Neutral Citation [2015] IEHC 417

THE HIGH COURT

JUDICIAL REVIEW

[2014 No. 631 J.R]

BETWEEN

A.S. [BANGLADESH]

APPLICANT

AND

THE MINISTER FOR JUSTICE AND EQUALITY

RESPONDENT

JUDGMENT of Ms. Justice Stewart delivered on the 7th day of July, 2015

1. This is a post-leave application for judicial review seeking, *inter alia*, the following reliefs:

a) An order of *certiorari* quashing the decision of the respondent dated 25th August, 2014, to refuse to revoke the deportation order made in respect of the applicant.

b) An order directing that the applicant's application for the revocation of the deportation order pursuant to s.3(11) of the Immigration Act 1999 be remitted to the respondent for full reconsideration.

c) A declaration that the decision of the respondent dated 25th August, 2014, to refuse to revoke the deportation order was made in breach of the applicant's right to natural and constitutional justice.

d) An interim and/or interlocutory injunction restraining the respondent from taking any steps to deport the applicant pending the determination of the proceedings herein.

BACKGROUND

2. The applicant is a Bangladeshi national, born on 1st April, 1971. He states that he was married on 6th January, 2002, and has one son and one daughter. His family remains in Bangladesh with his father-in-law. The applicant states that he was a lecturer in political science at a university in Bangladesh and was an active member of the Bangladeshi Nationalist Party (BNP). Upon the implementation of emergency legislation enacted on 11th January, 2007, the applicant states that the government began arresting and torturing members of the opposition parties, including BNP members. The applicant states that on 2nd February, 2007, he was dismissed from his employment because of his political involvement.

3. The applicant obtained a UK visa and travelled lawfully to the UK on the 11th April, 2006, with the stated purpose of visiting educational institutes. The applicant returned to Bangladesh on 1st August, 2006. The applicant subsequently obtained a further UK visa. He travelled to the UK again on the 15th November, 2007, and returned to Bangladesh on the 19th March, 2008, as is confirmed by entry and exit stamps on his passport. The applicant failed to disclose these trips to the UK when applying for refugee status in Ireland. He stated on affidavit sworn on 29th October, 2014, that he feared if he revealed these visits to the UK, he would be transferred to the UK and from there would be deported to Bangladesh. The fact that the applicant had previously travelled to the UK was made known to the respondent by the UK authorities rather than by the applicant himself.

4. Following the applicant's return to Bangladesh on the 19th March, 2008, he stated that he arranged to have a BNP party meeting in his house on the 25th March, 2008. He stated that he fled when the police raided the house during the meeting. Family and BNP colleagues assisted him in obtaining the services of an agent to enable him to leave the country, which he did on the 1st April, 2008, travelling to Ireland by plane and ship via Iran and Turkey. He arrived in Ireland on the 30th April, 2008, suffering from ill-health as a result of the sea journey. He initially stayed with some Bangladeshi nationals in Trim, County Meath and before applying for refugee status was arrested in Trim on the 15th May, 2008, for not having appropriate immigration documents. He applied for refugee status on the 27th May, 2008.

IMPUGNED DECISION

5. The applicant was refused refugee status and subsidiary protection. By letter dated the 9th September, 2011, he was informed that the respondent had signed a deportation order in respect of him. Judicial review proceedings challenging the deportation order were subsequently withdrawn by the applicant when the respondent presented him, in March, 2013, with the information regarding the trips to the UK that he had previously failed to disclose. On the 6th November, 2013, the applicant applied under s.3(11) of the Immigration Act 1999 for the revocation of the deportation order. This application was updated following the serious political violence in Bangladesh surrounding the January, 2014 elections. Following the issuing of judicial review proceedings, seeking, *inter alia*, an injunction restraining deportation, the respondent refused the s.3(11) revocation application on the 16th May, 2014, and subsequently agreed to withdraw the said refusal in July, 2014 following the issuing of further judicial review proceedings. Updated submissions on the s.3(11) revocation application were made on the applicant's behalf, and by letter dated the 1st October, 2014, he was informed that the application had been refused.

LEAVE

6. Leave was granted to bring the proceedings herein to seek an order of *certiorari* quashing the decision of the minister of 25th August, 2014, to refuse to revoke the deportation order made in respect of the applicant, by MacEochaidh J. following an *ex parte* application on the 3rd November, 2014, and an interim injunction restraining deportation was also granted on that date.

INTERLOCUTORY INJUNCTION APPLICATION

7. On Monday 16th March, 2015, my colleague, MacEochaidh J. delivered an extensive written judgment in respect of an application for an interlocutory injunction restraining the deportation of the applicant to Bangladesh pending the determination of these proceedings. Following the delivery of the said judgment an application was made for an early hearing date and the matter was listed

provisionally before the Court on Thursday 19th March, 2015. The judgment of my colleague MacEochaidh J. was opened to this Court during the course of the hearing. The respondent pointed out that the applicant was not in a position to contest the fact that the judgment contained some highly pertinent comments on the applicant's conduct and candour to date within the asylum process, which will be detailed further in this judgment.

APPLICANT'S SUBMISSION

8. Mr. Anthony Hanrahan B.L., appearing on behalf of the applicant, submitted that the respondent had an irrational view of the timeline of events. The reasoning upon which the respondent based the decision, impugned herein, can be found in a departmental examination document dated the 25th August, 2014. The applicant submitted that a central basis for the respondent's decision appears to be that the applicant's presence in the UK fundamentally undermines his narrative of past persecution. However, the applicant submitted that the respondent's finding in this regard is irrational in view of the timeline of events since the central reason for the applicant's fear of the authorities in Bangladesh is that he is known to have hosted a BNP meeting on the 25th March, 2008, and to have evaded arrest on that occasion by fleeing from his house and going into hiding. The applicant argued that he has never contended that the loss of his job and the political atmosphere in Bangladesh in 2007 was sufficient to ground an application for refugee status or that his fear of persecution arises from same. The stamps on the applicant's passport show that he re-entered Bangladesh on the 19th March, 2008, but the respondent points to the time spent in the UK as a basis for finding that his claim to have hosted a BNP meeting in his house in Bangladesh on the 25th March, 2008, was seriously undermined. The applicant submitted that the respondent accepted that the applicant was in Bangladesh on the 25th March, 2008, and was an active BNP member. The applicant further submitted that the fact that the applicant failed to disclose his trips to the UK when applying for refugee status does not provide a rational basis for doubting that the meeting on the 25th March, 2008, took place as claimed.

9. The applicant asserted that the respondent's view that the applicant came to this State for economic reasons, rather than because of a need for protection, is irrational once the established facts are examined in detail. It is not doubted that the applicant was in the UK on the 19th March, 2008. The applicant argued that if he wished to come to Ireland for economic reasons, as contended by the respondent, the applicant would have done so by ferry and overland from the UK to Ireland on the 19th March, 2008, rather than travelling back to Bangladesh and thereafter to be smuggled out of the country less than two weeks later. The applicant stated that there was no immediate threat to his safety when he returned to Bangladesh on the 19th March, 2008. The applicant relied on the following guidance of Cooke J. in *I.R. v. Minister for Justice, Equality and Law Reform* [2009] IEHC 353 in this regard:

> "The assessment of credibility must be made by reference to the full picture that emerges from the available evidence and information taken as a whole, when rationally analysed and fairly weighed. It must not be based on a perceived, correct instinct or gut feeling as to whether the truth is or is not being told."

10. The applicant submitted that the respondent took an unreasonable view of the country of origin information. Counsel for the applicant stated that the respondent does not appear to doubt that the applicant was an active BNP member in Bangladesh, although the respondent finds that he operated at a relatively low level in the party. The respondent quoted, in the impugned decision, from a considerable amount of country of origin information regarding the significant political violence which has been ongoing in Bangladesh since late 2013. The respondent refers to a BNP protest on the 19th August, 2014, commenting that it, "if taken in isolation, is not evidence of a de-escalation of tension in the political sphere but may be indicative of a creeping return to the normalised, if febrile, political atmosphere". At the end of the decision, the respondent, however, does find that there has been 'de-escalation' in violence and that there is "a form of equilibrium which might seem skewed to outsiders". The applicant submitted that the respondent is basing the finding that the applicant would be safe in Bangladesh on the basis of two occurrences: a violence-free protest on the 19th August, 2014, and some international travel undertaken by the leader of the BNP in July/August, 2014. The applicant contended that there is evidence of hundreds of politically-motivated arrests and killings.

11. In *D.V.T.S. v. Minister for Justice, Equality and Law Reform & anor*. [2007] IEHC 305, Edwards J. quashed a decision of the Refugee Appeals Tribunal on the basis that the decision-maker had selectively relied on one piece of country of origin information, without giving a reason as to why it was being preferred over other, conflicting country of origin information, stating as follows at para.39:

> "I cannot accept the respondent's submission that the Tribunal member was entitled to select the information that he did select on the basis that that was the most up to date country of origin information that was before him at the time of the decision. There was a significant body of other information before him, submitted by the applicant, that was neither so old nor so out of date as to justify him in failing to take it into account. (In any case the second named respondent does not state that he preferred the information in question because it was the most up to date)."

In the present case, the applicant submitted, the country of origin information is not conflicting. The applicant argued that the problem with the respondent's finding that the applicant would not be at risk of suffering politically-motivated harm in Bangladesh is that the respondent puts a wholly disproportionate and unreasonable emphasis on one protest which was non-violent in relative terms, and one period of permitted international travel on the part of the BNP leader.

12. The applicant submitted that the respondent speculated as to the applicant's motives for joining the Labour party in Ireland given the difference between the ideology of the Labour Party and that of BNP. The applicant contended that in engaging in this speculation the respondent took irrelevant materials into account. The applicant relied upon a decision of MacEochaidh J. in *R.O. v. Minister for Justice, Equality and Law Reform & anor*. [2012] IEHC 573 in this regard.

13. The applicant further submitted that the respondent's finding that the applicant had drip-fed information is irrational. The applicant contended that the situation in Bangladesh, as it concerned the applicant's claim for refugee status, was continually changing and therefore the applicant would not have been in a position to have provided such information before it had happened. In this regard, counsel for the applicant relied upon the decision of the Supreme Court of *Smith & ors. v. Minister for Justice and Equality & anor.* [2013] IESC 4, where at para.5.6 the Court addressed the issue of when material will be seen as new for the purposes of an application for the revocation of a deportation order, as follows:

> "If what is asserted to be a significant and material new consideration was actually available to the applicant at the time of the previous application, but was not advanced or brought to the Minister's attention, then, in the absence of special circumstances, it is difficult to see how the existence of such a consideration can properly be advanced as a new consideration requiring an active reassessment by the Minister of the substantive merits of the case. For a new circumstance to require such a reassessment it must either have arisen after the earlier decision of the Minister or there must be a compelling explanation as to why, notwithstanding its existence at the relevant time, it was not then advanced."

RESPONDENT'S SUBMISSIONS

14. Mr. Anthony Moore B.L., appearing for the respondent, submitted that the applicant was arrested during the course of a restaurant inspection and the applicant has not appropriately explained why he would behave in this manner.

15. The respondent submitted that the difficulty for the applicant is that his case cannot be looked at on a narrow basis. The respondent argued that when the decision is considered in the round, the credibility of his claim that a meeting was organised and subsequently raided by the police is undermined by the fact that the applicant was actually in the UK on 19th March, 2008, when he had stated he was organising the meeting on 25th March, 2008. The applicant alleged that the minister erred in fact and acted unreasonably and irrationally in finding that his undisclosed trips to the UK "seriously undermine his claim to have organised a secret meeting in his house". The respondent pointed to further examples of issues with the applicant's claim. The applicant stated at p.9 of his s.11 interview that in January, 2007, BNP leaders were arrested by the police. He said that, when he heard about that, he went into hiding. He said at p.10 that he went to his wife's family on the 1st February, 2007, and spent his time between there and a friend's house until the 25th March, 2008. Those statements were shown to be false as a result of his acknowledgment that he was in the UK from the 15th November, 2007, until the 19th March, 2008. The applicant went on to say at p.11 of the s.11 interview that he called a meeting on the 25th March, 2008. As to how that came about, the applicant said that he got the permission of the chairperson to do that, and that he had kept in touch with him on the telephone as he was in hiding. The respondent submitted that the applicant's proposition that the circumstances leading up to the alleged meeting, the meeting itself on the 25th March, 2008, and its aftermath, all formed part of a continuum of difficulties encountered by him since the arrests of the BNP leaders in January, 2007 is fundamentally undermined by the fact that he was in the UK during that period and, moreover, never claimed asylum there.

16. The respondent further maintained that the applicant's claim, at the s.11 interview, that he had to arrange the meeting when he was in hiding is also undermined by the fact that he was not actually in hiding for the entire period he claimed to have been, if at all. The respondent argued that since the applicant was able to return to Bangladesh on the 19th March, 2008, without any hindrance from the authorities, this shows those authorities did not consider him a threat and that he did not feel threatened by them. Therefore, the respondent submitted, the core of the applicant's claim is fundamentally undermined. Properly viewed in the round the credibility of his claim that a meeting took place, which was raided by the police and led to his fleeing Bangladesh, is undermined and the minister was entitled to doubt his credibility in this regard.

17. In refusing the applicant an interlocutory injunction, the respondent argued that MacEochaidh J. was also not persuaded of the credibility of his claim and in that regard he stated:

> "46. It is important to note that the applicant's alleged fears which form the basis of this application are the same as the fears which formed the basis of his various applications for asylum and subsidiary protection and revocation, though of course he says that the current political environment in Bangladesh has increased the risk of harm.
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> 47. The applicant has consistently sought to demonstrate the existence of the subjective element of his fear by saying that he was forced into hiding in Bangladesh between February 2007 and March 25th 2008. Having been through the international protection regime, it emerged that he had not been in hiding in Bangladesh or anywhere else between the 15th November 2007 and 19th of March 2008. The applicant accepts that he was visiting the UK recreationally at that time. This untruth presents two problems for the applicant. As indicated, it harms his claim that his fear of persecution forced him into hiding. Secondly, the fact that he returned from the UK to the source of his fear, suggests that he had no such fear at the relevant time. The applicant has made no effort in these proceedings to deal with the extent to which a major element of his evidence in support of the existence of his subjective fear is false. He should, on this application, attempt if he can to undo the harmful effect such untruths have on his general credibility because the rules require him to establish that he fears real harm, on the basis of arguability. For such a claim to be arguable at this stage, the negative effects of the untruths as to his fears must be addressed, however minimally, and this has not occurred. Having failed to deal with this issue in any way in this application it is very difficult for the court to accept that he has established even to the relatively low standard required that he personally fears significant harm in Bangladesh. The applicant's evidence in support of the subjective element of the fear is not credible because of the untruths he told in the past about being in hiding and this damage has not been repaired on this application.
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> 48. It is recalled that the applicant case is that he organised a political meeting on the 25th of March 2008. He says that he will be persecuted on his return because he organised this meeting which indicates his political affiliation and that the risk of persecution has increased because of recent events in Bangladesh. His credibility as to his core claim has been consistently rejected by various Irish authorities. That case having been rejected in decisions which have not been disturbed by this court, it seems to me that some effort must be made in this interlocutory application to suggest why the rejection of his claims for asylum and subsidiary protection are wrong. Some such effort is required because the basis for the fear he asserts in this application is the same basis for the fear he asserted in the rejected applications for international protection."

18. The respondent submitted that the applicant failed in these proceedings to address the omissions in his evidence to which MacEochaidh J. adverted, particularly how his account of being in hiding in Bangladesh for 18 months was compatible with the fact that, during that time, he was in the UK.

19. In regard to the applicant's contention that the minister took an unreasonable view of the country of origin information which was before her, the respondent asserted that the weight to be attached to the evidence before a decision-maker is a matter for the decision-maker alone. The respondent relied upon *E.E. v. Refugee Appeals Tribunal & anor.* [2010] IEHC 135, where Cooke J. stated at para.4:

> "It is for the Tribunal member to weigh and assess relevant information drawn from country of origin documentation and to decide what value or weight should be accorded to various parts of it, having regard to its relevance, the authoritative quality of its source, its apparent reliability and so forth. As with issues of credibility, the Court cannot substitute its own assessment of that information. It is concerned only with the legality and rational character of the process by which the conclusions or findings have been reached in the analysis which the Tribunal member has employed. As illustrated by the cases which have been cited to the Court in argument, (the Simo case, the H.O. case, the M.I.A. case,) the Court should intervene to disturb a decision based upon an assessment of country of origin information only where it is shown that some fundamental mistake has occurred in the use or interpretation of the available information or where the conclusion reached is manifestly at variance with the content and obvious effect of the documentation."

20. The respondent submitted that it must be borne in mind that the minister was aware that the applicant was a relatively minor figure in the overall scheme of Bangladeshi opposition politics. The respondent argued that country of origin information indicated that it was high-level opposition figures who were being targeted by their political opponents, and it was therefore reasonable for the respondent to take this into account.

21. The respondent submitted that, in the light of the broad thrust of the information in the papers, returning the applicant to Bangladesh would not breach the prohibition on *refoulement*. The respondent pointed again to the interlocutory injunction refusal where at para.44, MacEochaidh J. expressed similar sentiments, according to the respondent.

> "Reviewing the applicant's narrative of his fear of harm from its first telling to its final iteration in these proceedings, it is very difficult to identify evidence of a real risk of significant harm attaching to the applicant's circumstances. No evidence has been presented to the court that persons such as the applicant are at real risk of significant harm in Bangladesh. The arguability of this proposition has not been established. The evidence which has been presented is the same evidence presented on the application for revocation of the deportation order. Nothing in this material supports the suggestion that low echelon members of the applicant's political party are at risk of harm."

The respondent submitted that if the applicant could not substantiate that element of his claim on the basis of the low threshold adverted to by MacEochaidh J. at para.45 of his decision, he cannot do so now, at the post-leave stage.

22. The respondent emphasised the lack of credibility attaching to a central aspect of the applicant's narrative, as outlined above. The respondent submitted that the real question was whether returning the applicant to Bangladesh would breach the prohibition on *refoulement*, and that was clearly addressed by the minister in the s.3(11) analysis and the conclusion reached was that it would not. The respondent submitted that any comments about the applicant's motives in joining the BNP are immaterial to that finding. The minister accepted in the analysis that the applicant had a political profile in Bangladesh, but not a particularly high-level one, and went on to consider whether or not he would be at risk there on that account. The respondent contended that the important point to bear in mind about that conclusion is it was not based on a belief that his political activity was somewhat opportunistic and self-serving in character, but on cogent country of origin information which indicated that the focus of the authorities had been on high-level opposition activists, and that a degree of normality had, in any event, returned to Bangladeshi politics.

23. The respondent submitted that the applicant has engaged in the practice of 'drip-feeding' information. A number of documents in support of his application for revocation, which could have been submitted at an earlier stage were not submitted. These include copies of his passport showing the stamps pertaining to his entry into the UK previously and documents such as a photograph and a newspaper article from 2004 and 2002 respectively, pertaining to his alleged previous political involvement in Bangladesh. The respondent submitted that the courts have consistently deprecated such drip-feeding. In *Akujobi & ors. v. Minister for Justice, Equality and Law Reform* [2007] IEHC 19 the applicants challenged the minister's refusal to revoke their deportation orders. The applicants obtained an interim injunction from Hanna J. The proceedings, on notice to the minister, came before MacMenamin J., who dismissed them for want of candour and credit, and the reason for doing so was that, whilst the applicants had relied on supposedly new material in support of the revocation request, closer inspection of it revealed that it was not new at all. He said at paras.13-14:

> "One cannot avoid the conclusion therefore that there was highly relevant medical information which was within the power and capacity of the applicant to obtain and submit prior to the decision now impugned. It is difficult to avoid the conclusion that this is not "new material" at all, and that there may have been other material important as to context in the procurement of the first named applicant though not her present lawyers […]
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> Suffice it to say that the submissions and evidence as to this material from the respondent and the absence of the evidence as to why it was not submitted earlier, unfortunately gives rise to an inference not rebutted by evidence, that material was being "drip fed" to the respondent, was either already within the procurement of the applicants, or not in their minds at all as a real issue. Furthermore, the contents of such material do not indicate that what is raised therein on the applicant's behalf was new at all. Such a finding raises a question both of credit and candour."

However, the repsondent submitted that the reference to "drip-feeding" by the minister was not material to the decision, and that the kernel of the decision is the finding that, in essence, a degree of calm had returned to the political situation in Bangladesh so as to mean that deporting the applicant would not contravene the prohibition on *refoulement*.

DECISION

24. The applicant issued judicial review proceedings on the 29th March, 2014, wherein he seeks to quash the refusal of the minister to revoke a deportation earlier made. The minister took the view that the applicant was not at risk in Bangladesh, as he had a low political profile and that the political situation had returned to normality, with the party of which the applicant claimed to be a member participating in local elections with considerable success. Further, the minister disbelieved the applicant's narrative as to why he had allegedly fled Bangladesh in the first instance having regard to the fact that he was in the UK for a considerable period of time during which he claims to have been in hiding in Bangladesh. The applicant advanced four grounds in respect of this judicial review application.

25. Ground A alleges that the minister erred in fact and acted unreasonably and irrationally in finding that his initial undisclosed trips to the UK "seriously undermine his claim to have organised a secret meeting in his house". The applicant asserts that at all times he claimed that the meeting in his house took place on the 25th March, 2008, and that he has a stamp on his passport to prove that he returned from the UK to Bangladesh on the 19th March, 2008. He seeks to assert that the police raid on the meeting was the central fact, which led him to fear for his safety in Bangladesh and that the minister apparently failed to appreciate the timeline and her decision was fundamentally flawed.

26. The applicant, it seems to me, is asking the Court to look at that date in isolation, removed from the reality of his conduct to date and his repeated lack of candour throughout the asylum process. It is noteworthy that his period of time spent in the UK only came to light as a result of information provided by the UK Border Agency and at no stage was disclosed by the applicant. In the judgment refusing the interlocutory injunction application in this case MacEochaidh J., from para. 46, makes the following observations in relation to the applicant's credibility, which is worthwhile setting out again. He stated as follows:

> "46. It is important to note that the applicant's alleged fears which form the basis of this application are the same as the fears which formed the basis of his various applications for asylum and subsidiary protection and revocation, though of course he says that the current political environment in Bangladesh has increased the risk of harm.
>
> 47. The applicant has consistently sought to demonstrate the existence of the subjective element of his fear by saying

that he was forced into hiding in Bangladesh between February 2007 and March 25th 2008. Having been through the international protection regime, it emerged that he had not been in hiding in Bangladesh or anywhere else between the 15th of November 2007 and the 19th of March 2008. The applicant accepts that he was visiting the United Kingdom recreationally at that time. This untruth presents two problems for the applicant. As indicated, it harms his claim that his fear of persecution forced him into hiding. Secondly, the fact that he returned from the UK to the source of his fear, suggests that he had no such fear at the relevant time. The applicant has made no effort in these proceedings to deal with the extent to which a major element of his evidence in support of the existence of his subjective fear is false. He should, on this application, attempt if he can to undo the harmful effect such untruths have on his general credibility because the rules require him to establish that he fears real harm, on the basis of arguability. For such a claim to be arguable at this stage, the negative effects of the untruths as to his fears must be addressed, however minimally, and this has not occurred. Having failed to deal with this issue in any way in this application it is very difficult for the court to accept that he has established even to the relatively low standard required that he personally fears significant harm in Bangladesh. The applicant's evidence in support of the subjective element of the fear is not credible because of the untruths he told in the past about being in hiding and this damage has not been repaired on this application.

48. It is recalled that the applicant's case is that he organised a political meeting on the 25th of March 2008. He says that he will be persecuted on his return because he organised this meeting which indicates his political affiliation and that the risk of persection has increased because of recent events in Bangladesh. His credibility as to his core claim has been consistently rejected by various Irish authorities. That case having been rejected in decisions which have not been disturbed by this court, it seems to me that some effort must be made in this interlocutory application to suggest why the rejection of his claims for asylum and subsidiary protection are wrong. Some such effort is required because the basis for the fear he asserts in this application is the same basis for the fear he asserted in the rejected applications for international protection."

27. Notwithstanding the nature of the foregoing comments of the Court, the applicant seeks to proceed with his judicial review application of the minister's decision some three days later without making any attempt to explain and/or justify his earlier lack of candour. It seems to me that the applicant throughout the asylum process and again before the Court has shown a complete disregard for the authorities of the State up to and including this Court in the manner in which he has persisted in his claim.

28. The second ground upon which the applicant seeks to review the minister's decision is that he alleged the minister took an unreasonable view of the country of origin information which was before her regarding the security situation in Bangladesh since the election in January, 2014 and that her finding in returning him to Bangladesh would not put him in danger was unsafe and unreasonable. In *E.E. v. Refugee Appeals Tribunal & anor*. [2010] IEHC 135, a decision of Cooke J. on 24th March, 2010, at para.18 thereof Cooke J. states the following:

"[…]the Court is satisfied that no substantial ground is raised to the effect that the reliance on country of origin information in this case was so defective as to be unlawful. It is, in the Court's judgment, a mistake always to approach country of origin information as a court might approach testimony advanced to prove or disprove particular facts such that where a conflict arises as between the testimony of two witnesses, the Court is required to resolve that conflict. This can undoubtedly arise in asylum cases as, for example, where it is necessary to decide whether ethnic conflict exists in a particular place or whether, as a matter of fact, Muslims are attacking Christians or vice versa in a given region. But the country of origin information employed in the present case is of different character. The documents consulted on these issues are compilations of observations, commentaries, extracts from reports, articles and other publications, drawn from a wide variety of sources with differing levels of authority and often originally written for a particular purpose. The task of the Tribunal member, like the Commissioner's authorised officer, is not to decide which source is the most reliable or the most likely to be truthful in order to arrive at a finding which resolves a dispute of fact. All of the reports, comments and assertions may well be valid, although some may have been recorded in order to emphasise a specific proposition because the organisation in question is involved in combating a particular problem or mischief or is advocating a particular cause, such as human rights abuses, torture, women's rights, starvation, and the spread of disease and so on. The task of the decision maker is to weigh such information with a view to reaching, so far as possible, an informed view as to the state of relevant conditions in the country of origin which the asylum seeker will face upon return. The fact that one source emphasises, for example, that a killing has happened does not necessarily disprove another which says that police are making progress in combating killings. The fact that one source stresses discrimination by some health care providers does not necessarily disprove other information to the effect that particular treatments are being made available or are at least available in certain areas or in certain circumstances."

29. In relation to that ground advanced by the applicant, I find no merit in same. It seems to me that the minister considered all relevant information and arrived at a rational and reasoned decision thereon.

30. In relation to Ground C the applicant contends that the minister took irrelevant considerations into account in referring to him "as an accomplished networker" whose "involvement with the (BNP) party was at least as much to do with personal advancement as political conviction". The minister is further criticised for questioning his motives for joining the BNP and subsequently the Irish Labour party. I am satisfied that it was open to the minister to make the comments and observations that she made based on the information before her and which was inextricably bound up with the story which the applicant was advancing and which had been found to be lacking in truth and credibility at all stages of the asylum process. I therefore reject that ground advanced by the applicant.

31. In relation to the Ground D the applicant argues that the minister acted unreasonably and irrationally in finding that the applicant was "attempting to delay the asylum and immigration process" by drip feeding information and documentation to him. I have to say that by any reading of the documentation in this matter, it would be difficult, in my view, for the minister to arrive at any other conclusion.

32. The new facts and circumstances which were put forward by the applicant related to events at the end of 2013 and January, 2014 in Bangladesh. However, it should be noted that the political situation in Bangladesh is an ongoing one of which the minister was aware at the time of the previous deportation order and refusal to revoke the deportation order. Further, the applicant did seek to challenge the refusal of subsidiary protection and the deportation order. However, those proceedings were withdrawn when it was uncovered that the applicant had not disclosed relevant information during the initial asylum process, i.e. that he had two visas and during the course of the second visa had spent from November, 2007 to 19th March, 2008, in the UK when, during the asylum process, he alleged he was in hiding in Bangladesh. In any event the country of origin information before the minister shows that, in fact, the party of which the applicant alleges he is a member, in fact performed well in the local elections of 2014, despite having boycotted the general elections that year.

33. A second and subsequent challenge to a refusal on the part of the minister to revoke a deportation order can be brought as far as reliance is placed on a suggestion that there were new circumstances not before the minister when the deportation order and any previous decision not to revoke same was determined by the minister. The situation was considered by the Supreme Court in *Smith & ors. v. Minister for Justice and Equality* [2013] IESC 4, Clarke J., at para.5.4 states:

> "While there are many aspects of the system which contribute to the delay of which I have spoken, there can be little doubt but that permitting persons to make repeated applications for revocation of deportation orders in the absence of significant new materials or circumstances would contribute to such delays and have an adverse effect on the orderly implementation of the Irish immigration system. It seems to me to follow that it is only where a relevant applicant can point to some significant feature, not present when the original deportation order was made, that there can be any obligation on the Minister to give detailed reconsideration to the question of deportation. It likewise follows that a similar situation arises where, as here, there is a second or subsequent application for revocation of a deportation order. Where, as here, neither the original deportation order nor the first or earlier application for revocation was challenged in the courts by judicial review (or where any such challenge failed), it must be assumed that the analysis of the Minister, on the basis of the facts, materials and considerations then before the Minister, was correct. It follows that the only basis on which a challenge to a second or subsequent refusal on the part of the Minister to revoke a deportation order can be brought is where reliance is placed on a suggestion that there were new circumstances not before the Minister when the deportation order or any previous decision not to revoke same was determined and where the challenge is directed to the consideration by the Minister of the application in the light of such new circumstances."

34. At para. 5.10 Clarke J. continues:

> "In that regard, I should express my agreement with the views expressed by the trial judge when he indicated that a party cannot artificially create a new point by the simple expedient of making multiple applications for revocation of a deportation order. It is, of course, the case that a party is entitled to invite the Minister to revoke a deportation order at any time. Where, however, there has already being an application to revoke which has been refused and where the refusal either has not been challenged or where any challenge to such refusal has failed in the courts, then legal certainty requires that such refusal must be taken to represent a correct determination based on the facts and materials as they stood at the time of that refusal. Those facts and materials must be taken to include matters actually before the Minister together with any matters not before the Minister which the applicant ought to have placed before the Minister. It follows that a second or subsequent application to revoke must put forward some new facts, materials or circumstances beyond those which existed at the time of the first refusal to revoke (or which, while existing at that time, could not with reasonable diligence have been expected to have been placed before the Minister by the relevant applicant). It is only such new facts, materials or circumstances that the Minister is required to consider save to the extent that the Minister must, of course, if there truly are new facts, materials or circumstances which could be material to an overall assessment of the position, take an overall view of all the circumstances including those new matters addressed."

35. It seems to me that these comments are appropriate to the facts of this case. Accordingly, I am satisfied that the minister was entitled to reach the decision which she did in respect of the revocation application, that it was rational and reasoned and warranted upon the matters before her for her consideration.

36. I should point out at this stage that notwithstanding the rejection by way of a written judgment, of the applicant's application for an interlocutory injunction on Monday the 16th March, 2015, at the conclusion of the hearing of the judicial review application before me on the 19th March, 2015, when I indicated I would reserve my judgment, the applicant through counsel again asked the Court to consider granting an interlocutory injunction pending the decision of the Court. I rejected this application. It seems to me that the applicant has withheld vital information from the authorities at all stages throughout the asylum process. It should be pointed out that s.20(2) of the Refugee Act 1996 (as amended) provides as follows:

> "If a person, for the purposes of or in relation to an application under section 8, gives or makes to the Commissioner, the Tribunal, an authorised officer or an immigration officer any statement or information which is to his or her knowledge false or misleading in any material particular, that person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 (€1906.61) or to imprisonment for a term not exceeding 12 months or to both."

37. The gravity of the situation in which the applicant finds himself with regard to his failure to disclose information to the authorities appears to have evaded him for reasons which this Court is at a loss to comprehend.

38. For the foregoing reasons I would refuse the reliefs sought.