



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number PA/11074/2019 (V)**

THE IMMIGRATION ACTS

**Heard by *Skype for Business*
On 28 April 2021**

**Decision & Reasons Promulgated
On 17 May 2021**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

SOMASUNDARAN VEERAKUTTY

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr MacKay, of McGlashan MacKay, Solicitors
For the Respondent: Ms Everett, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Sri Lanka, born on 31 March 1976. His appeal to the FtT was dismissed by Judge P A Grant-Hutchison by a decision promulgated on 19 October 2020. He appeals to the UT on grounds set out in detail in his application dated 12 November 2020.
2. The first point in the grounds is based on the statement in the expert report of Dr Smith at [106] that the appellant might not have “a role of exceptional significance or importance in the TGTE” but that did not mean “*ipso facto* that he will not be of adverse interest on return”.

3. The grounds and submissions probed into this quite intricately, but do not persuade me that the decision shows that the judge failed to comprehend the plain meaning of that sentence.
4. The grounds develop this into an assertion of misunderstanding the report, based on [109], where it says there is “clear evidence that supporters and those associated *in any way* to the TGTE ... are ... at ... risk” (emphasis added).
5. It was this aspect of the grounds which led to the grant of permission, but the line was not put to the FtT clearly, if at all.
6. The report and the submissions for the appellant did not grapple with how slight an association might suffice, if the bar were to be set lower than in country guidance. A fleeting presence on the fringes of one demonstration, or one conversation with a TGTE leader, perhaps?
7. The judge was not asked to depart from country guidance, which discloses a need for protection of those the authorities are likely to perceive as having a significant role in post-conflict Tamil separatism. The appellant’s case, recorded at [16 b], was that the authorities would have “years of evidence” of him being “right in the thick of things”.
8. The suggestion that even the faintest participation would do was not argued. It is not the consistent thrust of the report. If there was any lack of clarity and consistency, it came not from the judge, but from the way the appellant put his case.
9. The assessment of risk through association with the TGTE was, in my view, a matter of fact and degree for the judge to resolve on all the evidence, applying guidance to his findings. That is what the judge did. He recognised that the appellant’s role did not have to be exceptional.
10. The next point in the grounds is based on the judge’s comment that examples of those at risk identified at [109] of the report are persons with involvement “significantly greater” than the appellant, and on his finding that the appellant had been “involved in 6 protests and street theatre”, although not with “any elevated role”, and had “probably been identified” (by the Sri Lankan authorities) “as an activist”.
11. The grounds take the example of “a well-known traditional dancer” who performed at many TGTE events in the UK, and argue that “it cannot be rationally maintained that [her] involvement and status in the separatist movement has been significantly greater than that of the appellant”.
12. This ground is selective. It also goes too far. Again, the matter is one of fact and degree. It was not beyond reason to think that the dancer presented a higher profile than the appellant, who does not claim to be prominent among the Sri Lankan Tamil diaspora for a performing skill, or otherwise. I do not agree that this finding was irrational, or unsupported by the evidence.

13. The grounds allege that the judge erred in various ways in finding the appellant not to have had a significant role. Details are rehearsed from letters, statements, and the opinion in the expert report. It is said to be “not inconceivable” that the judge might have concluded differently “if he had taken into account that the appellant was an active supporter of a proscribed organisation”.
14. A judge does not have to specify every dot and comma of an appellant’s evidence. It is clear from the decision that the judge understood the case as it was put. He accepted at [20] that the appellant had a level of involvement. He recorded that the TGTE is a proscribed organisation. The decision is all about whether the evidence, as a whole, establishes such a profile that the authorities might see the appellant as a threat, and as more than an opportunistic hanger-on.
15. The appellant’s grounds and submissions do not show that the judge’s resolution of that issue is affected by any error on a point of law.
16. The decision of the FtT shall stand.
17. No anonymity direction has been requested or made.

Hugh Macleman

6 May 2021
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal’s decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A “working day” means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is “sent” is that appearing on the covering letter or covering email.