

Appeal No. HX56528-2001
MM (Ahmadi-Internal Relocation) Pakistan CG [2002] UKIAT 05714
IMMIGRATION APPEAL TRIBUNAL

Date heard: 16 September 2002
Date notified:.....10 December 2002.....

Before: -

DR H H STOREY (CHAIRMAN)
MRS S I HEWITT
MRS M L ROE

Between

MR MAHMOOD ALI MIRZA + DEPENDANTS

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS

1.The appellant, a national of Pakistan, has appealed with leave of the Tribunal against a determination of Adjudicator, Miss A D Baker, dismissing the appeal against the decision of the Secretary of State giving directions for removal having refused asylum. Ms M Phelan of Counsel instructed by Thompson & Co. Solicitors appeared for the appellant. Mr S Walker appeared for the respondent.

2. The Tribunal has decided to dismiss this appeal.

3.The adjudicator found that the appellant had a well-founded fear of persecution in his home area of Lahore on the basis of his being a member of the Ahmadi sect. He had become the target of a group of Muslim extremists known as Khatme Nabuwat (sometimes spelt Nabuwwat). She also concluded that the background evidence suggested that in Lahore the appellant would not find effective protection from the authorities who are sometimes complicit in such persecutory activity. She noted that in the appellant's case the police had detained him after he had made a complaint of harassment.

4. However the adjudicator decided to dismiss the appeal because she considered the appellant had a viable internal relocation alternative in Rabwah (now known as Chenab Nagar) where he and his family could return and live safely. In reaching this decision she took into account the appellant's intention to devote his son to the Ahmadi faith. She noted:

“Although Rabwah does sometimes suffer staged marches from militant Sunni mullahs, crowds of 100 to 200 people, and this can sometimes lead to violence there is not established on the background a reasonable degree of likelihood that he would suffer treatment amounting to persecution for his religious faith.”

5. As regards the appellant's human rights grounds of appeal, she concluded that the appellant's Art 3 claim failed for the same reasons as did his asylum claim. Regarding Art 8, she noted that the appellant would be returning with his own close family unit and that in the UK he had only had a brother in law and his family. He noted there was no evidence that the relationship with the brother in law was particularly close or of significant duration.

6. The grounds, ably amplified by Ms Phelan, contended that the adjudicator was wrong to find that the appellant would have a viable internal relocation alternative in Rabwah. The appellant had already relocated within Lahore in order to evade his persecutors. The adjudicator failed to appreciate that in Rabwah the appellant would be targeted by the same group of Muslim extremists who had targeted him in his home area. She had also failed to consider factors relevant to undue hardship, speaking only about security and “safety”. The grounds further contended that the background evidence, including the April 2002 CIPU report at paragraph 5.3. 20 and the US State Department report for 2001 did not demonstrate that Rabwah is safe. The US State Department report stated that it has often been a site of violence against Ahmadis. It could not be said that there would be any effective state protection against such harm because the authorities were actively complicit in legislating against Ahmadis and also condoning violence against them. The situation was thus analogous to that of Pakistani women subject to domestic violence as analysed by the House of Lords in *Shah and Islam*. There were plans afoot to gradually buy up properties owned by Ahmadis in Rabwah and to “Muslimise” Rabwah. There was employment discrimination practised against teachers, police etc. The grounds also alleged that in reaching her conclusions the adjudicator wrongly viewed the appellant as someone who was not actively proselytising his faith.

7. Mr Walker for the respondent maintained that on the appellant's own evidence he had not sought to actively proselytise. In view of recent developments in Pakistan politics in the wake of September 11th, it could not be assumed the authorities would encourage or condone the actions of extreme fundamentalist groups, no matter who they targeted. There had been arrests made by the police after an attack on an Ahmadi mosque.

8. We are not persuaded by the grounds of appeal that it would be unduly harsh for this appellant and his family to relocate to Rabwah.

9. We would accept that the adjudicator's treatment of the issue of internal relocation was incomplete. She wrongly appeared to assume that the alternative site of protection being safe or secure for an appellant sufficed for it to be a viable option. Whereas it is well established that there will be no viable internal flight/relocation/protection alternative if return to live in the alternative site of protection is not only safe for the claimant but is also not unduly harsh in any respect.

10. However, we do not see that this flaw in the adjudicator's determination was fatal. We are able to consider the matter for ourselves and to do so in the light of the further sources of evidence which are now before us, including the Amnesty International materials which largely consist of documented individual cases. Our consideration leads us to reach similar conclusions to those of the adjudicator.

11. As regards the security of Ahmadis in general in Rabwah, the Tribunal continues to take the view that this area is in general safe for Ahmadis. Ms Phelan is quite right to point to materials highlighting the fact that the area is not trouble-free. It has often been the site of violence against Ahmadis. However, the background evidence equally makes clear that there are a very considerable number of Ahmadis who live in Rabwah who are able to live normal lives without significant difficulties. There is some evidence of discrimination in the form of employment but equally there is evidence indicating that Ahmadis make up the bulk of the employed population of Rabwah.

12. As regards the appellant's security position in particular, however, we would accept that in one respect he would be in a less happy situation than the generality of Ahmadis in Rabwah. We would accept that in Rabwah the appellant might well come to the notice of members of the Khatme Nabuwat who we know from the background evidence have a presence in Rabwah itself. We accept this for two reasons. One is that, assuming he again sought to operate as a shopkeeper, the appellant would be likely once again to make information available about the Ahmadi faith, albeit within Rabwah there would plainly be much less reason for trying to spread that religion, since around 90% of the population there are of the Ahmadi faith. The other is that the appellant had decided to devote his son to the Ahmadi faith which would mean that his family would become known as one actively committing themselves to support for active proselysation of the Ahmadi faith. We are prepared to accept, therefore, the existence of a real risk that members of this same organisation would again target the appellant and/or his family for serious harm.

13. But, in our view, the protection situation in Rabwah is and would be markedly different from that which the appellant experienced in Lahore. Plainly inside Rabwah the authorities at all levels include many persons who are themselves of the Ahmadi faith, including members of the police force. In effect, Rabwah is an Ahmadi stronghold. It is not credible that, if or when Khatme Nabuwat sought to inflict serious harm on this appellant, effective

protection would be unavailable. We recognise that the background materials do show that incidents of violence against Ahmadis do occur in Rabwah. The US State Department report states in Part v:

“Ahmadis often are targets of religious intolerance, much of which is instigated by organised religious extremists. Ahmadi leaders charge that militant Sunni mullahs and their followers sometimes stage marches through the streets of Rabwah, a predominantly Ahmadi town and spiritual center in central Punjab. Backed by crowds of 100 to 200 persons, the mullahs purportedly denounce Ahmadis and their founder, a situation that sometimes leads to violence...”

14. However, it is plain from this account that the incidents of violence in Rabwah are not large-scale or endemic and it falls well short of demonstrating that the authorities there are generally unable and unwilling to afford local Ahmadis effective protection.

15. Ms Phelan appears to submit in this regard that the focus has to be always on the system of protection available in the country as a whole and she has pointed very properly to the fact of state-sponsored and societal discrimination against Ahmadis in Pakistan in general. She is right that the protection with which the Refugee Convention is concerned is essentially protection within the country as a whole. However, it is a question of fact whether the authorities who operate in any particular area - be they just local officials or a mixture of local and national officials - can deliver effective protection or not. Just because protection is not available in some or most parts of a country does not necessarily mean that it is not available somewhere within that country.

16. In the particular circumstances of this case we are satisfied that local protection would be available in Rabwah. Because of the density of the population of Ahmadis there, the greater difficulties faced by Ahmadis elsewhere in seeking to obtain effective protection from the authorities against attacks on them and their faith, are not replicated. Even taking account of the continuing difficulties the appellant would face in Rabwah from members of the Khatme Nabuwat, we consider that the adjudicator was correct to conclude he and his family would find safety and security in Rabwah.

17. Turning to the issue of whether the appellant and his family might nevertheless find conditions in Rabwah unduly harsh in other respects, we would conclude that they would not. Although in addition to the fact of likely targeting by members of the Khatme Nabuwat, we can expect that they would experience some level of discrimination, the appellant in this case had experience as a self-employed shopkeeper. There was no reason to think he could not work as a shopkeeper in Rabwah. There was no evidence that the appellant or any member so of his family were in ill health or had any special extraneous reasons for being unable to return to Rabwah.

18. As for the human rights grounds of appeal, we consider that the adjudicator was right to treat the Art 3 grounds as falling along with the

asylum grounds. For similar reasons we consider there was clearly no violation of Art 9 involved. In Rabwah the appellant would be relatively free to manifest his religion openly and in safety.

19. Turning to Art 8, there was plainly an existent family and private life. However, even accepting that the decision to remove the appellant constituted an interference with his right to respect for family and private life, we cannot see that it was disproportionate. Despite the brother in law giving evidence, there was a singular lack of evidence to show that the appellant and his family enjoyed particularly close ties with this man and his family. On the other hand, the appellant and his family faced return to Pakistan together and so there would be no disruption of their family life. The appellant had arrived in the United Kingdom on 4 September 2001 and so by 18 October 2001 (the date of decision) had only been in the UK just over one year. Plainly he was aware when he arrived that his immigration status was precarious and that he and his family had no basis on which to remain in the UK other than through the making of an asylum claim.

20. Accordingly, we are satisfied the adjudicator was right to conclude that there was no violation of the appellant`s human rights.

21. For the above reasons this appeal is dismissed on both asylum and human rights grounds.

**DR H H STOREY
VICE-PRESIDENT**