



**IN THE NAURU COURT OF APPEAL  
CIVIL APPELLATE JURISDICTION  
AT YAREN**

Civil Appeal Number 08 of 2025  
Supreme Court Civil Case Number 03 of 2025

BETWEEN                      AC25                                      Appellant

AND  
                                    Republic of Nauru                                      Respondent

Before:                      Khan P  
                                    Palmer JA  
                                    Coates JA

Date of Hearing:                      16 June 2026  
Date of Judgment:                      25 June 2026

Case may be cited as: *AC25 v The Republic*

CATCHWORDS: APPEAL – Asylum seeker – Country information ignored – No engagement with appellant’s case – Engagement – Ground of appeal

**APPEARANCES**

Mr Kenneally for the Appellant  
Mr O’Shannessy for the Respondent

## JUDGEMENT

1. **BY THE COURT:** The ground of appeal in this matter is that the Refugee Status Review Tribunal (the Tribunal) and the Supreme Court failed to consider country information in relation to the appellant's claim for asylum.
2. The appellant comes from Bangladesh.
3. He was an unauthorised maritime arrival in Australia in April 2024 and was transferred to Nauru the following month under an agreement between Australia and Nauru for the consideration of asylum seeker claims.
4. The process is that asylum seekers have a legal right to seek asylum as a refugee or complementary protection under the *Refugees Convention Act 2012* (the Act), which entails assessment by the Secretary for Multicultural Affairs and then a review by the Tribunal if necessary, and then an appeal to the Supreme Court with the final appeal to this Court.
5. The appellant seeks that the matter be returned to the Tribunal for reassessment which would mean a quashing of the decisions already made.
6. The appellant claims a well-founded fear of harm because of his political association with the Bangladesh Nationalist Party (the BNP).
7. Briefly, he claims he was a supporter of the BNP but not actively involved, however he associated with [H], a BNP and union member, and [H] disappeared. He stated he was attacked and injured in early 2024 by members of a rival party, the Awami League (AL). He also claimed that his father, mother and sister were also assaulted by AL supporters. On one occasion his father was taken to hospital after being attacked and when the appellant went to Dhaka he was traced to his workshop by some men who attacked him. He said this forced him to flee Bangladesh.
8. The particulars of the appeal are that the Tribunal and subsequently the Supreme Court failed to consider the appellant's submissions in relation to country information including the failure to consider a report by the Australian Department of Home Affairs titled 'DFAT Country Information Report Bangladesh' dated 30 November 2022. DFAT is an acronym for the Department of Foreign Affairs and Trade.
9. Counsel for the appellant stated no reliance was placed on the DFAT report. He said the primary judge summarised the failure to consider relevant country information as follows:

[22] Shortly before the hearing before the Tribunal on 18 December 2024, the Appellant filed the Submission. The Appellant's representative addressed, amongst other things, the risk of harm for low level supporters of the BNP in Bangladesh. The submission also included extensive references to relevant country information, including references to about a dozen sources of country information which were referenced and the relevant matters to be taken from those country reports set out in the body of the submission.

- [23] The Appellant accepts that the Tribunal was aware of the Submission and indeed referenced it in its decision. However, the Appellant argues that the Tribunal did not engage with it in the sense of a proper evaluation or consideration of the country information referred to in the Submission.
- [24] The Appellant contends that this constituted a failure on the part of the Tribunal to consider a relevant matter which it was required to consider.
10. The submission was that the Supreme Court had erred in not considering the country information and such was an error of law.
  11. The Court accepts that there had been politically motivated violence in Bangladesh at times material to this application, which saw the fall of the Awami League (AL) government headed by Sheikh Hasina in August 2024.
  12. There have been clashes, sometimes violent, between AL and BNP members.
  13. It was put that one of the features of the appeal was the disconnect between the ground of appeal and the decision of the Supreme Court and the arguments advanced by the appellant.
  14. Counsel said written submissions dated 15 December 2024, at paragraph 53, were put forward, concerning the then current situation upon the change of government, stating:

[53] Shafquat Rabbee, a Bangladeshi-American geopolitical columnist wrote that “Hasina’s political DNA is found in every corner of the Bangladeshi state she left behind. Her hand-picked judges, bureaucrats, police and military commanders are still running the show.

[54] It is still too early to be able to predict how these changes will impact the lives of average person (sic) in Bangladesh, particularly those rural areas, whose lives are subject to local administrations and security authorities the majority of which have acted with impunity, particularly as AL powerbrokers.
  15. This was expanded at paragraph 59:

We submit that the assessment of the recent changes in Bangladesh should take into consideration the nature and degree of the change and its durability, how that change might affect the applicant’s particular situation, whether the reasons for his fear of persecution still exists and whether he feared agents of persecution are still present in Bangladesh and are still inclined to harm the claimant as well as whether there are new grounds of fear as a result of the new change which is likely to be chaotic for the foreseeable future.
  16. These paragraphs were supported with references to sources of information and the next paragraphs claimed more broadly that while the Hasina government had fallen the new government was unstable, political violence remained and there was a risk of return to authoritarian rule.

17. He said that argument comes from country information which post-dated the change of government.
18. Counsel then referred to October 2024 media reports of fresh violence gripping Bangladesh with protestors storming the presidential palace and military barricades, with dozens of people being injured including police and journalists.
19. He said DFAT travel advice of 27 August 2024 warned of violence.
20. The appellant's case stressed that the country was unstable and the report referred to examples of that.
21. Counsel said at paragraph 64 that in an article in a publication called The Conversation, it was stated that the interim government was grappling with political instability, religious extremism and a fragile economy and that the writer felt that Bangladesh's current trajectory was worrying as were the country's long-term prospects and the writer could envision a return to an authoritarian regime (it is claimed that Sheikh Hasina was autocratic).
22. Counsel said this was significant in relation to the appellant's claim of having a well-founded fear, and this should have been considered.
23. A concession was made that at paragraph 11 of the decision the Tribunal clearly refers to the written submission, and the Tribunal refers to volatility.
24. He said the Tribunal did not engage with the submissions.
25. He said there was partial consideration, but the critical aspect was that the Tribunal noted that the Shafquat Rabbee statement was made a few days after the change of government and failed to take into account what had happened since then.
26. It was put that the Tribunal preferred other country information including an International Crises Group report No 344, 14 November 2024, which indicated that (paragraph 65 of the Tribunal reasons):

...that at grassroots level, the BNP has taken control of many lucrative rackets. Other evidence (such as anti-AL reprisals) points to AL decline. The Tribunal notes that the situation in Bangladesh remains uncertain, but there is no credible evidence to support the applicant's assertion that the AL remains completely in control in his (or any other areas), all that current powerbrokers or that the machinery of government that meant they could act with impunity in the past, continues. Neither does it except that those at the local level are still subject to local Awami League administrations and security authorities who can continue to act with impunity.
27. The Tribunal rejected the appellant's submissions of risk at harm at local level.
28. Counsel stated that one would expect that the Tribunal would have referred to the fact that the appellant had provided country information post-dating the change of government suggesting the situation was one of ongoing volatility and political violence and a real question as to whether the interim government would survive.

29. He said an inference should be drawn that the submissions of recent country information showing the changes may not be durable and that the appellant was not at risk of harm were not considered. These were critical of the assessment of his claims.
30. Counsel for the respondent challenged these assertions upon rule 6 of this Court's rules, confining this Court to the consideration to the ground of appeal stated.
31. He said part of the ground had not been put before the Court and so the appeal should not be upheld.
32. The ground of appeal states:

The primary judge erred by failing to find that:

1. The Tribunal failed to consider the appellant's submissions in relation to country information, including failing to consider a report by the Australian Department of home affairs titled 'DFAT Country Information Report Bangladesh dated 30 November 2022.'
33. Counsel stated that the DFAT report was not addressed in either written or oral submissions.
  34. On that basis, he urged us not to uphold the appeal.
  35. He said what was left was the claim that the Tribunal failed to consider the appellant's information in relation to country information.
  36. He said the Tribunal decision at paragraph 11 stated:

Also provided at review was a submission dated 15 December 2024. The submission in large part addresses the Secretary's determination and stating it relied on all evidence and submissions previously provided by or on behalf of the applicant. It also suggested the applicant would likely be targeted by the Awami League who would want to cause him harm and imprisoned him.

37. He said this paragraph is the engagement with the documentary submissions from the appellant, particularly because it refers to the appellant's claim that he could be targeted by AL members.
38. He said the submission was that the change was not durable, but paragraph 62 of the Tribunal decision, which the appellant also referred to, recognised the volatility existing in Bangladesh and that it was too early to predict how people will be affected, particularly those in rural areas.
39. He said plainly the Tribunal dealt with the case that change was not durable.
40. Uncertainty in the future was referred to paragraph 65, again an engagement with and an understanding of what the appellant stated caused his fear.

41. He said the appellant simply disagrees with the outcome of the hearing, but shows no point of law.
42. Counsel said the Tribunal was not required to identify each separate piece of country information and there was nothing outstanding in reasons of the Tribunal's assessment of the appellant's written submissions or in any requirement to state each and every piece of information the Tribunal considered relevant.
43. In a real sense, engagement with the evidence, assessment of it and the reasoning to come to a decision is in many ways a subjective exercise.
44. No rule can be laid down as to how a court treats such evidence – however, that it is referred to at least, is a start.
45. In this case, that the Tribunal stated the appellant's concerns about what caused his stated fear and then referred to country information indicating continuing reports of volatility with examples, required no more other than a determination on all of the evidence. When referring to all of the evidence, including reference to the appellant's submission, the Tribunal engaged with that evidence, and held that low level political contact did not put the appellant in danger as he claimed.
46. The Tribunal achieved the necessary object required by the Refugees Convention Act in assessing the application on its merits, by setting out the decision, its reasons and findings.
47. There is simply failure to engage as claimed and the appeal will be dismissed.
48. We will comment on the oral application to dismiss the appeal under Rule 6 of this Court's rules which confine the hearing to the grounds stated. The ground of appeal was wide – "The Tribunal failed to consider the appellant's submissions in relation to country information, including failing to consider a report by the Australian Department of Home Affairs titled 'DFAT Country Information Report Bangladesh dated 30 November 2022'".
49. So it is a general claim of failure to address country information mixed in with a specific country report being the DFAT report, upon which we received no submissions.
50. Appeals going to finality of litigation are of supreme importance, and they must be stated so as to understand what is being sought, sometimes a difficult task, sometimes not.
51. We are asked to dismiss this appeal because what appears to be that a key report stated in the ground of appeal was not addressed.
52. We think a fair reading of the appeal ground does cover adequate reference to the appellant's country information, including the DFAT report. The word 'including' means that, the DFAT report is included.
53. But the ground is not to be assessed on a "shall" or "may" basis as if it were a legislative provision indicating discretion or lack of discretion, it simply stated that country information was the subject matter including the DFAT report.

54. It appears to us counsel for the appellant ran his strongest case and further reference to the DFAT report was unnecessary.
55. While we then would not dismiss the appeal on that ground, we nevertheless have found that the appeal had little merit. We will state though, as counsel for the respondent seeks clarification, that an appeal departing from grounds stated will not be entertained unless a ruling is made to allow such under Rule 4, as valuable time would otherwise be wasted.

ORDER

1. The appeal is dismissed

DATED this 25 day of June 2026



Khan P  
President of the Nauru Court of Appeal



Palmer JA  
Justice of the Nauru Court of Appeal



Coates JA  
Justice of the Nauru Court of Appeal