



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No: UI-2024-003356

First-tier Tribunal No: PA/01678/2024

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On the 19 November 2024**

**Before**

**UPPER TRIBUNAL JUDGE HIRST**

**Between**

**AJ  
(ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr Lee, counsel instructed by East London Law Chambers

For the Respondent: Ms Ahmed, Senior Home Office Presenting Officer

**Heard at Field House on 16 October 2024**

**Order Regarding Anonymity**

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the Appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or address of the Appellant, likely to lead members of the public to identify the Appellant. Failure to comply with this order could amount to a contempt of court.**

**DECISION AND REASONS**

1. The Appellant appeals from the decision of First Tier Tribunal Judge Bulpitt promulgated on 6 June 2024, dismissing his appeal on protection and human rights grounds.

## **Background to the appeal**

2. The Appellant is a national of Bangladesh. On 15 February 2022 the Appellant was granted a visit visa to visit his sister and brother in law in the UK. The Appellant travelled to the UK on 22 May 2022 and on 6 June 2022 he claimed asylum. The basis of his claim was that he feared persecution by the Bangladeshi authorities on the basis of his political opinion as a supporter of the Bangladeshi National Party ('BNP'). The Appellant's asylum claim was refused in a decision dated 30 November 2023 which was served on 22 March 2024. The Appellant appealed that decision. Following judicial review proceedings, the Respondent agreed to reconsider the Appellant's claim and made a fresh refusal on 13 May 2024.
3. The Appellant's appeal came before the First Tier Tribunal on 20 May 2024. It was agreed that the hearing should take place on the basis that the appeal was in respect of both the 30 November 2023 and the 13 May 2024 decisions.
4. In a determination promulgated on 6 June 2024 the judge rejected the Appellant's account of his activities for the BNP in Bangladesh. He made adverse credibility findings, including that documents supplied by the Appellant, which included letters from BNP officials in Bangladesh, were likely to have had a common author and to have been written for the purpose of constructing the Appellant's asylum claim. At paragraphs 30-31 of the determination the Tribunal considered but rejected an expert report by Mr Mahdin Choudhury [121], a barrister in Bangladesh, which *inter alia* gave an opinion on the authenticity of the Appellant's documents. The Tribunal dismissed the appeal on both asylum and human rights grounds.
5. The Appellant sought permission to appeal to the Upper Tribunal on two grounds. First, it was asserted that the Tribunal had erred in its approach to the expert evidence of Mr Choudhury. The second ground of appeal was that the Tribunal had erred in its approach to the Appellant's *sur place* activities in the UK. Permission to appeal was granted by First Tier Tribunal Judge Boyes on Ground 1 and refused on Ground 2.
6. The appeal came before me at an error of law hearing on 16 October 2024.

## **The parties' submissions**

7. Mr Lee for the Appellant submitted that the judge had erred in his approach to the report of Mr Choudhury ('the report'). First, he relied on paragraph 30 of the documentation where the judge, referring to the selection of Mr Choudhury as an expert from an internet search, stated "I consider the suggestion that this was a random instruction unlikely". Mr Lee's submission was that the comment was "dripping with subtext": it was a serious insinuation that the circumstances of Mr Choudhury's instruction were not as put forward by the Appellant's solicitors in the letter of instruction. The Appellant's representatives had not been given an opportunity to respond to the judge's concerns.
8. Mr Lee's second submission was that the judge had erred by reducing the weight to be given to the report and that the reasons given in the determination for doing so were spurious. The Respondent had not challenged Mr Choudhury's expertise and the report set out his expertise and bona fides; as a practising barrister he was well able to comment on court documents and he had set out in his report the process by which he verified the other documents. The documents

formed an important part of the Appellant's case and the rejection of the report was material to the judge's credibility findings and to the outcome of the appeal as a whole.

9. On behalf of the Respondent, Ms Ahmed submitted that the judge had been entitled to reject the report for the reasons he gave. Mr Choudhury had no expertise in assessing the authenticity or validity of documentation and had not been made available for cross-examination; the judge was entitled to make the findings he did about Mr Choudhury's methodology. The weight to be attached to the report was a matter for the judge. Considered in the round, there was no error of law in the Tribunal's decision.

### **Error of law**

10. It is a well-established principle that judicial caution and restraint is required when considering whether to set aside a decision of the First Tier Tribunal as a specialist fact-finding tribunal: *HA(Iraq) v SSHD* [2022] UKSC 22, [2022] 1 WLR 3784 at [72]. This is an appeal on an error of law; where the ground for appeal is that the first instance judge failed to give the evidence a balanced consideration, this court may only set aside the judgment where the judge's conclusions were "rationally insupportable" on the evidence before him: *Volpi & Anor v Volpi* [2022] EWCA Civ 464, [2022] 4 WLR 48 at [2].
11. I have carefully considered the First Tier Tribunal determination and the report of Mr Choudhury as well as the submissions of the parties. I agree with the Appellant that the wording of the judge's comment on the circumstances of Mr Choudhury's instruction at paragraph 30 of the determination was unfortunate, but I do not accept the Appellant's submission that the judge was insinuating that the instruction was in some way improper or that the Appellant's representatives had misled the court, nor more importantly that it affected the judge's approach to consideration of the report as a whole.
12. The Appellant's grounds of appeal criticise the basis on which the judge rejected Mr Choudhury's report. However, taking the judge's reasoning at paragraphs 30-33 as a whole, those criticisms are in my view unjustified. Although it is right that Mr Choudhury's expertise was not challenged by the Respondent, the authenticity of the Appellant's documents clearly was a key issue in the appeal; the judge was not bound to accept the report and his detailed reasons for rejecting it were unarguably open to him given the contents of the report.
13. The context in which Mr Choudhury's report was provided, and which the judge considered together with the report at paragraph 32, was the objective evidence that fraudulent documents were "relatively common" in Bangladesh. Mr Choudhury's opinion as to the genuineness of the letters supplied by the Appellant was based on telephone conversations with the purported authors of the letters. As the judge noted at paragraph 31, no details of these conversations were provided and nor did Mr Choudhury provide any details of any steps he had taken to verify independently the speaker's identity or the reliability of the information provided. In those circumstances, the judge was unarguably entitled to find that he could not attach significant weight to the report.
14. The issue of the First Information Report ('FIR') was slightly different, as there Mr Choudhury had spoken to a court clerk. However, as the judge noted at paragraph 33, Mr Choudhury's report did not give any further details of the conversation beyond confirming that there was a case on record. The judge was

entitled to take into account the objective evidence in the CPIN as to the prevalence of fraudulent documentation as well as the Appellant's own evidence that he had not taken any steps in relation to the case, and was entitled to find that he could place little weight on Mr Choudhury's opinion.

15. I find that there was no material error of law in the judge's approach.

**Notice of Decision**

The decision of the First Tier Tribunal did not involve the making of an error of law and I decline to set it aside.

The Appellant's appeal is dismissed.

**L Hirst**

**Judge of the Upper Tribunal  
Immigration and Asylum Chamber**

**18 November 2024**