



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/14153/2016

THE IMMIGRATION ACTS

Heard at Field House

On 1 December 2017

**Decision &
Promulgated**
On 8 December 2017

Reasons

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

**MUHAMMAD ZIAUL HAQUE
(ANONYMITY ORDER NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms L Busch, Queen's Counsel instructed by Londonium Solicitors

For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant seeks to challenge the determination of First-tier Tribunal Judge Meah dismissing his appeal by way of a determination promulgated on 6 February 2017 following a hearing at Taylor House

on 26 January 2017. He is a Bangladeshi national born on 17 November 1987 who appeals the decision of the respondent on 9 December 2016 refusing his application for protection.

2. There are two limbs to the appellant's claim. The first is that he would be at risk on return because of his stance on atheism and the books, articles and blogs he has written to share his views. The second is that he fears an individual who lent him money to come to the UK and who wants to be repaid.
3. Permission to appeal was granted by Upper Tribunal Judge McGeachy on 25 September 2017 on the basis that the consideration of the supporting evidence by the judge was arguably inadequate.
4. The matter then came before me on 1 December 2017.
5. **The Hearing**
6. The appellant attended the hearing and I heard submissions from the parties. In summary, Ms Busch criticized the credibility findings of the judge and submitted that these should have been made in the context of the country evidence whereas it appeared that the judge had not even considered that material. She pointed me to various documents in the bundle which confirmed there were frequent and brutal attacks upon atheists and bloggers. She referred to the judge's findings at paragraphs 41-43 and submitted that even where the claim had been considered at its highest, the judge still erred in stating that there was no evidence that atheists and bloggers faced any risk. She submitted that the negative findings by the judge had failed to take account of the appellant's evidence. The originals of two documents (a warning notice in a newspaper and a letter from Barrister Khan) were produced. Having seen these, I returned them to the appellant.
7. In response, Mr Tarlow submitted that the grounds were no more than a disagreement with the decision. The judge was not required to rehearse all the evidence in the determination. He had given valid reasons for finding the appellant would not be at risk. He had considered relocation. He was entitled to approach the evidence with caution. The determination should be upheld.

8. Ms Busch replied. She submitted that the judge's credibility findings were skewed by his failure to take account of all the evidence. The determination was unsafe.
9. That completed submissions. At the conclusion of the hearing, I reserved my determination which I now give.
10. **Conclusions**
11. I have given careful consideration to the evidence and the submissions. I agree with Ms Busch's submission that there are serious difficulties with the judge's approach to the evidence and the way in which his findings were made.
12. At paragraph 32 of the determination the judge states that he approaches the evidence submitted by the appellant with caution "*given my serious doubts about the credibility of the claim*". This would suggest that the judge fell into error in reaching his adverse conclusion about the claim before considering all the evidence.
13. At paragraphs 41-2 he purported to consider the claim at its highest but found that even if the appellant was an atheist, "there is no country background material or anything objective before me to show that being an atheist in Bangladesh will put the appellant at risk..." This assertion is plainly unsustainable in the light of the documents that Ms Busch referred me to. It may have been open to the judge to find that the evidence did not support a claim of real risk but that was not his finding. To say there was no evidence at all irrationally disregards the many articles and news reports contained in the large bundle before the Tribunal.
14. The judge found that the appellant could relocate to escape his problems and he pointed to the appellant having moved to Chittagong in 2006 to avoid his difficulties. This takes no account, however, of the explanation given by the appellant in his witness statement regarding how the situation changed drastically in 2013 with the actions of the Shahbag Movement. That same change prompted the appellant to consider making an asylum claim, an action he had tried to avoid previously in the hope that he would return to Bangladesh.

- 15.** The supporting evidence relating specifically to the appellant - statements from those who know of his work, print outs from his blogs and social media accounts, receive no mention at all in the determination. Whilst it is right that a judge is not expected to set out every item of the evidence, as the judge self-directs in paragraph 8, there is a significant difference between not setting out each item of evidence and not demonstrating that core evidence on material matters has been considered. An appellant must feel assured that his evidence has been taken into account. Regrettably, the judge's omission to refer to key evidence and to make findings which plainly demonstrate that such evidence was not even considered (for example with regard to the issue of relocation) can only have left the appellant feeling that his claim has not received the anxious scrutiny that asylum applications deserve.
- 16.** It follows that the problems with the consideration of the evidence mean that the judge's findings cannot stand. Ms Busch is right to argue that they are "skewed" by the judge's failure to have regard to all the evidence, including the country material, before they were reached.
- 17. Decision**
- 18. The First-tier Tribunal made errors of law such that the decision must be set aside. It shall be re-made by another judge of the First-tier Tribunal at a date to be arranged.**
- 19. Anonymity**
- 20.** No request for an anonymity order was made.

Signed



Upper Tribunal Judge

Date: 1 December 2017