IN THE UPPER TRIBUNAL Case No: UI-2024-002057

IMMIGRATION AND ASYLUM CHAMBER

First-Tier Tribunal No: PA/51547/2020

THE IMMIGRATION ACTS

Decision and Reasons Issued:

On 11th December 2024

Before

Upper Tribunal Judge L Smith

Deputy Upper Tribunal Judge D Clarke

Between

N I

[ANONYMITY ORDER MADE]

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. R Halim of Counsel, instructed by Lawmatic Solicitors

For the Respondent: Ms J. Isherwood, Senior Home Office Presenting Officer

Heard at Field House on 27 November 2024

Anonymity Order confirmed

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the anonymity order is confirmed. We add that neither party applied for the order to be lifted and we consider that it is appropriate to maintain the order due to the asylum and international protection issues which the Respondent accepts apply in this case.

No-one shall publish or reveal any information, including the name or address of the Appellant or his family likely to lead members of the public to identify him. Failure to comply with this order could amount to a contempt of court.

INTRODUCTION

1. The Appellant appeals against the decision of First-Tier Tribunal Judge Moxon promulgated on 31 July 2023 ("the Decision") dismissing the Appellant's appeal against the Respondent's decision dated 15 September 2020, refusing his protection claim.

RELEVANT BACKGROUND

2. The Appellant is a national of Bangladesh, he claims to have been a supporter and member of Jamaat e Islami ("BJEI") since 1991, becoming President of a BJEI Ward branch in 2013 – 2014.

3. The Appellant claims that on 28 February 2013 he attended a demonstration against the government during which he was involved in a violent clash with the Police. A case was then filed against him by the Police and an arrest warrant issued. The Appellant claims he is falsely accused of rioting, going equipped with weapons, arson, vandalism, attacking the Police and murder. In the aftermath of the demonstration the Appellant went into hiding but continued with his political activities, by canvassing in his own and nearby villages for his local BJEI candidate in the 2013 election.

4. The Appellant claims that a second case was filed against him on 29 February 2014 by the local Awami League leader and an arrest warrant issued. The Appellant claims that it was falsely alleged that he had set fire to a cow shed containing cows.

5. The Appellant says that he was arrested in relation to the 2014 case and detained for 2 months, during which he was tortured by Awami League members and the Police. The Appellant was released on bail

with reporting conditions but only reported once, whereupon a further arrest warrant was issued.

6. The Appellant applied for a visa to Qatar, whilst subject to reporting conditions, and entered Qatar, where he resided for 5 months. The Appellant then applied for his visa to be cancelled in Qatar and returned to Bangladesh, where he resided in Dhaka.

7. The Appellant further applied for a visa to Dubai, entering Dubai at the end of 2014 and residing there until 2017. The Appellant re-entered Bangladesh with the intention of staying for 6 months, and again resided in Dhaka. After 2 months in Bangladesh, the Appellant says that he was seen by the same Awami leader who instigated the 2014 case against the Appellant, and so he returned once more to Dubai.

8. In Dubai the Appellant applied for a multi visit visa to the UK in March 2017 which was refused. The Appellant then successfully applied for a work visa in May 2018 and entered the UK on 9th June 2018. On 30th November 2018 the visa expired but the Appellant did not leave the UK. The Appellant claimed asylum on 15th October 2019, on the basis that he had a well-founded fear of persecution on account of his political opinion in Bangladesh.

9. The Respondent refused the Appellant's protection claim on 14 September 2020, as it was not accepted that he had been politically active in BJEI, that he had been threatened by the Awami League or the Police, that two cases had been filed against him and additionally, it was considered that the Appellant's sur place activities did not demonstrate activity *"beyond supporting Jamaat e Islami as an ordinary member in the UK".*

10. The Appellant appealed the Respondent's decision to the First-Tier Tribunal and in a decision promulgated on 4 November 2021, the Appellant's appeal was dismissed by FTIJ Paul. The Appellant successfully appealed Judge Paul's decision to the Upper Tribunal and the appeal was remitted to the First-Tier Tribunal to be reheard de novo. The appeal then came before FTIJ Moxon on 25 July 2023 and a decision was promulgated on 31 July 2023, dismissing the Appellant's appeal.

11. In summary, FTIJ Moxon found the Appellant's claimed risk on account of anti-regime political opinion consistent with the CPIN evidence, but identified eight credibility points at paragraph 17 which he found to "substantially undermine the Appellant's credibility". Judge Moxon went on to consider and reject newspaper

reports, FIR and various accompanying documentation as unreliable on account of CPIN evidence of prevalent forgery, when taken in the round with his adverse credibility findings at paragraph 17. Judge Moxon further rejected the sur place evidence but found, taking it at its highest, that it did not demonstrate "a prominent or leading role". Ultimately, Judge Moxon concluded that that the Appellant had not been "politically active in Bangladesh or the United Kingdom as claimed".

PERMISSION TO APPEAL

12. The Appellant was initially refused permission to appeal the decision of FTIJ Moxon by FTIJ Athwal on 5 September but upon renewal of the grounds to the Upper Tribunal, permission was granted by Upper Tribunal Judge Hoffman on 23 September 2024. Judge Hoffman found ground 1 arguable on the basis that FTIJ Moxon had failed to take into account 3.1.5 of the 2017 Bangladesh Fact Finding Mission report when assessing the Appellant's ability to freely leave Bangladesh as alleged. Equally, Judge Hoffman found ground 3 arguable. Notwithstanding this, permission was granted on all 4 grounds pleaded, without restriction.

13. In summary, the Appellant's 4 grounds of appeal to the Upper Tribunal are as follows:

I. A failure by the FTIJ to have regard to relevant background evidence when assessing the credibility of the Appellant's ability to freely leave and re-enter Bangladesh.

II. A failure by the FTIJ to have regard to relevant evidence when finding that newspaper reports were unreliable.

III. An inappropriate reliance on plausibility when considering the Appellant's account of when he was allegedly in hiding.

IV. An inappropriate reliance on inconsistency in the screening interview when making adverse credibility findings.

14. In a rule 24 reply dated 4 October 2024, the Respondent contended that Judge Moxon confirmed that he had considered all the evidence, that the grounds are a disagreement and that "no errors exist".

15. The matter now comes before us to determine whether there is an error of law in the Decision of Judge Moxon pursuant to s.12(1) of the Tribunal Courts and Enforcement Act 2007. If we find an error,

we must then determine whether the error is material, such that the Decision should be set aside. If the decision is set aside, we must decide whether to remake the decision in the Upper Tribunal or remit the appeal to the First-Tier Tribunal, pursuant to s.12(2) of the 2007 Act.

16. We had before us a stitched bundle comprising of 499 pages, which includes the Appellant's and Respondent's bundles as before the First-Tier Tribunal, the Grounds of Appeal to the Upper Tribunal, the Decision of FTIJ Moxon and the Grant of Permission to appeal. We further located the Appellant's skeleton argument as before the First-Tier Tribunal dated 22 February 2021 and the Respondent's rule 24 reply. Whilst Ms Isherwood did not initially have a copy of the stitched bundle, Mr Halim helpfully forwarded a copy to Ms Isherwood, who was then given time to read it. The matter was then adjourned until the end of our list when Ms Isherwood confirmed that she was happy to proceed. Having heard submissions from Mr. Halim and Ms Isherwood, we indicated that we would reserve our decision and provide that in writing with our reasons.

DISCUSSION

Ground 1:

17. Under ground 1, the Appellant makes 2 discrete complaints in respect of an alleged failure by Judge Moxon to consider evidence when making his adverse credibility finding at paragraph 17(d) and (e). For clarity, we set out the entire impugned passages at paragraphs 17(d) and (e),

> "It is not credible that, despite an arrest warrant being issued for the Appellant, he was nevertheless able to obtain visas to Qatar or Dubai from Bangladesh and was able to leave and return to Bangladesh, upon his own passport, on numerous occasions. His response that this was because he was not a leading figure is undermined by his account that Awami League members were attending his home at the time looking for him and that he was a ward leader with an arrest warrant outstanding. Whilst he asserts that there is no central police database, he has provided no objective evidence and, in any event, I do not accept that wanted persons would be able to leave and enter Bangladesh freely upon their own passport or would seek to do so in light of the risk of apprehension.
>
> It is not credible that, knowing there were cases against him by people he says previously detained and tortured him, the Appellant

> would return to Bangladesh in 2014 for 18 months, after cancelling his visa in Qatar, where he would have been safe, and in 2017 for two months. This would have placed him in significant danger if his account were to be true, regardless of whether he lived away from his home village and stayed in Dakar [sic];"

Issue 1

18. The first point taken in ground 1, is that there was in fact background evidence before the FTIJ in the form of 3.1.5 of the 2017 Home Office Fact-Finding Mission report ("FFM"), which supported the Appellant's account. We set out 3.1.5 of the FFM for clarity,

> "3.1.5 An official at the [British High Commission] noted that Immigration Police deal with immigration issues. They are not always linked up with other law enforcement agencies. The Government can sometimes issue a "blacklist" or "no-fly list" of names to the Immigration Police, but these are not comprehensive and can be politically selective. 99 per cent of people attempting to leave the country, even if charged with a crime, would not normally face difficulties. However, one source observed that if any person was wanted for a crime the police would alert immigration and other stations nationally."

19. The grounds contend, as expanded upon by Mr Halim in his oral submissions, that this passage plainly supported the Appellant's evidence that he was freely able to exit and re-enter Bangladesh in circumstances when he was on bail with reporting conditions, subject to outstanding warrants and with 2 open cases against him.

20. Whilst we accept that 3.1.5 was expressly relied upon in the ASA at paragraph 53, we note that Judge Moxon clearly identified the ASA and the Appellant's documentary evidence at paragraph 8 and confirmed that, "concise determinations are encouraged, and a lengthy outline of all the evidence and law is unhelpful. I can confirm that I have considered all the evidence and submissions before me, together with the evidence and submissions before me, together with the relevant legal principles" (paragraph 13).

21. We therefore do not accept that Judge Moxon was unaware of the Appellant's reliance on 3.1.5 of the FFM report.

22. We bear in mind the guidance in QC (verification of documents; *Mibanga* duty) China [2021] UKUT 00033 (IAC), at headnote (3),

> "The greater the apparent cogency and relevance of a particular piece of evidence, the greater is the need for the judicial fact-finder to show that they have had due regard to that evidence; and, if the

fact-finder's overall conclusion is contrary to the apparent thrust of that evidence, the greater is the need to explain why that evidence has not brought about a different outcome."

23. For the following reasons, we do not accept that FTIJ Moxon materially erred by not dealing directly with 3.1.5 of the FFM report given its evident lack of cogency and materiality.

24. First, we note that 3.1.5 appears to emanate from two sources, the first source, an official at the BHC describes:

i) The Immigration Police as dealing with immigration matters.

ii) The Immigration Police as not always linked up with other law enforcement agencies.

iii) The government as sometimes issuing a no fly-list to immigration Police.

iv) The no fly-list as not comprehensive and sometimes politically selective.

v) The 99% of people leaving the country, even if charged with a crime, as not normally facing difficulties.

25. However, the second source, contrary to the BHC source, states,

"if any person was wanted for a crime the police would alert immigration and other stations nationally."

26. We therefore find that 3.1.5 lacks any cogency. It is simply not possible to view two conflicting views as demonstrating a general thrust one way or the other as to the issue of whether the Appellant could leave or enter Bangladesh without any problems. Indeed, as the grounds of appeal to the Upper Tribunal concede at paragraph 5, "the FFM report's sources were not unanimous".

27. Second, we note that paragraphs 17(d) and (e) of the decision contain a number of discrete reasons why the Appellant's account is not to be believed:

i) The Appellant was able to obtain visas to Qatar and Dubai.

ii) The Appellant was able to leave and return to Bangladesh twice.

iii) The Appellant used his own passport.

iv) The Appellant's claim not to be a leading figure is undermined by his account of being a ward leader, subject to an arrest warrant and subject to house raids by the Awami League at the same time as he undertook his cross-border travel.

v) There was no evidence that a centralised Police data base did not exist, as claimed.

vi) It is not credible that the Appellant would attempt such cross-border travel in the light of the risk of apprehension

vii) It is not credible that the Appellant would choose to return to Bangladesh knowing that there were 2 open cases, and where he had previously been tortured in detention.

viii) Return to Bangladesh would have place the Appellant at risk in his home area and Dhakar, if his account was true.

28. Even if Judge Moxon was to choose the BHC point of view over the other source in 3.1.5, this evidence is not probative of: the Appellant's ability to obtain visas, the existence of a centralised Police database or the procedures and checks made when any individual enters Bangladesh. Indeed, 3.1.5 does not bite upon an individual entering Bangladesh at all. We further find that the BHC evidence falls well short of identifying what procedures operate on exit, what checks are done, what databases are available and what information is held in such databases. Without such evidence, it was simply not open to Judge Moxon to prefer the view of the BHC over the other source cited at 3.1.5 even if that source was, as Mr Halim pointed out, unnamed.

29. We find, in the light of the deficient cogency and probity of 3.1.5, that it was within a reasonable range of responses for Judge Moxon to draw an adverse inference from the willingness of the Appellant to leave and re-enter Bangladesh in the circumstances of his claimed risk.

30. We therefore find that Judge Moxon did not err by failing to deal directly with 3.1.5 of the FFM.

Issue 2.

31. Ground 1 further argues that Judge Moxon was in error for failing to take into account page 71 of the FFM, notwithstanding that only pages 1 – 40 were relied upon and served by the Appellant. Paragraph 7 of the grounds contends that the "the FTIJ could and should have looked at it". We reject this contention for the following reasons.

32. First, the Appellant prays in aid the case of AM (fair hearing) [2015] UKUT 656, in support of the proposition that "the whole report can be considered and accessed by the FTT". Whilst Mr Halim did not address us on the case of AM, we do not consider that AM

assists the Appellant in identifying any duty upon a First-Tier Judge to make such investigations. The case of AM concerned a challenge by the appellant that it was an error of law for the FTIJ to access a footnote contained within a refusal letter which was expressly relied on by the SSHD. In the present case the position could not be more different. The Appellant did not cite page 71 in the ASA, did not refer to it, did not invite the Judge to look at it or attempt in any way to explain its relevance to Judge Moxon. We therefore reject the suggestion that Judge Moxon was under any kind of duty to search for evidence not mentioned by the parties and to then trawl though it, looking for any points that might assist the Appellant.

33. We further find that the Appellant's interpretation of AM is in tension with the Reform procedure at the First-Tier Tribunal. In particular, we note the insertion of rule 24A into the First-Tier Tribunal (IAC) Procedure Rules on 6 April 2022, which imposes mandatory duties upon represented appellants,

> 24A.—(1) If the appellant is represented, upon the respondent complying with rule 23(2) or rule 24(1), as the case may be, the appellant must provide the Tribunal with—
>
> > (a) an appeal skeleton argument which complies with any relevant practice direction; and
> >
> > (b) copies of the evidence relied upon in the appeal skeleton argument, insofar as that evidence is not already contained in the documents provided by the respondent under rule 23(2) or rule 24(1).

34. In circumstances where the Appellant failed to draw attention to page 71, either in the ASA or before the FTT, we bear in mind the guidance in TC (PS compliance - "issues-based" reasoning) Zimbabwe [2023] UKUT 00164, when considering the Appellants failure to put anyone on notice of his reliance on page 71 and his failure to explain its relevance,

> *"1. Practice Statement No 1 of 2022 ('the PS') emphasises the requirement on the part of both parties in the FTT to identify the issues in dispute and to focus on addressing the evidence and law relevant to those issues in a particularised yet concise manner. This is consistent with one of the main objectives of reform and a modern application of the overriding objective pursuant to rule 2 of the Tribunal Procedure (FTT)(Immigration and Asylum Chamber) Rules 2014. It ensures that there is an efficient and effective hearing, proportionate to the real issues in dispute.*

> *2. A PS-compliant and focussed appeal skeleton argument ('ASA') often leads to a more focussed review, and in turn to a focussed and structured FTT decision on the issues in dispute. Reviews are pivotal to reform in the FTT. The PS makes it clear that they must be meaningful and pro-forma or standardised responses will be rejected. They provide the respondent with an important opportunity to review the relevant up to date evidence associated with the principal important controversial issues. It is to be expected that the FTT will be astute to ensure that the parties comply with the mandatory requirements of the PS, including the substantive contents of ASAs and reviews."*

35. We therefore reject any contention of a duty on Judge Moxon to investigate evidence not before him, which was not relied on by the Appellant.

36. Second, the Appellant prays in aid the case of UB (Sri Lanka) [2017] EWCA Civ 85 and contends that there was a duty on the Respondent to produce the missing pages. Again, we were not addressed on the relevance of this case. The difficulty that the Appellant faces with this contention is twofold. First, UB was specifically a challenge on grounds of procedural unfairness, the grounds before us do not plead procedural unfairness, they are expressly framed as a "failure to have regard to relevant evidence". Equally, Mr Halim did not seek to advance a case of procedural unfairness before us. In this regard, we take into account that the Appellant did in fact serve the first 40 pages of the FFM.

37. Second, even if we were to construe ground 1 as a procedural unfairness challenge, UB in any event makes it clear at paragraph 22 that,

> *"There is no obligation on the Secretary of State to serve policy or guidance which is not in truth relevant to the issues in hand, and complaints as to alleged failures of disclosure of material which is truly peripheral or irrelevant should readily be rejected."*

38. As discussed with Mr Halim at the error of law hearing, the substance of page 71 takes the matter no further than the evidence at 3.1.5, it is evidently taken from one source. Indeed, the BHC opinion at 3.1.5 appears to be directly drawn from page 71 of the FFM. Whilst we note that page 71 is titled "Could someone wanted by the Police or Judiciary exit the country", page 71 does nonetheless state that, "if a person is on the blacklist [and] attempted to leave or enter the country their name would trigger an alert on the immigration computer system. However, some individuals who have been released on bail conditions, or are

appealing a conviction, do not always have their travel restricted". Taken at its highest, this does not in our view assist the Appellant in addressing our above concerns as to the cogency or probity of 3.1.5, when viewed in the light of Judge Moxon's reasoning; such reasoning being equally applicable to page 71 of the FFM.

39. For these reasons we reject ground 1.

Ground 3:

40. Under ground 3 the Appellant argues that Judge Moxon placed an inappropriate reliance on inherent plausibility at paragraph 17(b). For clarity we set out the impugned paragraph,

> "The Appellant stated that he was hiding in 2013 as there was an arrest warrant against him from February that year and other members of the BJEI were being arrested. His account that he would nevertheless continue his political activity and visit his home and local area is not plausible, regardless of his dedication, as it would have placed him at an unreasonable risk. He was either in hiding or he was not;"

41. The Appellant argues in relation to this reasoning, that the AIR at question 141 confirmed that during his period in hiding he took necessary precautions to avoid detection, "each night I stayed in different places, sometimes in my sister's house, sometimes in a friend's house, sometimes in father in laws house. During the time, I used to come to my house secretly". As such, the grounds argue that Judge Moxon's assessment that it was an "unreasonable risk" to visit his home area or engage in political activity was not a "legitimate basis for an adverse credibility finding". We reject this contention for the following reasons.

42. First, we find the ground's focus on paragraph 17(b) to be unhelpful, as such an approach amounts to "island hopping". We consider that Judge Moxon's reasoning at paragraph 17(c), directly informs his finding at paragraph 17(b). For clarity we set out paragraph 17(c),

> c. His assertion that he was able to canvass for the BJEI in and around local villages, including his own village, despite cases being filed against him is not plausible. His assertion that he was able to do so as the Awami League had stopped arresting people two months before the election is inconsistent with the background country information that violence between the Awami League and BJEI increases in the months prior to an election (CPIN – Bangladesh:

> Opposition to the Government, January 2018). It is implausible that the Awami League would seek to aggressively curtail political dissent, save for prior to an election, or that at that time they would fail to pursue an outstanding case against an active political dissenter."

43. Whilst we recognise the use of the word "plausible", we find no error in Judge Moxon's approach at 17(b) and (c). The Appellant relies upon Neuberger LJ's reasoning in HK Sierra Leone [2006] EWCA Civ 1037 at paragraph 29, to support the contention in the grounds. However, we consider it helpful to set out the complete reasoning of HK at paragraphs 28 to 30,

> "28. Further, in many asylum cases, some, even most, of the appellant's story may seem inherently unlikely but that does not mean that it is untrue. The ingredients of the story, and the story as a whole, have to be considered against the available country evidence and reliable expert evidence, and other familiar factors, such as consistency with what the appellant has said before, and with other factual evidence (where there is any).
>
> 29. Inherent probability, which may be helpful in many domestic cases, can be a dangerous, even a wholly inappropriate, factor to rely on in some asylum cases. Much of the evidence will be referable to societies with customs and circumstances which are very different from those of which the members of the fact-finding tribunal have any (even second-hand) experience. Indeed, it is likely that the country which an asylum-seeker has left will be suffering from the sort of problems and dislocations with which the overwhelming majority of residents of this country will be wholly unfamiliar. The point is well made in *Hathaway on Law of Refugee Status* (1991) at page 81:
>
> "In assessing the general human rights information, decision-makers must constantly be on guard to avoid implicitly recharacterizing the nature of the risk based on their own perceptions of reasonability."
>
> 30. Inherent improbability in the context of asylum cases was discussed at some length by Lord Brodie in Awala v Secretary of State [2005] CSOH 73. At paragraph 22, he pointed out that it was "not proper to reject an applicant's account merely on the basis that it is not credible or not plausible. To say that an applicant's account is not credible is to state a conclusion" (emphasis added). At paragraph 24, he said that rejection of a story on grounds of implausibility must be done "on reasonably drawn inferences and not simply on conjecture or speculation". He went on to emphasise, as did Pill LJ in Ghaisari, the entitlement of the fact-finder to rely "on his common sense and his ability, as a practical and informed

> person, to identify what is or is not plausible". However, he accepted that "there will be cases where actions which may appear implausible if judged by…Scottish standards, might be plausible when considered within the context of the applicant's social and cultural background".

44. In this regard, we note the analysis of paragraph 28 of HK by Upper Tribunal Judge Dr Storey in KB & AH (credibility-structured approach) Pakistan [2017] UKUT 00491 (IAC), which warns against basing credibility findings on one factor rather that a range of indicators including consistency,

> "30. The reference by Neuberger LJ at [28] of HK to the need to consider factors related to plausibility along with "other familiar factors… such as consistency" is also illustrative of the need to avoid basing credibility assessment on just one indicator. We would add that even when focusing just on plausibility, it is not a concept with clear edges. Not only may there be degrees of (im)plausibility, but sometimes an aspect of an account that may be implausible in one respect may be plausible in another."

45. It appears obvious to us that Judge Moxon did consider a range of indicators when assessing the Appellant's behaviour whilst allegedly at risk.

46. At paragraph 17(c) there is an express consideration of the Appellant's claim to have been actively canvassing in his own and nearby villages, against the CPIN evidence. The grounds of appeal do not suggest that the finding at 17(c) that the Appellant's "assertion that he was able to [canvass] … is inconsistent with the background country information", is unlawful.

47. We further find that Judge Moxon's consideration of the Appellant's willingness to put himself at risk when leaving and re-entering Bangladesh at paragraphs 17(d) and (e) - as considered by us in relation to ground 1 - equally relevant to the Appellant's claimed behaviour in the context of the alleged risk.

48. We take into account HK's consideration of "inherent improbability" at paragraph 30 of HK, which sets out LJ Pill's reasoning in Ghaisari, "that rejection of a story on grounds of implausibility must be done "on reasonably drawn inferences and not simply on conjecture or speculation"". We find that a fear of serious harm transcends borders and cultural differences, and as such, it was open to Judge Moxon to have regard to the Appellant's behaviour in the face of the claimed risk, and to draw an adverse inference accordingly in the light of the other adverse indicators.

49. For these reasons we reject ground 3.

Ground 4:

50. Under ground 4, the Appellant argues that Judge Moxon placed an "Inappropriate reliance on screening interviews" at paragraph 17(a). The ground asserts that "where there had been a misunderstanding in the screening interview, it was incumbent on the FTTJ to give him the benefit of the doubt, taking into account that he did not have the benefit of an audio recording to corroborate what he had said in the interview. As the Court of Appeal has recognised, it is easy for errors to creep in, either through incorrect translation by the interpreter, or through incorrect transcription". In this regard the Appellant relies upon JA Afghanistan [2014] EWCA Civ 450 and Dirshe [2005] EWCA Civ 421.

51. We reject the Appellant's contention for the following reasons. Paragraph 17(a) states,

> "The Appellant has been materially inconsistent in relation to his involvement in the 2013 demonstration which resulted in a case being filed against him. In his screening interview, he stated that he had not been involved, whereas in his asylum interview he stated that he was present and throwing stones. Whilst I accept that the Appellant would have been nervous in his screening interview, and he was only required to give a brief outline of his claim on that occasion, his circumstances is different from that of a person who arrives in the United Kingdom and is interviewed after a long journey. He had been present in the United Kingdom for over a year before his interview. Nerves do not explain why he would provide incorrect information about an important aspect of his asylum claim. I do not accept his assertion in his witness statement that this could have been a slip of the tongue. I do not accept that there may have been a misunderstanding, as the comment was clear and unambiguous and was given through an interpreter with whom the Appellant signed, upon the interview transcript, to state that he understood"

52. The impugned question and answer within the screening interview at 5.3 reads,

> Q: Have you ever, in any country, been accused of, or have committed an offence for which you have been, or could have been convicted? (including traffic offences)
>
> A: I have 2 cases against me in Bangladesh by the government on 28/02/2013 was lodged and 27/02/14.

> There has been no outcome to my cases yet
>
> The first case brought against me due was due to a clash in a rally with the Police and the party members
>
> The second was due to the burning of cows.
>
> I was not involved in either

53. In the Appellant's AIR at question 5, the Appellant sought to correct 5.3 of the screening interview, but only in so far as "…the date of my case that was on my screening interview – it was the wrong date." We note that no attempt was made to address the statement "I was not involved in either".

54. Contrary to this statement at 5.3, the Appellant went on to assert in the AIR at question 52,

> "…we were demonstrating. At that time, the police fired towards us and we throw stones towards the police……..On the day when we were demonstrating the fighting started, police and Awami people attacked us, That was the incident for the first case."

55. The Appellant further claimed at questions 128 and 129 of the screening interview,

> "when the police shoot and fire towards us with a gun. To save ourselves, we throw stones towards the police."
>
> "….when the police shoot guns towards us, our sense was not working, when police shoot towards us we became very angry, that's why we picked up stone and thrown in towards them."

56. We therefore find that there was an evident inconsistency between the statement "I was not in involved in either" and the later statements made at questions 128 and 129 of the AIR.

57. The Appellant's explanation for this inconsistency appears in his subsequent appeal witness statement at paragraph 19(ii),

> "I was told in the screening interview to give brief answers due to the length of interview and there is opportunity to explain in main interview I was very brief in answering the questions. Therefore, my answer of not involving in either case could be a slip of my tongue or a misunderstanding."

58. The first difficulty with this explanation is that it does not suggest that the Appellant did not say, "I was not in involved in either" at 5.3. The second difficulty with this explanation is that it does not attempt to suggest how "I was not involved in either" was supposed to be understood. We were not taken, during oral

submissions, to any evidence that could have cast light on how this statement was supposed to be interpreted.

59. We find that, notwithstanding the complaint in the grounds that there was no corroboration of what was said and that incorrect translation occurs, the Appellant has not suggested in his own evidence that there has been a mis-recording or mistranslation.

60. Judge Moxon, actively engaged with this explanation at paragraph 17(a) and found, "I do not accept that there may have been a misunderstanding, as the comment was clear and unambiguous". We agree it is a clear and unambiguous statement.

61. Before us, Mr Halim confirmed that he did not put his case on the basis that the contents of the screening interview "did not matter".

62. Whilst we fully recognise the need for caution when a First-Tier Tribunal Judge considers inconsistency between a screening interview and later statements, we are also mindful of the reasons underpinning the need for caution in the authorities. In *YL China [2004] UKAIT 00145* at paragraph 19 it was reasoned,

> *"it has to be remembered that a screening interview is not done to establish in detail the reasons a person gives to support her claim for asylum. It would not normally be appropriate for the Secretary of State to ask supplementary questions or to entertain elaborate answers and an inaccurate summary by an interviewing officer at that stage would be excusable."*

63. In JA it was argued that the screening interview was procedurally unfair on account of JA being only 14 years old when he was interviewed by telephone and without a responsible adult. In Dirshe the issue was whether the substantive asylum interview procedure met the appropriate standards of fairness in circumstances where the appellant's request for his interview to be recorded were refused. At paragraph 16, Latham LJ identified 2 problems that may arise,

> "So long as the respondent continues with the practice of relying upon a written record of the interview in its present form, the applicant must have an adequate means of insuring that the record is, as we have said, both adequate and reliable. As Pitchford J pointed out in Mapah, there are two potential areas of dispute inherent in this procedure. First is the quality of the interpreter. And second is the quality of the transcription by the interviewing officer who, with the best will in the world, is unlikely to be able to achieve

> complete accuracy every time and will often or at least in some interviews produce what is, in effect, an edited version."

64. In the present case, there has been no suggestion by the Appellant that there has been any mis-recording or mistranslation, no suggestion by the Appellant that he did not say "I was not involved in either", and no attempt to explain how this unambiguous statement should have been understood. Equally, it is evident that the Appellant was aware of the content of his screening interview and indeed sought to address errors in his answers at question 5 of the AIR but failed to address his unambiguous statement at 5.3 of his screening interview.

65. Drawing all of these strands together, we do not accept that Judge Moxon erred in placing reliance upon the inconsistent statement in the screening interview.

66. For these reasons we reject ground 4.

Ground 2:

67. Finally, we turn to ground 2, which argues that Judge Moxon failed to have regard to relevant evidence when rejecting newspaper reports as unreliable.

68. We take ground 2 last as it is clear to us that Judge Moxon's findings on the reliability of the newspaper articles were made in the round with the credibility findings at paragraph 17 of the Decision. In the light of our findings in respect of grounds 1, 3 and 4, we see no error in Judge Moxon's approach in this regard.

69. The Appellant argues that the findings at paragraphs 27 and 28 of the Decision are unsustainable because Judge Moxon failed to have regard to 4.6.1 of the FFM. Whilst we note that 4.6.1 is not referred to in the ASA, it was not in dispute before us that the Appellant relied upon this paragraph of the FFM before the First-Tier Tribunal.

70. Paragraphs 27 and 28 of the Decision state,

> 27. The Appellant has provided numerous newspaper reports concerning events in Bangladesh and his political activities in the United Kingdom. The reports from Bangladesh relate to the Appellant's family home being raided by the authorities and the reports from the United Kingdom relate to political events. The Appellant is named in the reports. His photographs can be seen at what is described as political events, also attended by those that

are purported to have provided letters of support. The Respondent previously noted that the full URL had not been provided by the Appellant but Mr Halim prepared a list of URLs for the hearing.

28. Given the prevalence of forged documents in Bangladesh, together with the aforementioned adverse credibility findings, I am not satisfied that the newspaper reports are reliable. I do give weight to the sheer quantity of the documents, and the fact that they appear online. However, their being online does not satisfy me that they are reliable given that there is often unreliable information on the internet. In all the circumstances, I am not satisfied that they are reliable. In any event, the reports from the United Kingdom simply detail that the Appellant attended political events, which, for reasons outlined below, would not be sufficient to put him at risk of persecution in Bangladesh.

71. The FFM at 4.6.1 states as follows [we highlight the specific passage relied on by the Appellant],

"4.6 Fraudulently obtained and forged documents

IV.6.1 The BHC noted that forged and fraudulently obtained documents were easily obtainable. TI noted that there were significant incidents of forged documents, particularly in relation to land matters, but it is not a general problem. **Several sources commented that it was hard to fake news, such as posting an arrest warrant in a paper, in the mainstream media**. One source noted that forged or fraudulent police or court documents are not easily obtainable, because of counter-signature processes and the fact that all documents can be checked against a database."

72. We find that there is an inherent distinction between a newspaper posting details of a document that could be checked, such as an arrest warrant, and a false story. The FFM at 4.6.1 clearly sets out the difficulty faced in publishing false police or court documentation, given how easily they could be checked. We do not accept that 4.6.1 can logically be interpreted as applying to all published material.

73. We therefore find no error by FTIJ Moxon in his assessment of the newspaper articles. The FTIJ correctly considered the articles in the round with his credibility findings at paragraph 17 of the Decision. As we have found, the paragraph 17 adverse credibility findings are sustainable. Judge Moxon's approach was entirely consistent with Ahmed (Documents unreliable and forged) Pakistan * [2002] UKIAT 00439. Equally, it was perfectly open to Judge Moxon to take into account the prevalence of forgery, in the light of both

the CPIN evidence, as identified at paragraphs 22 and 23 of the Decision, and 4.6.1 of the FFM. We find no error in Judge Moxon taking judicial notice of the prevalence of misinformation online when finding, "being online does not satisfy me that they are reliable given that there is often unreliable information on the internet." This finding appears to us to be within a reasonable range of responses.

74. We therefore reject ground 2.

CONCLUSION

75. For our reasons above, we find that Judge Moxon's decision discloses no material errors of law.

NOTICE OF DECISION

No legal error material to the decision of the Judge Moxon is made out. The determination shall stand.

D. Clarke

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

1st December 2024