



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: AA/07328/2012  
AA/07329/2012  
AA/07332/2012

**THE IMMIGRATION ACTS**

Heard at Field House  
on 26<sup>th</sup> July 2013

Determination Sent  
On 5<sup>th</sup> August 2013

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Before

UPPER TRIBUNAL JUDGE SPENCER

Between

MUBASHIR AHMAD  
SAJIDA MUBASHIR  
SAMREEN AHMAD

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the appellants: Mr A Khan, counsel, instructed by Thompson & Co. Solicitors  
For the respondent: Mr G Saunders, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellants are citizens of Pakistan and of the Ahmadi faith. The first and second named appellants are husband and wife respectively and the third appellant is their

daughter. The first appellant was born on 23<sup>rd</sup> May 1955, the second named appellant was born on 24<sup>th</sup> April 1963 and the third named appellant was born on 3<sup>rd</sup> September 1993. Their appeals against the respective decisions of the respondent, made on 23<sup>rd</sup> July 2012, to remove them from the United Kingdom to Pakistan, following the refusal of their asylum and human rights claims, were dismissed after a hearing before First-tier Tribunal Judge Haynes, in a determination promulgated on 26<sup>th</sup> September 2012.

2. The dismissal of the appeals has to be set against a background in which the respondent accepted that the appellants were Ahmadis and also accepted that the first named appellant had been in an Ahmadi mosque on Friday 28<sup>th</sup> May 2010 when it was attacked by a terrorist group, in the course of which a number of people were killed and others injured, including the first named appellant.
3. The appellants' applications for permission to appeal were refused in the First-tier Tribunal but on 2<sup>nd</sup> January 2003 Upper Tribunal Judge Peter Lane granted permission to appeal for the following reasons:
  - "1. Whilst it would be wrong retrospectively to apply the country guidance in MN and others (Ahmadis - country conditions - risk) Pakistan CG [2012] UKUT 00389 (IAC) in order to disturb a determination that was in its own terms free from legal error, the apparent significance given by the panel in that case to evidence emanating from the United Kingdom Ahmadi Association lends weight to the criticism at paragraph 5 of the present grounds of the First-tier Tribunal judge's approach to that strand of evidence. It is also arguable that, as paragraph 8 contends (the judge failed to give weight to the fact that the respondent apparently accepted the first appellant had been involved in a mosque attack.
  2. Although I grant permission on the entirety of the appellants' grounds, the appellants would probably do well to concentrate on the above. Conversely, in her response under Rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008; the respondent should address whether in the light of the country guidance case she accepts that the appellants fall to be treated as refugees."
4. In the course of the hearing Mr Saunders indicated that in view of the adverse credibility findings made by the First-tier Tribunal judge, the respondent did not propose to accept that the appellants were entitled to refugee status.
5. Paragraph 5 of the grounds of appeal, to which Upper Tribunal Judge Peter Lane referred, asserted that the First-tier Tribunal judge made an error of law in relation to his treatment of a letter from Dr Munawar Ahmad Chaudhry, the Secretary of the General Affairs Department of the Ahmadiyya Muslim Association UK, dated 15<sup>th</sup> January 2012. In paragraph 3 of that letter Dr Chaudhry said that any applicant for membership of the association in the United Kingdom must be verified as being an Ahmadi before he or she was given membership. The applicant was furnished with a 'Particulars of the Ahmadi Applicant' form which was completed and returned to them for processing. On receipt of the form they processed the information. A lot of the information was needed for their headquarters, situated in Rabwah, to verify the details given by the applicant. That was then carefully verified by the local official

Ahmadi community leadership under a prescribed procedure. The information was then relayed back to them by the Executive Director of the Foreign Missions in their headquarters through the Executive In-charge of the UK Chapter of the Director of Foreign Missions. Dr Chaudhry went on to deal with what was described as the current situation of Ahmadi Muslims in Pakistan. He then dealt with a number of matters relating to the first named appellant. He said that their headquarters had confirmed that the first named appellant was an Ahmadi Muslim by birth, that his participation in congregational prayers, contact and cooperation with the Ahmadi and Muslim community were excellent, that he used to pay his financial contributions to the Ahmadiyya Muslim Committee and that his moral character, his general reputation in the society and his character in financial matters were good and that he was seriously injured during an attack on their Darul Ziker mosque in Lahore on 28<sup>th</sup> May 2010. He said that the first named appellant served in their Mustafabad branch in Lahore in various capacities including

- (a) the president of the branch of August 2009 to 2011,
- (b) the organiser for the elderly 2006 – 2009, and
- (c) the secretary for Tehrike Jadeed (a scheme for supporting missions outside Pakistan) and Waqfe Jadeed (a scheme for supporting education and self reformation programmes) from 2000 to 2008 and was the auditor for financial contributions by the members from 1996 to 2000.

The letter contained a passage which said that as a matter of policy and procedure they did not attend courts in support of applicants and their absence should not be taken adversely to undermine the confirmation issued on the authority of the report provided to them by their headquarters. The position therefore was that Dr Chaudhry could not be cross-examined on his evidence. The report itself provided to the Ahmadiyya Muslim Association from the headquarters in Rabwah, to which Dr Chaudhry referred, was not adduced in evidence.

6. In paragraph 34 of his determination the First-tier Tribunal judge said that there were some difficulties with the reliability of the letter. The association had not produced the documents that it claimed to have received from Pakistan from which all of this information had been gleaned. According to the COIS report, the number of Ahmadis in Pakistan was estimated in a Pakistan Government census at around 291,000, at nearly 600,000 according to Jamaat-e-Ahmadiyya and up to 3 – 4 million according to a USCIRF Report 2012. He said that even if the figure given by Jamaat-e-Ahmadiyya was the most accurate, it would require a recording system of considerable complexity to have recorded the first named appellant's position in a group of 300 – 400 Ahmadis, let alone the regularity of his participation in congregational prayers.
7. In paragraph 5 of the grounds of appeal it was said, on behalf of the appellants, that the letter from the Ahmadiyya Muslim Association showed that the first named appellant had a high profile in his community. Whilst the report had not provided

evidence as to how the association was able to know of the appellants' roles, the First-tier Tribunal judge had not considered the fact that Ahmadis were registered at the headquarters in Pakistan and that was how the information was obtained and was contained in the letter. The reference to 'appellants' may have been a reference to a similar letter relating to the second named appellant, dated 24<sup>th</sup> March 2012, which confirmed that "our headquarters in Pakistan" had stated that she was an Ahmadi by birth and a bona fide member of the Ahmadi community who was of good character and who "used to take part in its activities". In paragraph 35 of his determination the First-tier Tribunal judge said that the same concerns applied to that letter but more so, because the second named appellant did not hold a position in the local Ahmadi community and so it was all the more astonishing that a record of her, albeit unspecified, activities was to be found at headquarters. In paragraph 36 he said for these reasons he viewed both letters with caution.

8. So far as the point made by Upper Tribunal Judge Lane relating to the apparent significance given by the Tribunal in MN and Others (Ahmadis - country conditions - risk) Pakistan CG [2012] UKUT 00389 (IAC) to evidence emanating from the United Kingdom Ahmadiyya Association is concerned, as Upper Tribunal Judge Lane himself acknowledged, it would be wrong retrospectively to apply what was said in that determination to an appeal which had been determined before its promulgation. Moreover the Tribunal in that appeal had the advantage of oral evidence from Dr Iftikhar Ayaz, who was described as an eminent member of the Ahmadiyya Muslim Association, about the system of registration and checking of membership. It is of interest that even he was not able to say why an accurate number of Ahmadis in Pakistan could not be given, having regard to the system of registration of members.
9. In paragraph 22 of its determination the Tribunal said that the first question the decision-maker must ask was whether the claimant genuinely was an Ahmadi. As with all judicial fact-finding the judge would need to reach conclusions on all the evidence as a whole giving such weight to aspects of that evidence as appropriate. Evidence likely to be relevant included confirmation from the UK Ahmadi headquarters regarding the activities relied on in Pakistan and confirmation from the local community in the UK where the claimant was worshipping.
10. Therefore in any event in my view the Tribunal was saying no more than that evidence from the UK Ahmadiyya Association would likely to be relevant. The fact that evidence was likely to be relevant did inevitably mean that it was likely to be reliable.
11. In his oral submissions Mr Khan submitted that the First-tier Tribunal judge did not have any evidence to suggest that the Ahmadiyya headquarters did not have a recording system of considerable complexity. He suggested that the letter came from an association which had been mentioned with approval in country guidance determinations and in the background material. He referred me to paragraph 19.86 of the COIR on Pakistan, dated 7 June 2012. It is apparent from reading the entry that it referred to Al Islam, the official website of the Ahmadiyya Muslim community, accessed on 10<sup>th</sup> August 2011, which stated that the Ahmadiyya Muslim

community was a dynamic fast growing international revival movement within Islam whose current headquarters were in the United Kingdom. There was a complete absence of evidence about the recording system before the First-tier Tribunal judge, however, and there was nothing in the passage quoted in the COIR which suggested that any information coming from the Ahmadiyya Muslim Association UK should be accepted without question.

12. The First-tier Tribunal judge found that the first named appellant had acted dishonestly in securing a visit visa to the United Kingdom. In paragraph 37 of his determination he said that he made an application for a visit visa on 14<sup>th</sup> June 2011. His own evidence was that he did so in the knowledge that he did not intend to return to Pakistan. It was, again by his own admission, a deliberate ploy that his wife and the third named appellant would make later applications though they would all travel together. He led the entry clearance officer to believe that he would be travelling alone and had a wife and daughter to return to. In my view, having regard to this finding of dishonesty and given that the appellants' son in the United Kingdom worked for the Ahmadiyya Muslim Association UK, as revealed by the first named appellant in the course of his interview, referred to in paragraph 7(c) of the letter of refusal dated 20<sup>th</sup> July 2012, the First-tier Tribunal judge was entitled to reach the conclusion, expressed in paragraph 46 of his determination, that the first named appellant had failed to prove that he was anything other than a low level member of the Ahmadi faith with a profile that had enabled him to have a career with a government organisation. In paragraph 49 he said he found that the first and second named appellants were unreliable and untruthful witnesses. He was unable logically to find that a person who purported to have religious faith but had not told the truth was motivated by faith. It was not shown that on return the practice of their faith would be limited by a fear of persecution as opposed to the limits of their commitment to it.
13. Mr Khan also argued that the First-tier Tribunal judge failed to give adequate reasons for his finding that the FIR adduced in evidence could not be relied upon. He pointed to paragraph 27 of the determination, in which the First-tier Tribunal judge said that even if he were to take the FIR at face value, it was nothing more than an allegation presented to the police which, if the account of the appellants was to be believed, led them to do no more than come to the family house. Mr Khan submitted that in paragraph 44 of his determination, in which the First-tier Tribunal judge said that he found that the FIR and the report of Mr Hashmi were unreliable, he had failed to give a reason for rejecting the authenticity of the FIR.
14. It is the case, however, that the First-tier Tribunal judge dealt more fully with the FIR in the section of his determination dealing with the report of Mr Mohammed Awais Hashmi. In paragraph 17 of his determination he said that according to the certified translation, the FIR was dated 25<sup>th</sup> November 2011 and it contained a generalised complaint that the first named appellant had been preaching the Ahmadi faith. In paragraph 18 he said the ease with which documents could be obtained in Pakistan and the unreliability of FIRs and other such documents produced in asylum appeals was so well documented that the background evidence on the subject did not need to

be recited. In paragraph 19 he said in order to respond to this, the appellants' representatives commissioned a report into the FIR from a law firm in Lahore. The report from Awais Hasmi, dated 23<sup>rd</sup> August 2012, stated that the relevant police station was contacted and that the FIR submitted by the first named appellant corresponded with the one held on the police file. The report also asserted that the "pattern of the F.I.R. is also a true one and resembles the normal lay out/structure of a standard F.I.R.". He said the report went on to claim that the police "has not submitted the challans and is in search of the accused". The First-tier Tribunal judge said that Mr Shoeb, the appellants' representative at the hearing, referred to this letter in his submissions and described it as a verification of the FIR obtained by Thompson & Co. The First-tier Tribunal judge thereafter went on to deal with the representation by Mr Hashmi that he was an associate of Thompson & Co. whereas in a letter, dated 6<sup>th</sup> September 2012, written as a result of a direction given by the First-tier Tribunal judge, Thompsons confirmed that there was no commercial connection between themselves and Mr Hashmi and that he was not an associate of Thompson & Co. Mr Hashmi apparently spent some time during his legal practice course shadowing one of the partners of the firm. The First-tier Tribunal judge drew the conclusion that as a result of Mr Hashmi promoting a non-existent connection with Thompson & Co. it could not be said that his report was objective and reliable and therefore he placed no weight upon it.

15. In my view it is perfectly apparent that the First-tier Tribunal judge refused to accept the reliability of the FIR because of the ease with which such documents could be fabricated and dismissed the reliability of the evidence which the appellants sought to rely upon to bolster their claim that the FIR was genuine.
16. The third point relied upon in his oral submissions by Mr Khan, which related to paragraph 8 of the grounds of appeal, was that because the first named appellant had been injured in an attack upon a mosque, it meant that he would be at a real risk of persecution on return to Pakistan. The First-tier Tribunal judge accepted that the first named appellant had been injured in the attack on the mosque on 28<sup>th</sup> May 2010. In paragraph 28 of his determination, however, he said there no evidence that the first named appellant was specifically targeted. If he had been to the extent that a person was dispatched to tell him that he would be killed, which is what the first named appellant claimed had happened subsequently, it was a reasonable supposition that he would have been so. Even the first named appellant's own evidence was that nothing adverse happened to him for twelve months thereafter. In submitting that the first named appellant would be at risk because he had been injured in the attack on the mosque on 28<sup>th</sup> May 2010 Mr Khan was mirroring the approach set out in the letter from the Ahmadiyya Muslim Association UK. In paragraph 11 of that letter Mr Chaudhry said that the blanket attack and massacre clearly showed that every Ahmadi was prominent in the eyes of the enemy once he or she had become visible or had been identified following some incident as an Ahmadi. It was suggested that simply being identified as an Ahmadi created a real risk of harm. In my view such an approach is inconsistent with the country guidance determination in MJ and ZM (Ahmadis - risk) Pakistan CG [2008] UKAIT 00033

which obtained at the date of the decision in question and for that matter with the post-decision country guidance determination of the Tribunal in MN and others.

17. The remaining grounds of appeal, which were not referred to by Mr Khan in oral submissions, criticised the First-tier Tribunal judge for failing to deal with the issue of internal relocation, suggested that the First-tier Tribunal judge had not adequately considered how the appellants' religious beliefs and freedom as experienced in the United Kingdom would be affected once they had returned to Pakistan, failed to recognise that the determination of the Tribunal in MJ and ZM was out of date and suggested that the First-tier Tribunal judge had not given adequate reasons for disbelieving the first named appellant's claim to have converted two Muslims.
18. In my view the First-tier Tribunal judge gave adequate reasons from paragraph 27 to paragraph 39 of his determination for not finding the account of the first named appellant to be credible, which included his claim to have converted two Muslims. In the light of the First-tier Tribunal judge's findings of fact which, as already indicated, included a finding that the first and second named appellants had not shown that upon return the practice of their faith would be limited by fear of persecution as opposed to the limits of their commitment to it, the question of internal relocation did not arise and none of the other assertions that the First-tier Tribunal judge made an error of law in determination are justified.
19. The First-tier Tribunal judge did not make an error on a point of law in his determination of the appeals. The appeals to the Upper Tribunal are dismissed so that the determination of the First-tier Tribunal judge shall stand.

Signed

Dated

P A Spencer  
Judge of the Upper Tribunal