

Appeal Number: **HX/15918/2001**  
**BZ DR (Risk – Political Journalist) Iran**  
**CG [2002] UKIAT 06452**  
**IMMIGRATION APPEAL TRIBUNAL**

Heard at : Field House (with Video Link to Birmingham)  
on : 4 December 2002  
Dictated : 4 December 2002

Determination Promulgated  
11<sup>th</sup> February 2003  
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Before:

**MR. A. R. MACKEY - Chairman**  
**MR. R. BAINES JP**

between

**BEHROUZ ZARANDI and**  
**MRS. DETA RAHMANTOUR (WIFE)**

**Appellants**

and

**The Secretary of State for the Home Department**

**Respondent**

**Representation:**

For the Appellant: Mr S. Vokes of Counsel representing Tyndallwoods Solicitors,  
Birmingham.  
For the Respondent: Mr P. Deller, Home Office Presenting Officer.

**DETERMINATION AND REASONS**

1. The Appellant and his wife are from Iran. He appeals with leave against the determination of an Adjudicator Mrs C. J. Lloyd, promulgated 9 July 2002 wherein

she dismissed an appeal against the decision of the Respondent who had issued removal directions following refusal of asylum and human rights claims.

### **The Adjudicator's Determination**

2. The Adjudicator accepted the Appellant as credible. She found that he had worked as part-time journalist in Iran. In carrying out his employment he had become involved in three incidents. The first was in July 1999 when he attended one of the student demonstrations and was taking photographs. At that time he was detained and whipped until he lost consciousness. Medical evidence was provided which supported his claim that he had been whipped. He was released after the whipping on the second day of his detention.
3. The second incident took place on 11 February 2000 when he was interviewing an election candidate in Karaj as a journalist. His report was accepted to be printed in a newspaper. However it never went to circulation because the prosecutor's office raided the newspaper premises and confiscated all copies of the publication.
4. The next event followed four days later when the Appellant attended a public meeting, again in his role of journalist, where questions were being asked to parliamentary candidates. That meeting was broken up by the Ansar Hezbollah. The following day the Appellant found out that his house had been searched by security personnel. Apparently they had removed books and letters which could have been viewed by the authorities as being of a political nature and anti-regime. As a result of

this he considered he was in danger and he and his wife spent a month in hiding before leaving the country.

5. After he left his home he was able to ascertain that the authorities had called some three months later and had issued "summonses". These documents were from the Islamic Revolutionary Courts and copies of them were provided in support of the Appellant's claim along with translations.
6. The Adjudicator accepted the credibility and account of the three incidents.
7. She then went on to find the July 1999 incident not to have adverse consequences for the appellant and also there was no risk arising from the article in the newspaper, copies of which had been seized by the prosecutor's office. He considered that the court documents "do not take matters much further because they do not identify whether or not there is a case against the Appellant". She referred to the Tribunal decision in **Hemmati [2002] UKIAT 01256** which acknowledges the limitations of non-specific summonses or court documents.
8. She then considered that although the Appellant held generally liberal views he could not be described as a dissident or political activist. She considered that there were no lasting consequences from his brief detention in July 1999 and in spite having been identified as a writer of an article in February 2000, which the authorities wished to suppress, the Appellant was not detained or penalised in respect of that article. He also considered that there was nothing to suggest there was any charge or adverse circumstances from the removal of the publication.

9. She noted that the Appellant relied on the discovery of prohibited books in his home and two letters from the author of some of the prohibited books. Whilst she considered it was curious the Appellant would keep such material at his home she stated that she did not know whether it was particularly inflammatory and did not consider, on the present evidence, the Appellant would be viewed as a political dissident and so merit persecution from the government.
  
10. She then proceeded to dismiss the appeal both on refugee and human rights grounds.

### **The Appellant's Submissions**

11. Mr Vokes adopted the grounds of appeal submitted with the application for leave. At the outset he noted that the Adjudicator had accepted credibility and the Appellant had been whipped in the past. He submitted this was clearly a situation of past persecution and that the findings in the **Demirkaya** supported this. Given this finding Adjudicator appears to have overlooked the past persecution when taking into account the other two occasions when the Appellant came to the attention of the authorities. He submitted therefore that this case must be looked at cumulatively with the incidents in February 2000 . He noted these were only four days apart and indicated a follow-up by the authorities between them.
  
12. In relation to the "summonses" he submitted the findings of the Adjudicator were incorrect and that they should have been considered in the round as he has indicated

in the starred decision of the Tribunal in **Tanvir Ahmed [2002] UKIAT 4039**. The positive credible findings of the Adjudicator, in his submission, meant that the summonses should be treated as valid documents and that it was a misdirection by the Adjudicator not to place weight on them. In the light of the past experience of this Appellant and his past persecution there was evidence of a continuing and real risk to this Appellant from the authorities in Iran, on the basis of his past experience and record together with the obvious interest in him from the litigation noted in the summons.

13. He stressed that the summons were from the Revolutionary Court and, given the country information on Iran plus the acceptance that the Appellant was a journalist from a country where there is continuing oppression against the media, all added up to a real risk of persecution to this Appellant on return . He would be perceived as anti-regime. This conclusion could be readily supported by the detention in 1999 and the article he wrote in February 2000 both having a political overtone to them. The findings of the Adjudicator that he was a young man with liberal views also appeared to support the Appellant's case.

### **The Respondent's Submissions**

14. Mr Deller took realistic approach to this matter. He noted that at paragraphs 8 and 9 the short time scale of events in February 2000 were recorded. It was thus not logical to suggest that it was no risk to this Appellant on return because of a significant delay or failure by the authorities in Iran to take any action against him. Indeed the two events in February 2000 were closely followed by the raid on his

home and it appeared shortly thereafter there were four attempts to serve the summonses upon him. He submitted that the **Demirkaya** point should not automatically be taken and it is more important, on the totality of the evidence, to assess the risk at this point. He considered that the fact finding did tend to fall away in paragraph 22 of the determination and this could not be escaped. He also agreed that **Tanvir Ahmed** could be used as an argument in either a positive or negative credibility assessment and it was valid that it be considered in either way as the facts presented themselves. He also noted that it was the Islamic Revolutionary Court which had issued the summonses. Given the information in the CIPU report this was a court run by the conservative Mullahs the risks to the Appellant were therefore heightened.

15. Finally he agreed that when the past whipping was looked at together with the events in 2000 the risks to the Appellant were elevated. He therefore submitted that we should look at the totality of the evidence and only if it indicated a real risk should we allow the appeal.

### **The Issue**

16. We found the only issue before us to be whether the findings of the Adjudicator were sustainable in the light of the accepted evidence that was before him. If so was the Appellant at a real risk of persecution for a Refugee Convention reason(s) and/or would there be a risk of a breach of either Articles 2 or 3 of the ECHR should he be returned to Iran.

## **Decision**

17. We are satisfied, after careful consideration of the grounds submitted and the evidence that was before the Adjudicator, that this appeal must be allowed. Taken cumulatively this Appellant has been detained and whipped in July 1999 for taking part in anti-regime activities. That incident in itself might not have been sustained or systemic but could indicate past persecution.
  
18. In February 2000 the Appellant firstly wrote an article of a political nature which was confiscated and withdrawn by the prosecutor's office. A few days later he attended the public meeting as a journalist where parliamentary candidates were in attendance. This meeting was broken up by the Hezbollah. The following day his house was searched by security personnel. Following his departure he has ascertained and provided copies of four summonses. These when closely examined indicate that some litigation was taking place between the Revolutionary Court and the Appellant . They appear to be an attempt to obtain sequestration of some items from the Appellant. They clearly reflect an interest in him or material held by him. The findings of the Adjudicator therefore that they not take matters further not correct on closer examination ,particularly when taken with the totality of the Appellant's story.
  
19. We are satisfied therefore that on return there is a real or significant risk that this Appellant will be either stopped at the airport or soon after his return to his home district in relation to his past activities and in particular in relation to the four summonses. This must be coupled with the previous persecutory acts carried out for

the reasons of his political views. In this situation we consider that there is a nexus to one of the five Convention grounds, namely his political opinions. The Appellant is therefore a refugee within the meaning of Article 1A(2) of the Refugee Convention 1951. Beyond this we consider there are substantial reasons for concluding that there is a real risk of a breach of Article 3 of the ECHR should he be returned to Iran.

20. The appeal is therefore allowed.

A. R. Mackey  
Vice President