



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: PA/03981/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 3 April 2017  
Prepared 3 April 2017**

**Decision & Reasons Promulgated  
On 22 May 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVEY**

**Between**

**J M  
(ANONYMITY DIRECTION MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr K Noor, Solicitor of Blackstones Solicitors  
For the Respondent: Mr N Bramble, Senior Presenting Officer

**DECISION AND REASONS**

1. The Appellant, a national of Bangladesh, date of birth [ ] 1981, appealed against the Respondent's decision, dated 8 December 2015, whereby his claims for refugee status and humanitarian protection were rejected. The appeal came before First-tier Tribunal Judge Fletcher-Hill (the judge), who

heard the case on 16 June and 5 August 2016. In a decision [D] promulgated on 14 November 2016 she dismissed the appeal on all grounds. Permission to appeal that decision was given by Upper Tribunal Judge McWilliam on 19 January 2017.

2. The core of the complaint is that the judge concentrated on Section 8 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and failed to properly take into account two documents particularly, a FIR(03/76), which had been found to be genuine as a result of a document verification report, and secondly a general complaint made in General Diary No 243 which had been verified as genuine. The latter document records a third person's complaint about violence and threatening behaviour that took place at the Appellant's shop.
3. It is to be noted that a charge sheet relating to the FIR had been found and verified as non-genuine. The reliability of identity documents had been found to be inconclusive.
4. The grounds therefore focus directly on the issue of the reliability of the documents and the fact that the judge did (D 8.7) conclude that she could not give either the FIR or the charge sheet any weight. Her conclusion needs to be understood, even if infelicitously expressed, in the context that the judge had set out the Appellant's claim. She had, so Mr Noor confirmed, correctly identified the material in section 5 (5.1 to 5.24) of the evidence, further set out in section 6 was the particular evidence relied upon. The judge correctly set out and included the submissions at least in a fairly lengthy summary of the remarks made for and against the Appellant's case.
5. It is clear [D 8.4] that the judge had taken into account the Reasons for Refusal Letter. It is not said that it was inappropriate or unlawful for her to take into account the Secretary of State's assessment; at paragraphs 18 to 23 of the Reasons for Refusal Letter. In other words, the judge had not

slavishly followed the Reasons for Refusal Letter. There was other evidence which qualified the basis on which that refusal letter had been written. Further, the judge set out [D 8.5] her conclusions formed in relation to paragraphs 30 to 32 of the Reasons for Refusal Letter, with which she agreed.

6. On the face of it therefore the judge's assessment of the documentation was part of an assessment of the whole evidence. I bear in mind what the Secretary of State had said about the evidence that had been provided.
7. It therefore seems to me that the judge not only addressed the case of Tanveer Ahmed [2002] UKIAT 00439 but evidently took into account that the decision maker looks at this matter on the basis that the document read as part of the whole evidence. It is plain that the judge had taken into account the issue of the Appellant's knowledge of the BNP, of the risks claimed to be faced from the Awami League. Reading the documentation as a whole, Mr Noor's submissions succinctly and fairly really represent the fact that he and indeed his client significantly differ with the judge on the findings she made. The question really posed is: does the FIR establish a real risk to the Appellant on return?
8. It seems to me taking the FIR at its highest, when all the documentation and the evidence is taken into account, the judge was entitled to form the view that there was no real risk from the Awami League or from the imposition of the criminal proceedings that might arise as a result of any investigation raised by the First Information Report. An FIR is of course, as a fact a long way from there being criminal proceedings after the investigation. It may be that the Appellant, as the judge found, is of low interest in the BNP; such that it is unlikely that he is at risk on return from the Awami League. Those were findings the judge was entitled to make. I would not necessarily have made the same findings but that is not the basis on which I examine the decision. I am satisfied that in the light of the material before the judge she reached a decision which she was

entitled to reach. It does not disclose an error of law, notwithstanding the fact that she had discounted the FIR and gave it no weight because it is only a part of the evidence and part of the assessment of risk on return.

9. For these reasons therefore, notwithstanding Mr Noor's skilful efforts to present this matter, I find no material error of law and on the face of it any other Tribunal looking at the evidence would be likely have come to the same conclusion overall on the evidence.

### **NOTICE OF DECISION**

The appeal is dismissed.

### **ANONYMITY**

An anonymity order had been made and I continue that in this decision.

### **DIRECTION REGARDING ANONYMITY - RULE 14 OF THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 12 May 2017

Deputy Upper Tribunal Judge Davey