



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: PA/12242/2018

**THE IMMIGRATION ACTS**

Heard at Field House  
On 18<sup>th</sup> March 2019

Decision & Reasons Promulgated  
On 28<sup>th</sup> March 2019

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

S R N  
(ANONYMITY DIRECTION MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr Balroop instructed by Universal Solicitors

For the Respondent: Ms S Jones, Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant is a citizen of Bangladesh born in 1978. She appeals against the decision of First-tier Tribunal Judge Grimmett, promulgated on 18 January 2019, dismissing her appeal against the refusal of her protection claim.
2. Permission to appeal was granted by First-tier Tribunal Judge Rai on 12 February 2019 on the ground that the judge arguably erred in law in failing to make an assessment of any threat faced by the Appellant in consequence of accepting her father was a founding member of the BNP. Permission was granted on all grounds.

## Submissions

3. Mr Balroop relied on the grounds of appeal dated 1 February 2019. He submitted the judge made the following errors of law:
  - (i) overlooking material evidence;
  - (ii) placing reliance on a defective document verification report; and
  - (iii) failing to consider the possible future suppression of political beliefs.

### Ground (i)

4. Mr Balroop submitted that the judge failed to take into account relevant evidence of the Appellant's position within the BNP. The judge failed to consider the evidence at pages 22 to 25 of the Appellant's bundle; letters from the Secretary General of the Bangladesh National Party, the Senior Joint Secretary General of the BNP and the President of the Bangladesh Jatiyatabadi Mohila Dal Central Committee [BJMD], Afroza Abbas.
5. At paragraph 26 of the decision the judge found the Appellant had failed to provide evidence from any of the women who held positions in the BJMD. Mr Balroop submitted that the Appellant had provided such evidence, in particular the letter dated 17 October 2018 signed by the President, Afroza Abbas, and the General Secretary, Sultana Ahmed, stating that the Appellant was currently serving as Vice-President. This was material evidence which the judge failed to take into account. The judge made no reference to the letters at pages 22 to 25 in her findings and this amounted to an error of law.
6. Further the judge accepted that the Appellant's father was a founding member of the BNP but failed to make an assessment of any consequent threat faced by the Appellant as a result. This point was argued on appeal before the First-tier Tribunal and is evidenced in the Appellant's witness statement where she states:
  - “17. Until then, there were no charges against either my father or me. In the election of 2008 my father was standing in the Dhaka 3 constituency. I helped his campaign by doing meetings, visiting door-to-door. As a result, I became very well-known and respected in the area, which the local Awami League did not like. I had significantly assisted my father in his election campaign as well as making meetings of my own with communities in Keraniganj to the south of Dhaka.
  18. When the election was over and the Awami league won, I was returning home. There was a victory march by the Awami League supporters, and activities and then they attacked me, beat me up causing me to go unconscious. When I awoke, I was in hospital, and found my leg was broken (please see attached photograph). That was so traumatic that I still get nightmares.

...

20. The fact that I was the daughter of a prominent opposition leader as well as being a member of the Bangladesh Nationalist Mohila Dal, the Women's wing of the BNP, this had an indirect negative impact on my career. ...

In 2010, I was forced to give up my job because I used to face a lot of harassment from colleagues who were Awami League supporters because of my political affiliation. They also abused me mentally and verbally, commenting towards me, my father and the Chairperson of the BNP and former Prime Minister Begum Khaleda Zia. ..."

7. Mr Balroop submitted it was clear from the Appellant's statement that she relied not only on her position as Vice-President of the BJMD, the women's wing of the BNP, but also because she was the daughter of a prominent leader and founder member of the BNP. Her case was advanced on both grounds and the judge failed to consider this when looking at risk on return.

Ground (ii)

8. Mr Balroop referred me to the document verification report at D56 of the Respondent's bundle. The report was in the name of the Appellant's husband. Mr Balroop submitted that the name and date of birth were incorrect and the report itself was vague, concluding that the FIR number and the date of the document submitted by the subject did not match with the details contained in the register. The judge should not have attached great weight to this document given the error on its face and it was not appropriate for the judge to rely on this document in order to say that the other documents were unreliable. The judge failed to give any other explanation for why he found the other documents unreliable. The document verification report contained an error and was too vague to be sufficient to render all other documents unreliable.

Ground (iii)

9. It was accepted that a political supporter of the BNP faced a risk and that was apparent from the Home Office CIG. Therefore, the judge erred in law in failing to make an assessment as to whether the Appellant might be at risk on return to Bangladesh based on her participation in government criticism here in the UK and given the position of her father.
10. In YV (Eritrea) [2008] EWCA Civ 360 at paragraph 18 it stated: "Where the Tribunal has objective evidence which paints a bleak picture of the suppression of political opponents by a named government it requires little or no evidence or speculation to arrive at a strong possibility - and perhaps more - that its foreign legations not only to film or photograph their nationals who demonstrate in public against the regime but have informers among expatriate oppositionist organisations who can name the people who are filmed or photographed."

11. Ms Jones submitted that ground (i) was not material given the delay in claiming asylum. The judge was aware of the errors in the document verification report and took that into account at paragraph 33. The judge's conclusion that the Appellant failed to give sufficient evidence about the break in at her house was open to her and did not amount to an error of law. Ms Jones accepted that there was some merit in the argument that the judge failed to refer to page 25 of the Appellant's bundle and made findings which were contrary to the evidence.

### **The judge's findings**

12. The judge made the following findings relevant to this appeal (words in *italics* are my emphasis):

"24. The Respondent at paragraph 47 does not accept she is the president as external information showed that Zeba Khan was the vice-president. In response the appellant produced a number of articles from page 52 of the bundle which described rallies in the UK in 2018 following the trial of the BNP acting chairman. There were no articles from any newspaper or tv channel in Bangladesh showing her to be the vice chairman or a vice chairman [sic] of the party. There are photographs of the appellant and her family in the UK with BNP members and at BNP rallies but they postdate the decision by some two years."

...

26. At page G192 of the Respondent's bundle there is an article apparently published on-line by the BNP on 27 September 2016 which says that Afroza Abbas was the president of the women's party and Nurjahan Yasmin was the senior vice president. Zeba Khan was named as the vice-president and Helen Zerine Khan was made joint general secretary. There was no reference to there being more than one vice-president. *The appellant provided no evidence from any of these women in her appeal and is not mentioned in the article.* She did produce [sic] a letter from Sherin Sultana dated 3<sup>rd</sup> June 2016 who she says is the general secretary of the women's party. I attach little weight to that document as although it predates the September report, that report did not suggest the party had a general secretary post. In addition, the letter says the appellant had to flee Bangladesh to escape danger to her life whereas the appellant says she came to study and does not suggest she was in danger at the time she left.

...

33. I accept that the DVR contains an error in the names that it bears but it is clear from the report itself that the officer checked the FIR number provided by the appellant with the register and found it to be inconsistent. I am satisfied on balance the DVR showed that the FIR numbered 37 produced by the appellant was not a genuine one.

34. Plainly that gives rise to doubts as to the validity of the other documents produced by the Appellant and whilst I do not find them to be false I attach little weight to them given that one of their number is not genuine. ...The appellant's own expert indicated that it was not difficult to obtain false documents in his report.

35. I accept that the appellant's father has a significant position with the BNP being a founder member and that he has been imprisoned and attacked as a result of his position. There is good evidence to show that is the case.
36. I accept that the appellant may have attended a rally some years ago in support of the party where violence ensued as there is evidence of a rally being broken up. I do not accept that the appellant is the vice president of the BNP's women's section as *there is nothing from the BNP in Bangladesh to confirm that to be the position*. The appellant did not refer to herself as vice president until after she had been in the UK for some three years. She has produced no evidence from the woman named as the vice chairman, Zeba Khan, to clarify the position and *has not explained why she has not contacted those currently leading her party to support her*. I accept that she may have attended meetings of the female wing of the party in the past but I am not satisfied that she was active on the party's behalf or that she had a formal role within the party for the reasons given above.
37. Looking at the appellant's claim in the round, she has produced one false document and others which are not reliable. *She has produced no evidence to show she holds a position with the BNP save for the witness statements from two friends in the UK. Neither says how they know she is vice president. There is no evidence from the female wing of the party to support her*. I accept she may have attended meetings in the UK as there are photographs of her but they appear to postdate the decision."

### **Discussion and Conclusions**

13. It is apparent from the judge's findings at paragraphs 26, 36 and 37 that she failed to take into account the documents at pages 22 to 25 of the Appellant's bundle. There was clear evidence from the President of the BJMD, Afroza Abbas, and the judge made an express finding that there was no such evidence from her. The judge failed to deal with the content of these letters. Any finding that these documents were unreliable on the basis of one fraudulent FIR was insufficient.
14. At 36 the judge stated that the Appellant had not explained why she had not contacted those currently leading her party to support her. This finding was not open to the judge given the letters from the Bangladesh Nationalist Party and from the President and General Secretary of the BJMD. Whilst it is correct there is no evidence from the Vice Chairman, there was evidence from the President accompanied by proof of postage from Bangladesh. It was incumbent on the judge to deal with this evidence and explain the weight she attached to it.
15. The judge also erred in law in failing to consider risk on return on the basis that, having accepted that the Appellant attended meetings and rallies, she would not be risk as a result of her father's prominent position within the BNP.
16. I find that the judge erred in law in failing to take into account material evidence and in failing to consider the risk on return as a result of the Appellant's father's significant position with the BNP. I set aside the decision. None of the judge's findings are preserved.

17. I have decided in accordance with paragraph 7.2 of the Practice Statements of 25 September 2012 that the decision dated 18 January 2019 should be set aside and the appeal remitted to the First-tier Tribunal. The Tribunal is directed pursuant to section 12(3) of the Tribunals, Courts and Enforcement Act 2007 to reconsider the appeal at a hearing before a First-tier Tribunal Judge other than First-tier Tribunal Judge Grimmett.

**Notice of Decision**

**The Appellant's appeal is allowed.**

**The appeal is remitted to the First-tier Tribunal for hearing de novo.**

**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 her or any member of her 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.**

*J Frances*

Signed

Date: 22 March 2019

Upper Tribunal Judge Frances

**TO THE RESPONDENT**  
**FEE AWARD**

As I have allowed the appeal and because a fee has been paid or is payable, I have considered making a fee award and have decided to a whole fee award of £140.

*J Frances*

Signed

Date: 22 March 2019

Upper Tribunal Judge Frances