



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

Civil Appeal Number 5 of 2025
Supreme Court Civil Case Number
6 of 2025

BETWEEN: AF25 Appellant

AND: Republic of Nauru Respondent

BEFORE: Khan P
 Palmer JA
 Coates JA

Date of Hearing: 13 May 2026
Date of Judgment: 22 May 2026

Case may be cited as: AF25 v The Republic

CATCHWORDS: Reasons of Tribunal – Whether the reasoning of the Tribunal was
Irrational – Illogical – Unreasonable.

APPEARANCES:

Counsel for the appellant: A Aleksov (instructed by International Crossover Pty Ltd)
Counsel for the respondent: R O'Shannessy (instructed by the Republic of Nauru)

JUDGMENT

1. **BY THE COURT:** The appellant, a 32 year old male, is a citizen of Bangladesh.
2. He left Bangladesh and arrived in Australia on 1 June 2024 and he was transferred to Nauru pursuant to the Memorandum of Understanding between the governments of Nauru and Australia.
3. On 27 June 2024 the appellant made an application for Refugee Status Determination (RSD) to the Secretary of the Department of Multicultural Affairs (Secretary) under the *Refugees Convention Act 2012* (the Act).
4. The appellant claimed to have supported the Bangladesh Nationalist Party (BNP). He stated that he feared harm from Awami League (AL) members should he be returned to Bangladesh.
5. On 9 August 2024 the Secretary determined that the appellant was not recognised as a refugee and was not owed complementary protection under the Act.
6. The appellant made an application to the Refugee Status Review Tribunal (Tribunal) and on 15 November 2024 the Tribunal confirmed the decision of the Secretary.
7. The appellant on 10 February 2025 filed an appeal to the Supreme Court against the determination of the Tribunal and on 4 July 2025 the Supreme Court affirmed the decision of the Tribunal.
8. In the Supreme Court the appellant filed two grounds of appeal and ground one of the appeal was in the following terms:
 - 1) The decision of the Tribunal is affected by illogicality or irrationality, in that the Tribunal failed to give a logical or rational response to the Appellant's argument that national level changes in Bangladesh did not impact the risk he faced at the local level.

APPEAL IN THIS COURT

9. The appellant filed only one ground of appeal which corresponds to ground one of the appeal filed in the Supreme Court.

TRIBUNAL FINDING

10. The Tribunal's findings are relevantly contained at [63] and [64] where it is stated:

[63] The adviser submitted it is still too early to predict how the recent changes in Bangladesh will impact the life of average people in Bangladesh, particularly those in rural areas. However it was put to the applicant at hearing, the recent political changes in Bangladesh are substantial in that Prime Minister Sheikh Hasina had fled and a new interim Government had been sworn in tasked to restore peace, law and order, fight corruption and prepare for new elections at which BNP is seen as

having the greatest chance of winning. See for example how HI Bangladesh is doing 1 Month After Sheik Hasina's Exit <https://the Diplomat.com/2024/09/how-is-Bangladesh-doing-1-month-after-Sheik-Hasina's-exit>-The Diplomat dated 5 September 2024 and The Diplomat Bangladesh Must Move Beyond the Politics of revenge, by Imrule Islam, 26 August 2024 The Diplomat.

- [64] In his initial statement, the applicant stated that most of his village were BNP supporters although the Awami League supporters were most powerful as they had the backing of the ruling party. The recent political developments in Bangladesh mean that this is no longer the case. The Awami League is no longer the National Government and as a result has lost the backing of institutions such as police which means that it can no longer operate with impunity. Accordingly, the Tribunal does not accept the Awami League are current powerbrokers nor that the machinery of Government that meant they could act with impunity in the past, continues. Neither does it accept that those at local level are still subject to local Awami League administrations and security authorities who continue to act with impunity.
11. Counsel for the appellant submitted the appellant informed the Tribunal at the hearing that his father had informed him that Awami League's people in his area are still powerful like before – though there is no Awami League government but they are still exercising power¹.
 12. Counsel for the appellant submits that it was a specific set of claim or specific evidence and it was not open to the Tribunal to respond to that claim by reference to general country information; and he submitted that the Tribunal's reasons in the absence of any evidence to support the findings about appellant's home reason is illogical or irrational.
 13. Counsel for the respondent submitted that the Tribunal's decision and reasons when read as a whole is neither illogical or irrational. He relied on *CRI 020 v The Republic of Nauru*² where it is stated at [36] as follows:

[36] Irrationality such as to amount to legal error must involve reasoning which no rational or logical decision-maker could arrive at on the same evidence. The correct approach for this Court is to ask "whether it was open to the Tribunal to engage in the process of reasoning in which it did engage and to make the findings which it did on the material before it."³ Put another way, "If probative evidence can give rise to different processes of reasoning and if logical or rational or reasonable minds might differ in respect of the conclusions to be drawn from that evidence, a decision cannot be said by a reviewing court to be illogical or irrational or unreasonable, simply because one conclusion has been preferred to another conclusion."⁴
 14. He submitted that [59]⁵ the Tribunal made adverse credibility findings against the appellant as to where he worked from May 2022 to December 2023, the changing nature of his evidence in relation to why he was a BNP supporter and his lack of knowledge in

¹ Page 254 Appeal Record Book line 30

² [2021] NRSC 2023

³ *Minister for Immigration and Citizenship v SZMDS* (2010) 240 CLR 611 at [133] per Crennan and Bell JJ.

⁴ *Minister for Immigration and Citizenship v SZMDS* (2010) 240 CLR 611 at [131] per Crennan and Bell JJ.

⁵ Page 239 Appeal Record Book of the decision

relation to such at his RSD interview about the 2024 National election, led the Tribunal to conclude that he may have been a BNP supporter but he did not suffer adversely from Awami League or other government actors.

15. He submitted that [50]⁶ the Tribunal did not accept the appellant's support or his political conviction resulted in him being targeted by Awami League in the past or it resulted in his relocation – not did it accept that his father subsequently received Awami League threats which involved the appellant or that his father continued to receive threats.
16. During the Tribunal hearing⁷ it was put to the appellant that things have changed, that Prime Minister Hasina had fled and that there is an interim government – that country information indicated that BNP are likely to do well – that BNP leaders who were imprisoned were released and the overall environment is favourable for the BNP – that AL members to attack with impunity has reduced – that generally violence has eased. So he was asked as to what could happen to him if he were to return to Bangladesh and his response was his dad told him that Awami League in his area were still very powerful.
17. At [64] of the decision the Tribunal stated that the appellant in his initial interview stated that most of his village were BNP supporters although Awami League supporters were more powerful as they had the backing of the ruling party – that Awami League was no longer the National government and the Tribunal concluded that Awami League could not act with same impunity as it did in the past and the Tribunal did not accept the people at the local level were still subject to local Awami League administrators and security who cannot act with impunity.

COURT BELOW

18. The primary judge in his judgement stated as follows at [50], [55] and [56]:
 - [50] The appellant's approach to the Tribunal Decision is one which seeks impermissibly to consider passages of the reasons divorced from the totality of the decision.
 - [55] The conclusion reached by the Tribunal at [66] of the Tribunal Decision is in no sense irrational or illogical. The reasoning process is set out fully at paragraphs [59] to [66]. It was open to the Tribunal to engage in that process of reasoning and to make the findings which it did.
 - [56] I reject the contention that the Tribunal Decision is affected by illogicality or irrationality because the Tribunal failed to give a logical or rational response to his argument that national level changes in Bangladesh did not impact the risk he faced at the local level. The Tribunal addressed that issue at [63] to [65]. It then expressed its conclusions on this aspect of the matter at [66].
19. We agree with His Honour's findings that there was nothing irrational or illogical in the Tribunal's finding about the national changes in Bangladesh and that the Tribunal was justified in the findings that for people like the appellant in the foreseeable future there is no reasonable possibility of facing persecutory harm based on their political opinion.

⁶ Page 235 Appeal Record Book of the Tribunal's decision

⁷ Page 254 [20]

20. No error of law has been established and we therefore dismiss the appeal.

ORDER

1. The appeal is dismissed.

DATED this 22 day of May 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