



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-002661
First-tier Tribunal No:
DC/50158/2021
IA/07843/2021

THE IMMIGRATION ACTS

Heard at Field House
On the 3rd November 2022

Decision & Reasons Promulgated
On the 14 February 2023

Before

UPPER TRIBUNAL JUDGE GRUBB
DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE

Between

FORHAD MIAH (AKA ARJOMOND ALI)
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Ahmed, Counsel, instructed by Lincoln's Chambers
Solicitors

For the Respondent: Ms S Rushforth, Senior Presenting Officer

DECISION AND REASONS

Introduction

1. The Bangladeshi Appellant appeals with permission the decision of Judge of the First-tier Tribunal Lester (“the judge”) sent to the parties on 7th April 2022 dismissing his appeal against the Respondent’s decision of 1st June 2021 to deprive him of his British nationality.
2. The Appellant entered the United Kingdom on 19th May 2002, with entry clearance as a visitor until 23rd July 2002, under the identity of Arjomond Ali born 5th January 1973. The Appellant accepts that this was a false identity. The Appellant overstayed his visit visa.
3. The Appellant then made several applications in his earlier assumed false identity.
 - (a) First an application for a work permit. His application was granted until 9th February 2002. The Appellant overstayed his work permit.
 - (b) On 26th May 2005 he applied for “FLR” as a spouse of a present and settled person in the United Kingdom.
 - (c) On 11th June 2007 the Appellant made an application to extend his leave as a spouse. In support of that application he provided a passport obtained from the Bangladeshi authorities in the United Kingdom as the passport upon which he had entered had expired. This new passport was also in the false identity.
 - (d) On 7th November 2007 the Appellant made an application for indefinite leave to remain. In support of this last application, he submitted a new false passport, his earlier false passport having expired. Although not granted indefinite leave to remain, he was granted further leave to remain.
 - (e) The Appellant made an application for indefinite leave to remain which was granted on 10th January 2008.
4. The Appellant on 14th January 2009 made an application in his false identity for Naturalisation as a British citizen. The Appellant was granted British citizenship on 13th May 2009.
5. Subsequently intelligence came to light that he had used a false identity and had fraudulently obtained and doctored a Bangladeshi national passport to enter the United Kingdom. The Appellant was interviewed and denied any wrongdoing and provided what he claimed to be his correct Bangladeshi birth certificate and family tree. The birth certificate was in fact false, as it related to the false identity used to enter and reasserted in all his subsequent applications.
6. The British authorities in Bangladesh conducted a field trip which provided compelling evidence of the Appellant’s genuine identity as Forhad Miah.

7. In April 2021, following the evidence being laid before the Appellant, he confirmed that he had used a false identity. The Appellant blamed a local agent. He was sorry for the trouble caused. Lawyers on his behalf asserted that nonetheless his entry clearance as a visitor in the context of his original arrival was valid.
8. The Respondent concluded that the Appellant had actively practised deception in order to gain status in the United Kingdom. He had knowingly used a false identity and provided false documents in the form of two Bangladeshi passports. In all of the applications, the Appellant had signed to confirm his understanding that it was an offence under the Immigration Act 1971 to provide false information and to attempt to obtain leave in the United Kingdom by deception. Further, he had lied in applications when he said that he had never engaged in activities which would question his good character. In the context of the naturalisation process, the application form and guide provided fair warning that citizenship may be withdrawn if it was obtained by fraud or false representation. The Respondent confirms that the Appellant was granted his British citizenship on the basis of the information that the Appellant had provided. The Respondent concluded that the evidence showed that the Appellant had perpetrated a fraud which was material to his obtaining citizenship.
9. The Respondent considered the question of discretion as to whether or not the Appellant should be deprived of his citizenship as a result. The Respondent took into account that the Appellant's assertion that he had entered with valid entry clearance was a misleading claim because the Appellant had entered with another person's entry clearance which was not valid for him. The Respondent rejected the Appellant's mitigation that he had "come forward" and that he was apologetic for his wrongdoing. The Respondent pointed out that the Appellant had had a number of opportunities to disclose the truth before he naturalised and had chosen not to do so. Further, when the Appellant was interviewed by Her Majesty's Passport Office, he denied that he had used any false passports and provided another false document in the form of the false Bangladeshi birth certificate. The Respondent concluded that if the Appellant's fraud had not been discovered he would have continued to conceal the truth and that his assertion of remorse lacked credibility. In short, the Appellant had perpetrated a fraud with the intention of obtaining a grant of status and citizenship in circumstances where his application would have been unsuccessful if he had told the truth, so that his fraud was deliberate and material to the acquisition of British citizenship.
10. The Respondent noted that the deprivation decision would not directly lead to the Appellant's removal, as both removal and deportation are governed by other statutory regimes entailing specified procedures, requirements and rights. The Respondent pointed out that on the deprivation order being made, it was open to the Respondent to grant a period of leave. In those circumstances, the Respondent did not take into account the impact of removal on the Appellant and his family members.

The decision did not leave the Appellant stateless and did not in itself have an impact on the immigration status of his spouse or children in the United Kingdom, their education, housing, financial support or contact.

The First -tier Tribunal Judge's decision

11. The appeal came before the judge sitting at Newport on 7th April 2022. The Appellant attended the hearing and was represented. The Appellant's position remained that he had come to the United Kingdom with a valid entry clearance, albeit in someone else's name. He continued to blame the agent for the use of the false identity and documentation on entry. He asserted that he believed he would have been granted a visit visa under his true name. He suggested that, in those circumstances, he gained no advantage or benefit from perpetrating the fraud. He argued that following the case of Sleiman (deprivation of citizenship; conduct) [2017] UKUT 36 (IAC) the grant of citizenship attached to the length of time that he had spent in the United Kingdom in the capacity as a work permit holder and spouse, and was unrelated to his identity, so that the fraud was not material to the issue of citizenship. As Judge Lester summarised the arguments at paragraph 5 from the second appeal skeleton argument:

“There was no concealment having a direct bearing on the decision to grant. Although a different name was used, the Appellant otherwise gained his ILR and subsequent citizenship through basis not connected to such appropriation. Simply put, the use of the identity by the Appellant did not lead to him acquiring any characteristics needed to obtain citizenship because that identity did not have the characteristics required to obtain citizenship.”

12. Judge Lester correctly self-directed in respect of the law at paragraph 25 and at 26 correctly identified relevant Upper Tribunal decisions. In particular, the judge identified from paragraph 71 of the judgement of R (Begum) v SIAC [2021] UKSC 7, that he was to consider whether the Secretary of State had made findings of fact to the point that the Appellant had perpetrated a fraud which were not supported by any evidence or were based on a view of the evidence that could not be reasonably held i.e. an irrational view. The judge then considered the issue of credibility in terms of the Appellant's account that he had not perpetrated fraud. The judge reviewed the evidence and found that the Appellant's assertion of innocence and naivety exploited by an agent did not hold water in light of the fraudulent actions identified by the Respondent concerning the further history we have set out above. The Judge also considered the Appellant's assertion that he was at risk of being stateless, and without any support network in Bangladesh. Judge Lester pointed out that the evidence of the presence of relatives and his dealings with the Bangladeshi authorities in renewing or obtaining a new false passport, undermined the credibility of his assertions. The judge concluded at [47] that the Appellant had perpetrated a fraud and that it had made a material difference to his application.

13. The judge then turned to consider the Respondent's exercise of discretion. The judge remarked on the numerous concealments and false representations establishing that each period of leave was obtained by fraud, and that the frauds operated to persuade the Respondent to grant leave and then ultimately citizenship (paragraph 49).
14. The judge then proceeded to consider whether the deprivation would lead to a breach of Article 8. The judge did not accept the Appellant's argument that he would necessarily be removed, or that removal would be a reasonably foreseeable consequence of depriving him of his citizenship. In those circumstances, he declined to complete a "full" Article 8 assessment based on the Appellant's removal. Instead, he considered the impact in terms of a loss of leave and the inability to work whilst without status. The judge considered that position vis-à-vis the Appellant and his family and concluded that nothing in those circumstances outweighed the public interest in the Appellant's being deprived of his citizenship in light of the perpetration of fraud in the obtaining of the same. The judge took into account his residence in the United Kingdom in 2002, his marriage and his four children and that there was no suggestion the Appellant had other character concerns outside of the issue of his immigration status.

Grounds of Appeal and Discussion

15. Counsel took no issue with the structure of the judge's decision or his self-direction: rather it was that the judge had failed to appreciate the import of the evidence. Counsel's initial suggestion was in essence that the Appellant's continuing to make fraudulent statements relevant to the citizenship application lacked materiality because they were merely "formal" in the context of his completing and submitting documentary applications, in which context the applications were simply formalities or niceties. We find it is the argument that is misconceived. The Respondent was clear that the applications constituted important evidence upon which the decisions were made, and as the judge identified and set out in detail, in each and every application there were plain statements concerning the criminality associated with making false statements and representations. In any event, the unsustainability of the argument that his actions were limited to the formalities of documents is undermined by the undisputed findings concerning the Appellant's actively maintaining and bolstering his fraud: supplementing with additional false documents the several applications made, and providing misleading answers when the fraud was put to him in interview, and then providing the false birth certificate which occasioned the public expense of the field trip. We are not surprised the argument fell away in discussion and do not feature in final submissions.
16. The crux of the argument before us was that the judge fell into error because he should have found the Appellant's fraud had no material bearing upon the issue of citizenship. In essence, the argument was that the Appellant was physically the person who had been issued entry clearance and completed periods of residence as a work permit holder

and as a spouse. That was what mattered. It was simply the name that was wrong, and the name was not significantly material.

17. We find it is a nonsense to suggest that British citizenship would be issued to anybody who had spent a period of time in the United Kingdom on a work permit to which they were not entitled in their own identity, and on the basis of leave to remain (regardless of the category), to which they would not be entitled in their own identity. This is not a case which is on point with the circumstances in Sleiman. Not least in that case, the Respondent conceded that a fraud on entry was irrelevant to a grant of leave subsequently obtained on the basis of delay in the Respondent's processing of an application. In that case, as the reason for the grant was delay, there was clearly no causal nexus to the Appellant's identity. The position here is entirely different. The grant depends on the particular identified applicant's having enjoyed a length of status in the United Kingdom. This Appellant had never enjoyed any status in the United Kingdom because he had never, in the context of his own identity, even made any such application. There is merit in the Respondent's point in the reasons for refusal that to suggest that the Appellant had entered on a valid entry clearance is itself misleading.
18. The Appellant's grounds of appeal, as they were argued before us, were essentially a reiteration of the argument made before the judge which we summarise at [11] above. In short, the judge explained the Respondent had shown he entered and remained on an entirely false basis culminating in the falsehoods perpetrated in the naturalisation application, he added to the original fraud with further documents and oral and written statements. The judge did not find any extenuating or other circumstances justifying the exercise of discretion in his favour. We are satisfied the judge provided sufficient reasoning to the Appellant to enable him to understand why he correctly lost his appeal.

Notice of Decision

19. The making of the decision of the First-tier Tribunal promulgated on 7th April 2022 reveals no material error of law and stands.
20. The Appellant's appeal is dismissed.
21. No anonymity direction is made.



Signed _____

Date 12 Dec 2022

Deputy Upper Tribunal Judge Davidge