appellant return to Bangladesh and became

involved in local politics in another area the evidence before me does not enable a finding that this would come to the attention of his uncle.

26. In summary I have considered the respondent's concerns, outlined in the refusal letter and the review, individually and cumulatively. I am not persuaded that the appellant has adequately addressed the respondent concerns and find that the appellant has not made out his case even on the lower standard. In summary I find that the appellant has not made out that he is a refugee and dismissed the appeal on asylum grounds."

7. The judge went on to deal with Articles 3 and 8 briefly, concluding that there was no basis on which the appellant could succeed.
8. The appeal was accordingly dismissed on all grounds.

### **The grounds of appeal and grant of permission**

9. Four grounds of appeal were put forward: first, that the judge had failed to take supporting evidence into account (in particular, a letter from an official of the BJC and a letter from the appellant's sister); secondly, the judge had made irrational findings by holding the appellant's non-attendance against him, failing to consider whether there were very significant obstacles to return, and apparently failing to adequately deal with the issue of risk throughout Bangladesh; thirdly, the judge failed to address the human rights issue (this was connected to the first and second grounds); fourthly, the judge was wrong to have taken the section 8 point against the appellant and had not considered the appellant's ill-health.
10. The First-tier Tribunal granted permission to appeal, but only on the first and third grounds.

### **Rule 24**

11. The respondent provided a rule 24 response which opposed the appellant's appeal.

## **The hearing**

12. At the outset of the hearing I raised the issue of non-compliance by the appellant with the Tribunal's standard directions, which require the party bringing the appeal to file and serve a composite bundle containing specified materials. The appellant's solicitors had in fact provided a bundle, but it was not only late, but significantly deficient. It did not contain bookmarks, did not contain the Tribunal's UI reference number on the front page, was not organised into the sections specified by the standard directions, and omitted the grounds of appeal.
13. I emphasise the importance of complying with the standard directions, which must themselves be read in conjunction with the Presidential Guidance on CE-Filing and Electronic Bundles, dated 18 September 2023. It is imperative that the relevant party produces a compliant composite bundle. This is so for a number of reasons, primarily the ability of the other side and the judge who hears the case to prepare efficiently and locate relevant materials at the hearing (or indeed after, when writing up a decision) with ease.
14. In the present case, I directed that the Principal of Saint Martin Solicitors should attend before me in person on a date following the error of law hearing.
15. Mr Badar confirmed that there had been no renewed application for permission in respect of the second and fourth grounds of appeal. He relied on the first and third grounds only. He submitted that the judge made no findings on the particular facts of the appellant's case. It was unclear whether the judge was accepting that case in full. When pressed to address the issue of internal relocation, Mr Badar urged me to consider the BJC letter, dated 6 September 2022, and the appellant's sister's letter. He submitted that these indicated that the uncle, through the AL, would be able to locate the appellant wherever he might go on return to Bangladesh.

16. In respect of the third ground, Mr Badar fairly recognised that this was dependent on the success of the first ground. He accepted that nothing on Article 8 had been put forward in the appellant's skeleton argument, but submitted that the judge had failed to consider matters such as the appellant's financial circumstances if he were to attempt relocation.
17. Ms Ahmed relied on the rule 24 response. She submitted that the evidence referred to by Mr Badar was essentially immaterial. The judge had been entitled to conclude that internal relocation was a viable option. She also noted the fact that the judge had agreed with the respondent's concerns on the appellant's credibility, which in turn indicated that he had not accepted the underlying facts of the claim.
18. In brief reply, Mr Badar emphasised what he said was an absence of clear findings and the significance of the BJC and sister's letters.
19. At the end of the hearing I reserved my decision.

## **Conclusions**

20. It is important to recognise that appropriate judicial restraint should be applied when considering whether the First-tier Tribunal has erred in law. The judge had the evidence before him and his decision must be read sensibly and holistically.
21. The need for such restraint, even where a decision of the First-tier Tribunal suffers from certain shortcomings, has recently been highlighted by the Court of Appeal in Yalcin v SSHD [2024] EWCA Civ 74.
22. The judge's decision could have been more detailed and it is right that he might have made specific findings of fact relating to the appellant's core claim relating to political activities in a certain locality and the adverse interest of Mr M.

23. Having considered Mr Badar's submissions with care and reading the judge's decision sensibly and holistically, I have concluded that there are no material errors of law such that the decision should be set aside.
24. The judge made it clear enough that he was aware of the evidence before him and had considered it: [11] and [22]. I have no reason to believe that he had then simply overlooked that evidence when making his findings and setting out his overall conclusions. The judge was plainly aware of the respondent's credibility concerns, which had been set out at all stages. He was also cognisant of the fact that the appellant's non-attendance resulted in those concerns (which were numerous and significant) remaining unresolved: [24].
25. Whilst it is better for a judge to state their own particular reasons for rejecting the credibility of an account, in this case the judge was entitled to confirm that he agreed with the points raised by the respondent and that this led him to the sustainable conclusion that the appellant had not made out his case: [26]. It is to be recalled that the respondent's credibility concerns went to the core of the claim. Logically speaking, the judge's agreement with and adoption of those concerns must also have related to the core of the account.
26. Therefore, I am satisfied that the judge did have regard to all of the evidence before him, including that specifically referred to in the grounds of appeal and by Mr Badar in submissions. The judge had in fact rejected the appellant's core account on credibility grounds. That was fatal to the entire protection claim.
27. However, if I were wrong about that and the judge had erred in law by failing to make specific findings on the evidence relating to the claimed problems in the home area, his "even if" conclusion on internal relocation is free of material error and is sustainable.
28. In the first instance, I am satisfied that the judge had in fact taken all relevant evidence into account when reaching his conclusion on internal relocation.

29. On the issue of whether there was, or could have been, a country-wide risk to the appellant, I observe that the very clear focus of all of the evidence before the judge was on the “local” problems allegedly encountered as result of the uncle’s adverse interest and, by extension, that of the AL. The local nature of the problem his repeated throughout. The appellant had not of course taken the opportunity to expand on his case at the hearing.
30. It is important to note what the judge said at [25]: “His fear emanated from his uncle and there was little if any evidence before me to justify finding either that his uncle would still be looking (*sic*) to him or that he would have the desire or capacity to find him throughout Bangladesh .” This, combined with what was said at [22], is strongly indicative of the fact that the judge had considered all of the evidence before him when assessing whether internal relocation was a possibility.
31. On inspection, the BJC letter contained “little if any” evidence that there would be a material adverse interest in the appellant throughout Bangladesh. The whole tenor of the letter relates to the appellant’s home area. There is nothing in the letter which expressly states that either the uncle had a country-wide influence, or that the AL and/or police would in some way be aware of the appellant’s presence in a place of relocation.
32. Similarly, the sister’s letter contained “little if any” evidence to support an assertion of a country-wide risk. Mr Badar placed emphasis on a single sentence within the letter: “... [Mr M] and the police forces of the Awami League and officers of their auxiliary organisations come to my husband’s house, sometimes in police uniform and sometimes in plain clothes, to look for my brother.” That, of itself, did not amount to an evidential basis to conclude that there was a risk throughout Bangladesh.
33. Reference is made in the grounds of appeal to the respondent’s CPIN, Bangladesh: Political parties and affiliation, version 3.0, published in September 2020. There is nothing before me to indicate that passages relating to internal relocation had been brought to the judge’s attention. None were included in the appellant skeleton argument and there were



no submissions made at the hearing. Further, this was not the case in which the appellant alleged that there were, for example, active criminal cases against him such that he might be wanted throughout Bangladesh, or indeed arrested on return. Once again, the whole thrust of his case (as put to the judge) was that the problems emanated from his uncle in the local area, albeit that Mr M was affiliated to the AL).

34. In summary, I am satisfied that the judge had taken the BJC letter and the sister's letters into account and that he was entitled to conclude that that evidence (in combination with everything else) did not demonstrate a risk throughout Bangladesh.

35. Plainly, there were no factors specific to the appellant, other than any potential risk from the uncle/AL, which could have made internal relocation unduly harsh.

36. In the further alternative, if I had concluded that the judge failed to take the specific evidence referred to above into account, such an error would not have been material. I recognise that the threshold for materiality is low; could the error have made a difference to the outcome? In the present case, there was no relevant evidence on internal relocation emanating from the appellant himself, and, for the reasons already set out, the BJC letter and sister's letter could not have made a difference to the outcome. The same applies to the relevant CPIN. Stepping back, the appellant's challenge in effect argues that anyone who comes to the adverse attention of the AL in one part of Bangladesh is reasonably likely to be at risk throughout that country. Even accepting that the AL in a home area may have some influence over local police, that contention is simply too great a leap, at least on the evidence in this particular case.

37. It follows that the appellant's challenge fails.

**38. Anonymity**

39. As the appellant's case remains pending, I maintain the anonymity direction.

**Notice of Decision**

**The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.**

**The appeal to the Upper Tribunal is dismissed and the decision of the First-tier Tribunal stands.**

**H Norton-Taylor**

**Judge of the Upper Tribunal**

**Immigration and Asylum Chamber**

**Dated: 14 February 2024**