

1416024 (Refugee) [2015] AATA 3842 (3 December 2015)

DECISION RECORD

DIVISION: Migration & Refugee Division
CASE NUMBER: 1416024
COUNTRY OF REFERENCE: Bangladesh
MEMBER: Chris Keher
DATE: 3 December 2015
PLACE OF DECISION: Sydney
DECISION: The Tribunal affirms the decision not to grant the applicant a Protection visa.

Statement made on 03 December 2015 at 12:11pm

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431 of the *Migration Act 1958* and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a Protection visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who the Tribunal accepts is a citizen of Bangladesh, applied for the visa [in] May 2013 and the delegate refused to grant the visa [in] August 2014.
3. The applicant appeared before the Tribunal on 12 November 2015 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Bengali and English languages.
4. The applicant was represented in relation to the review by his registered migration agent. The agent attended the hearing and provided material post hearing.

CLAIMS AND EVIDENCE

5. The criteria for a protection visa are set out in s.36 of the Act and Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa of the same class.
6. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).
7. Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:
owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.
8. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').
9. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration –PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – and any country information assessment prepared by

the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration, and the Tribunal has done so.

- DFAT Country Report, Bangladesh, 20 October 2014.
10. The country information is as detailed in the delegate's decision, as referred to by the applicant's advisor in submissions and the following:
- RRT-MRT Issues Paper Bangladesh: Political Violence involving the Bangladesh Nationalist Party and the Awami League Issue date: September 2013, Review date: February 2014.
 - Canada: Immigration and Refugee Board of Canada, *Bangladesh: Reports of fraudulent documents*, 20 September 2010, BGD103532.E, available at: <http://www.refworld.org/docid/4dd113f92.html>
 - *Ad-Hoc Query on assessment of authenticity of documents submitted by asylum seekers from Bangladesh*. Compilation produced 15 December 2014. [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/protection/2014.633_emn_ahq_on_authenticity_of_documents_from_bangladesh_\(wider_dissem\).pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/protection/2014.633_emn_ahq_on_authenticity_of_documents_from_bangladesh_(wider_dissem).pdf)
 - *Constitution of the Bangladesh Nationalist Party (BNP)*. <http://www.bnpbangladesh.com/en/index.php/b-n-p/constitution>.
11. The issue in this case is the credibility of the applicant and then on any accepted claims whether he meets the above. For the following reasons, the Tribunal has concluded that the decision under review should be affirmed.
12. The applicant is [name]. He is a citizen of Bangladesh and arrived in Australia as an irregular maritime arrival (IMA) [in] December 2012. With his application for review he provided a copy of the delegate's decision and a copy of the Irregular Maritime Arrival Entry Interview held [in] December 2012.
13. The record of the **Irregular Maritime Arrival Entry Interview held [in] December 2012** details in part the applicant said that he was born in [year] and had lived in a village at Bogra since birth until departure [in] October 2012. He gave a telephone number there and said this was his mother's. He had been educated at a primary school to grade [level], and then at a secondary school to grade [level]. He had worked from a young age dishwashing at hotels, harvesting crops and learning to be [Occupation 1] and a [Occupation 2] doing "Whatever work I could find. My family is poor". He said that his parents are both living in Bangladesh at Bogra. His [sibling] (born [year]), and [sibling] (born [year]) also reside at Bogra. He said that the reason he left Bangladesh was as:
- "My family's financial condition is not good. My [sibling] has some savings for her marriage. With that money and we sold some land I was supposed to go to [Country 1]. It takes 300000 taka to go to [Country 1]. Because I didn't have permission to go to [Country 1] my friend said you can go to Australia but there's a risk to your life. I said I didn't have any money. I was interested to come here because I can help the family. With the help of friends and everybody I came to Australia. Allah sent me safely".*
14. The reason that he came to Australia was given as:

"My family situation is not well. I could not get entry to [Country 1]. I was compelled. My grown up [sibling] has to be married. I have to support everyone. It was difficult to support everyone. I decided to go abroad. I took the life risk".

15. In response to questions on why he doesn't want to return to Bangladesh and what he thinks may happen on his return he said:

"We are poor. Take into account our situation. If the government decides to send me back then it's better to shoot me here. At least my family can know I had an accident and died because of the accident. My father had a little property and my [sibling] a little savings. I came with high hopes. If the government doesn't let me stay I can't show my face to my family".

16. In response to a question (number 2) as to whether he, or any members of his family, has been associated or involved with any political group or organisation he said "no". He also said "no" to a question (number 3) on whether anyone had been involved in any activity or protest against the government, and "no" to a question on whether he was a member of any social or religious groups (question 4). In response to a question related to "Local Group Activity" (question 7) he said that such groups were active: "Bangladesh is a bad place. There's constant fighting. It's like the ruling party and opposition party" but his involvement was noted as "-".
17. In relation to his departure from Bangladesh he, in part, said that the arrangements were made by his friend [name]. He used a passport, he claims in an unknown name, with his photo in it. [Name] said "to go to Dhaka and then people would take you ... I don't know who he spoke to". He claims the trip cost 950500 taka, his family paid 700000 of this and his friend the rest. He claims at Dhaka airport he went to a particular counter with the agent, "there were 4 of us". They went to somewhere in [Country 2]; he claims not to know how long they stayed in [Country 2]. They went by car to somewhere and then by boat to [Country 1], again claiming not to know how long they stayed, and then another boat to [Country 3]. They went to [city] and from there to [city] where they went by plane to [city]. After 5 days they went by another car to a small boat and from the small boat to a larger one. The trip should have taken 2 days but took 6.
18. The **protection visa application** was lodged 6 months later [in] May 2013. In part the applicant said that his birth date was [date] and he had never married. He claimed now that his father was living in [Country 1]. He claimed now that he left from Bangladesh [in] November 2012 and that from October until departure he had lived at various places "in transit/fleeing persecution" in Dhaka, Katojali and Mirpur. He spent 5 days in [Country 2] from [dates] November, and then 2 days in an unknown area of [Country 1], arriving illegally by boat in [Country 3] [in] November 2012. He spent 15 days in [Country 3] in houses organised by people smugglers until [date] November 2012, and was then in a boat travelling to Australia until [date] December 2012. His years of education were given as from [years]. After finishing school he worked occasionally from 2004 to 2006, when he needed some money, working 2 or 3 days a month, as a dishwasher at local restaurants or as a harvester on local farms. He spent the rest of the time with chores at home and was financially supported by his family. From 2006 to 2007 he worked as an unpaid trainee [Occupation 2] in the village. From 2007 to 2008 he worked paid as a [Occupation 2] for the same employer earning 1200 taka a month. In 2008 he worked for a period as an unpaid trainee [Occupation 1] for a man named [name]. He was provided with meals only and was financially supported by his family. Following this from 2008 to January 2012 he was generally unemployed, though occasionally had some casual work as [Occupation 2] earning about 300 taka a month. From January 2012 to [date] November 2012 he was unemployed and assisting at home with chores and was financially supported by his family.
19. The applicant provided with his application a **Statutory Declaration dated [in] May 2013** (folios 40 to 47) and claims he "chose to mistrust the authorities and did not discuss the true nature of my claims" when first interviewed. He claims this was as he is from Bangladesh where the "authorities cannot be trusted". He has now decided he can trust the "integrity of the Australian government" and will now "disclose the true nature of my claims".

20. He now claims, in part, to fear harm in Bangladesh as he claims his father joined the Bangladesh National Party (BNP) in about 2003. It represents conservative Islamic society in opposition to the Awami League which is secular. His father talked at meetings with local community members and undertook tasks assigned by BNP leaders, and was well known in the district. His involvement escalated from 2003 to 2008, and in the lead up to the December 2008 elections would speak at campaigns and answer questions on BNP policies. The applicant was proud of his involvement and that he was a “man of importance”. The Awami League overwhelmingly won the elections, and they then sought to extort money from BNP associated businesses, and BNP employees were fired and it was marginalised as a political party.
21. He claims that he then joined the BNP in 2010 as a member, and he believed that the Awami League had improperly obtained power and were using their power to stop free speech. He believes in a “conservative Islamic Bangladesh and felt that a secular state did not protect the interests of Islam sufficiently”. He began to attend hartals and general strikes and also attend some with his father, and would “watch him as he spoke and be awed by the manner with which he could inspire a crowd” and hoped he could be like him one day.
22. In about late October 2011 a man came to the door looking for his father (who was not home but was out shopping), and his mother answered and said that the father was not home. The man wouldn't give his name. The applicant then looked out the window to see that the man was with a group and they all had large sticks. He then knew they must have been hiding and would have beaten his father if he had been at home. He phoned his father to warn him, and his father then contacted prominent BNP members who made arrangements to relocate to Dhaka. His father didn't return home again. The group visited other BNP homes that night, and beat those who were at home. His father then remained in Dhaka for 2 months before contacting a people smuggler “to transport him and his BNP associates to [Country 1], where they remain in hiding”. He claims that over the ensuing months Awami League supporters would grab him and heckle him and call him the “son of the BNP coward”. They asked where his father was and when he said he didn't know they would “punch me and push me to the ground”.
23. He claimed that from about May 2012 key figures from the Jamaat-e-Islami were arrested for alleged war crimes and that this party has close connections with the BNP. He claims that BNP members believe this was designed to weaken the BNP's power base and the Awami League then increased its activity against BNP members in the area. After this in about September 2012 he claims 5 Awami League members approached him at the market at [location] and asked him where his father was. He said he didn't know, and they told him they were sick of his lies and gave him 2 months to tell them his whereabouts or else he would be beaten as an example to other families who support the BNP. He was frightened and contacted his father who said to go to Dhaka, and he would make arrangements for the applicant to leave from Bangladesh. His father said to him that the political situation in the country was bound to deteriorate and the applicant said that he too supports the BNP, and so he “would take his advice and leave Bangladesh”. He claims he then fled to Dhaka and was in hiding until a smuggler made arrangements for him to leave, and he hid in the home of a BNP acquaintance of his father. He went to [location] [in] October 2012 to visit his grandmother and his family before he left from Bangladesh. He departed Bangladesh through the international airport on [date] October 2012, and arrived in Australia on about [date] December 2012 having transited through [Country 2, Country 3, and Country 1]. He claims shortly after he arrived in Australia his mother had told him that the Awami League are now intimidating his [sibling], and while the [sibling] was riding [a] bike to school was asked by a group of men where [the sibling's] father was, and when [the sibling] couldn't answer [the sibling] was “pushed to the floor”. He claims also that the police have come to the house and questioned the mother about his and his father's, whereabouts and their involvement in illegal strikes.

24. He fears harm if he returns to Bangladesh as he will be targeted by the Awami League and their supporters including the police and other government institutions. He considers the authorities will not protect him as they are corrupt and influenced by political parties.
25. The applicant was **interviewed by a delegate [in] July 2014**, at which he repeated his claims. As noted above he has provided a copy of the delegate's decision with his application for review. The delegate did not accept that the applicant's claims were true and found that neither he nor his father had any involvement with the BNP in any capacity, and that none of the claimed incidents occurred. It was not accepted that he or the father were wanted by the police for any involvement in any illegal strikes.
26. The applicant provided to the Tribunal a **Statutory Declaration dated [in] September 2015**, declaring that the submission of his advisor dated [in] September 2015 accurately sets out his claims. That submission (folios 72 to 87) repeats the applicant's claims and makes submissions on various matters including credibility, the Convention and Complementary protection. The submission also had attached two documents (folio 73 and rear of 73) said to be letters of recommendation from the BNP and signed by a local politician and the local BNP [official] [in] March 2013.
27. **At hearing** the applicant repeated his claims. His advisor said that they relied on submissions already made. The applicant said that he thought that if he returned to Bangladesh he would be killed and "my body hid somewhere", this due to politics and "my father is associated with this political situation and is a member of the BNP". He fears the Awami League as they and the BNP "don't like each other". He claimed as such it is a concern for all family members. He was asked why then they would leave the other family members (mother, [siblings]) at home in Bangladesh. He claimed his father is in [Country 1] and "as I am the [age] son I suffered a lot with people looking for him". He said his father "probably left in 2012 and thought this was in "February or March". The applicant said he left in December 2012. He was asked if he was sure about this and said that he was "yes I'm sure it was at the end of December". He claimed he couldn't remember the exact day. He had left following a call to his father and his father then arranged everything through a smuggler, "I called father and said I had all sorts of pressure and told him I was threatened by someone who would kill me and I just left as a passenger". He departed through the international airport in Dhaka, and again confirmed that this was in December 2012 about the first week or the middle of the month.
28. He then said that he had made a mistake and he actually meant that he left in November. He was asked to specify how many days in total he travelled from the day he left Bangladesh until the day he arrived in Australia and said "around 15 days". He said he didn't visit his father in [Country 1] as his father lives somewhere in [city], and he didn't have time to visit him, as they arrived at night and transferred the same night to travel to [Country 3].
29. In relation to ID documents that he was a citizen of Bangladesh, he said he had none other than 2 documents that had been provided to the Department. They are not on the Department file. The applicant's advisor said they were a birth certificate and a character certificate. Copies were provided post hearing and are on the Tribunal file.
30. The Tribunal asked the applicant if he had ever been harmed in Bangladesh. He claimed he had been harmed by the Awami League "but by the grace of Allah we survived". He said that the only occasion was following his father's departure from Bangladesh when he was approached at the local bazaar by some Awami League men, "they slapped me and asked so many questions and said if we don't find your father we will kill you ... and they have also attacked the family and threatened my [sibling]".
31. The applicant was asked what work his father did. He said that "he worked as a political leader and he has some land some property and all this is rented out and what he gets from his

political activity I don't know". He was asked for better information of what position his father had with the BNP and said his father was a "team leader". It was put to him this wasn't a political position but a type of position someone at McDonalds may have. He then claimed "I don't know the name of the position I can't tell you other than that he had influence".

32. The Tribunal put to the applicant it had a concern that the applicant and his father had nothing to do with the BNP. He said that "when they have power or influence they make a position or rank and they give a speech and they get a good position".
33. The applicant claimed he also had joined the BNP, though couldn't recall when he joined exactly, saying that it was sometime around 2010. He was asked how old he was when he joined and said that he could have been [age]. He claimed he couldn't tell how old he was when he joined as "in Bangladesh we don't celebrate birthdays I couldn't tell you".
34. He was asked to explain what the process of joining the BNP was. He said he just followed his father to meetings and "I joined in some strikes and they just let me in at that time I wasn't a participant for voting and I just followed my father".
35. It was put to the applicant the Tribunal had difficulty in believing that he or his father had anything to do with the BNP. It was put to him his answers and knowledge of the BNP was vague and general and he knew nothing of the joining process, and he didn't even know what his father's claimed position was. He responded by saying "I couldn't ask my father what position he held it isn't my right to ask him".
36. The applicant said that in Bangladesh his parents wanted him to study well, however he didn't want to. He claimed that following his leaving school he worked at a [Occupation 2] shop and then he learned "[Occupation 1]" for about 1.5 months and then after this he left from Bangladesh.
37. The Tribunal discussed with the applicant the initial entry interview held in December 2012. He was asked how he explained saying in that interview his family was poor but he was now saying that they rented out properties and land, and also how he explained later claiming that his father was involved in politics. He said "I am a citizen of a small country and people don't believe us and I thought if I told you I have so many things". It was put to him that in that interview he specifically denied that he or any member of his family was involved in politics and this was in several parts of the document. He was asked to explain how it is that he later claimed both he and his father were involved. He said that "at the first interview I didn't tell any truth ... as I thought if I tell the truth they would send me back". It was put to him that what he wanted the Tribunal to believe was that he purposefully didn't tell the truth about what are essentially his main claims. He said that "after the first time and I was refused I then decided to tell the truth on the second chance ... and I saw Australians as very compassionate and I thought if I tell the truth they won't send me back". It was put to him that it seemed to the Tribunal he had been influenced by someone in the intervening 6 months to make up and tell a story. He said "coming from a small country I thought I couldn't tell the truth".
38. The Tribunal asked the applicant about the two BNP certificates that had recently been provided by his migration agent (with the submission [in] September 2015). He said a friend of his father obtained them for him from Bangladesh and said the documents were signed by [name] who was an officer of the local Upazilla and also by [name] who was a local BNP politician. The Tribunal asked why they were in English. He said that initially he had obtained documents in Bengali and his advisor said that they needed to be in English as "how can they read them" and so after this he then obtained these ones written in English. It was put to the applicant that the Tribunal had doubts as to their authenticity. He said "it is a matter for you". It was put to him that the stamp of the Minister ([name]) seemed to have an error in it as it described him as "[official] Standing Committee on Ministry of Environment and Forest Bangladesh Parliament" however

the Bangladesh Parliament website described this committee as "*Standing Committee on Ministry of Forest and Environment*". He said that sometimes people get it wrong ... I just submitted the documents I didn't do anything".

39. It was put to him it was known that there was widespread fraud of documents in Bangladesh and it was considered these were fake. He said "I just asked for it and they sent it ... I can't tell ... in my family there is no one to fake it ... you have to know that there are lots of fake documents so how can we survive like that".
40. The applicant was asked if he had any other concerns about return to Bangladesh. He said that he did and this was that "if you have lots of property people envy you and people can do lots of threats".
41. The applicant was asked again about when he claimed to have joined the BNP. He said it was in 2010 but he couldn't remember and didn't know if it was before or after he was [age].
42. The applicant also now claimed that both his father and [sibling] are now "out of the country". He said that this was as his [sibling] had been "summonsed by the police". He was asked why they would summons his [sibling] for anything and claimed this was as there has been violence between the political parties in his area and "based on this issue no male person can stay in the village". It was put to him this wasn't believed as true.
43. The applicant was asked who had founded the BNP and initially said he "can't tell exactly". He said that Sheikh Mujibur Rahman had founded the Awami League and Major Ziaur Rahman had founded the BNP and then his wife Begum Zia became the leader. He said that Major Ziaur Rahman was "from our local area of Bogra and for this reason the Awami League people create chaos in our area".
44. In relation to the passport he used to depart from Bangladesh, he said he didn't know what name it was in, as he didn't ever hold it. He claimed it was held by the smuggler and, "I just followed him and he got me through immigration if you have money you can do anything". He was asked how much money was paid. He said he didn't know as he didn't have any, and everything as arranged by his father. It was put to him that in the first interview exact figures such as 300,000 taka was given. He claimed "there is no similarity between the first and the second interview ... If you ask me again about it I will lose my mind". He was asked why he would do this and said "I made a mistake but it is because of all these interviews and questions ... I created this problem out of fear and I thought that if I tell the truth I would be sent back to my country".
45. In conclusion he said that he feared return to Bangladesh due to the political situation and "what has happened to me and my family is a real problem". He said he cannot go back and his mother has told him not to. His [sibling] has also now had to leave the country. He fears if he returns he will be killed and he has seen people being killed there. He claimed that in Bangladesh if a father does something wrong then their children has to suffer and vice versa.
46. The applicant's advisor said he had looked up the Standing Committee website and it describes itself as *Standing Committee on Ministry of Environment and Forest* - notwithstanding this being different from what is on the Parliament website, and it was it seemed "just a different way of description". In relation to the applicant's inability to describe the joining process of the BNP he said Bangladesh is a corrupt country and much is done "under the table". It was discussed by the Tribunal that the BNP Constitution sets out how to join and that it is only open to those above 18 years of age. He said that the entry interview shouldn't be given much weight, and the applicant had attempted to explain the discrepancies, and that he had a fear of telling the truth to the Australia authorities when he first arrived.

CONSIDERATION OF CLAIMS AND EVIDENCE

47. I have carefully considered the claims and evidence of the applicant. As detailed above I have serious concern as to the truth of his claims. Those claims have changed significantly overtime. His claims are also vague and general as to any knowledge of the BNP, its joining practices and his father's position in the party. In particular:
- In his first interview held a few weeks after his arrival in Australia none of his claims mention that he or his father was involved in the BNP or had any involvement in any political activity. In fact there are several instances where such an association or connection is specifically denied. Six months later the applicant lodged a protection visa application and by then his claims had significantly altered to now claim that the father was a prominent local BNP member and the applicant was also a member and had joined in BNP activity including hartals. He has sought to explain this by saying he didn't trust the authorities in Australia to tell the truth, as he is from a small country, thought he couldn't trust the authorities here for him to tell the truth, and thought he would be sent back if he told the truth. I do not accept the explanations as reasonable to believe in the circumstances. I do not believe that when someone is given an opportunity to tell what their fears and concerns may be that they would hide all of the main points, and purposefully tell what is claimed to be lies as they didn't trust the authorities here. He came to Australia to claim protection. It is reasonable to expect that he would, when given the opportunity, tell the truth and explain why he left Bangladesh and feared return. I do not believe the later story of involvement in the BNP and consider it to be later fabrication that was made up when it was realised that the concerns he had initially said would most likely not be sufficient to engage Australia's protection obligations.
 - Apart from the above it is also apparent the applicant knew nothing about the BNP joining procedures and nothing of his father's claimed position in the BNP despite the claim of him being prominent in the local area for many years. I do not accept the explanations that the country is corrupt or that this was something he couldn't ask his father. I think he doesn't know as it is not part of his history. He was not a member of the BNP, nor was his father and his father held no position in that party.
48. Overall I find the applicant is not a credible witness. I do not accept as true any of his claims of involvement by him or his father in the BNP, or of either of them fearing any harm or being harmed as a consequence. I also do not accept the applicant is from a wealthy landowning or land renting family and consider that claim also to be fabricated. I find that little weight can be placed on anything he has claimed as as to why he may have left from Bangladesh or fears return.
49. I am prepared to accept that the applicant is a citizen of Bangladesh and that he was a relatively poorly motivated student at school. I also accept he has had several jobs and in most recent times in Bangladesh was unemployed and supported by his family. Whilst his father and [sibling] may well also be now out of Bangladesh I do not accept it is for the reasons as claimed by the applicant.
50. Though little reliance can be placed on any of the applicant's claimed history I am prepared to accept that he departed Bangladesh in the hope of finding work and provide money for his family and it seems his [sibling]'s wedding. Initially the plan was that he would find work in [Country 1]. This for whatever reason did not eventuate and he then had an opportunity to travel illegally to Australia. I do not accept any of his other claims as true.
51. It follows I do not accept the documents from the BNP are genuine.

52. It is apparent the applicant was able to work and earn a livelihood in Bangladesh. The only impediment to that was his motivation. I do not accept that he would not be able to earn a livelihood in Bangladesh. I find that the application for a protection visa is opportunistic and has been made for the purpose of securing migration outcome for the applicant and to enable him to work in Australia. I find that these matters are not of a type of harm nor of significance as to be serious harm as meant by the Convention or section 91R of the Act.
53. I do not accept any of his other claims as reasonable to believe as true.
54. For the reasons given above, the Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a).
55. Having concluded that the applicant does not meet the refugee criterion in s.36(2)(a), the Tribunal has considered the alternative criterion in s.36(2)(aa).
56. As detailed above, and for the same reasons I find the applicant's evidence is not reliable and he is not a credible witness.
57. I do not accept any of his claims of involvement in the BNP of him or his father as true, and nor do I accept that he fears harm from anyone as a consequence. Whilst he may be from a family that is not well off, it is apparent that he has been able to work in a number of jobs and earn a livelihood. He has also been supported when unemployed by his family.
58. I find that these matters are neither of a type nor of a significance to be significant harm. I do not accept any of his other claims as reasonable to believe as true.
59. The Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under s.36(2)(aa).
60. There is no suggestion that the applicant satisfies s.36(2) on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or (aa) and who holds a protection visa. Accordingly, the applicant does not satisfy the criterion in s.36(2).

DECISION

61. The Tribunal affirms the decision not to grant the applicant a Protection visa.

Chris Keher
Member