



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: PA/11873/2016

THE IMMIGRATION ACTS

Heard at Glasgow

On 10th January 2018

**Decision & Reasons
Promulgated**

On 26th January 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE DEANS

Between

**R B
(Anonymity direction made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Winter, Advocate, instructed by Latta & Co, Solicitors

For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal against a decision by Judge of the First-tier Tribunal Clough dismissing an appeal on protection and human rights grounds.

2. The appellant is a national of Bangladesh. He claims to be at risk in Bangladesh because he criticised Islam in a blog. He also claims to fear persecution as a Hindu.
3. The appellant entered the UK in January 2015 as a student. In March 2016 the Home Office was notified that the appellant was no longer studying at the university he was supposed to be attending. Shortly afterwards the appellant made a protection claim.
4. The appellant claimed that he started his blog around the end of 2012 or the beginning of 2013. He claims he was assaulted in October 2013, as a result of which he required hospital treatment. It was after this he decided to leave Bangladesh to study in the UK. On 5th March 2016 some people came to the appellant's father's house asking for the appellant's whereabouts and threatening to kill him. The appellant provided police reports of the incidents in October 2013 and March 2016. In addition he provided a newspaper report of the incident in March 2016. The newspaper report was examined by an expert witness, who considered it authentic.
5. The judge did not accept the appellant's evidence as credible.
6. Permission to appeal was granted principally on the ground that the judge arguably erred by failing to have proper regard to the expert report when assessing the appellant's credibility. The expert report considered it was plausible that the appellant would have received threats from militant Islamists because of his online activities and the judge arguably failed to take this into account. The grounds of the application for permission to appeal further contended that the judge erred by not making clear findings in respect of the appellant's activities online.
7. Mr Winter addressed me in relation to the grounds of the application. He submitted that the judge did not adequately explain why she had not followed the expert's conclusions. The judge did not state whether she agreed with the expert's view that the newspaper report was authentic. If the newspaper report was accepted as authentic this would strengthen the weight to be given to the police reports. An expert report should be given significant weight unless proper reasons were provided for not doing so. The appellant's delay in claiming asylum, while founded upon by the judge in making an adverse credibility finding, was not a sufficient reason for rejecting the appeal.
8. Mr Winter further submitted that the judge failed to make a specific finding on whether the appellant was a blogger. There was evidence before the Tribunal to show that bloggers were targeted.

9. For the respondent, Mr Matthews submitted that the judge was entitled to find that the first police report, relating to the alleged assault in October 2013, was not reliable. The judge then considered the reports of the alleged incident at the family home in March 2016. The judge did not accept the content of these reports as reliable.
10. Mr Matthews acknowledged nevertheless that it was incumbent upon the judge to make findings on the appellant's alleged involvement in blogging but there was a lack of clear findings on this issue.
11. It is common ground between the parties that the judge did not make proper findings on the existence or extent of the appellant's blogging activity. In the view of the expert report a blog criticising Islam might attract the adverse attention of Islamist groups. Findings on this matter were therefore potentially material to the outcome of the appeal.
12. I am inclined to accept Mr Matthew's submission to the effect that the judge was entitled to find for the reasons which she gave that the evidence relating to the alleged assault in October 2013 was not reliable. I consider, however, that different considerations arise in relation to the alleged threats made at the family home in March 2016. For one thing, this incident was more or less contemporaneous with the claim for protection. Secondly, the newspaper report of the incident was regarded by the expert report as authentic. If it was the view of the judge, as Mr Matthews suggested, that while the newspaper report was a genuine document the account given in the newspaper report was not reliable, then it was incumbent on the judge to make this important distinction in her findings. What the judge seems to have concluded, at paragraph 19, was that even if the incident at the family home occurred, it had not been shown that it was provoked by the appellant's anti-Islamic blogging. This comes right back to the issue already identified of the inadequacy of the judge's findings on the question of the appellant's alleged blogging. Without proper findings on this matter I cannot be satisfied that the judge's approach to the alleged incident in March 2016 is sound.
13. Because of the deficiencies in the judge's findings the proper course is for the appeal to be remitted to the First-tier Tribunal with no findings preserved for the decision to be re-made before a different judge.

Conclusions

14. The making of the decision of the First-tier Tribunal involved the making of an error of law.

15. The decision is set aside.
16. The appeal is remitted to the First-tier Tribunal with no findings preserved for the decision to be re-made before a differently constituted tribunal.

Anonymity

No direction for anonymity was made by the First-tier Tribunal. As the appeals are to be reheard I consider it appropriate to make a direction for anonymity to preserve the positions of the parties until the appeals are decided. Unless or until a tribunal or court directs otherwise, no report of these proceedings shall directly or indirectly identify the appellant or any members of his family. This direction applies to the appellant and to the respondent. Failure to comply with this direction may lead to contempt of court proceedings.

Deputy Upper Tribunal Judge Deans
January 2018

25th