



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

Civil Appeal Number 12 of 2025
Supreme Court Civil Case Number 12 of 2025

BETWEEN	AL25	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 : AR25 v The Republic

CATCHWORDS: APPEAL – Asylum seeker – Death threats - Engagement with country information - Requirements

APPEARANCES

Mr Kenneally for the Appellant

Mr O'Shannessy for the Respondent

JUDGMENT

1. In this appeal the appellant claims that the Refugee Status Review Tribunal (the Tribunal) failed to give proper consideration to his evidence and thus there were lack of reasons and reasoning to conclude that he is not a refugee.
2. The appellant arrived illegally in Australia on 16 February 2024 and was transferred to Nauru on 19 February 2024 pursuant to an agreement between Australia and Nauru as to the consideration of asylum seeker claims.
3. His initial claim that he was a refugee, or owed complementary protection, was refused by the Secretary for Multicultural Affairs(the Secretary) and reviewed by the Tribunal. Upon the Tribunal upholding the Secretary's decision, the appellant's appeal to the Supreme Court was dismissed on 8 August 2025.
4. The appellant claimed he has a well-founded fear of being persecuted because of his political beliefs in being a supporter or associated with the Islamist Jamaat-e Islami political party (JI or Jamaat), which had been in conflict with the then long-term government of Bangladesh controlled by the Awami League (AL) party. JI had been banned by the AL government and bans were only lifted in 2024 after the fall of the AL government. There are numerous recordings of violent clashes between AL supporters and various opposition parties in the years before the AL government lost power in 2024.
5. The Tribunal accepted that the appellant was a supporter of JI, however it did not accept his version of events as to why he would be persecuted if he returned to his homeland.
6. Briefly, the appellant claims that the threat arises through his association with his father who served as a JI union president.
7. The appellant gave evidence that he had attended JI meetings, protest marches and awareness campaigns with his father.
8. He said although not a member, AL supporters have threatened to kill him if his father did not stop supporting JI and he said he had been subjected to verbal abuse but not harmed physically. He said the threats had taken a toll on his mental health and his father arranged his departure with people smugglers to leave the country.
9. In exploring these claims, the Tribunal sought information as to why assaults on his father had only been minor and why he had not been harmed and the appellant's response was that his father was popular in his village and AL members would know that and did not want to suffer the backlash from village members.

10. Counsel for the appellant put that his response that his father was not harmed because he was popular within the village was a perfectly reasonable answer and the rejection of his story, given the evidence which existed, was a failure to engage with the evidence favourable to the appellant.

11. The submission was that there was adequate country information from the International Crisis Group, dated 14 November 2024, entitled a New Era in Bangladesh? The First Hundred Days of Reform, which said despite the collapse and removal of the AL government, there were still AL activists in the country.

12. It was said that this lack of engagement and lack of reasoning was a breach of s34(4) of the *Refugees Convention Act 2012*, which states:

The Tribunal shall give the applicant for review ... a written statement that:

- (a) sets out the decision of the Tribunal on the review;
- (b) sets out the reasons for the decision;
- (c) sets out the findings on any material questions of fact; and
- (d) refers to the evidence or other material on which the findings of fact were based.

13. The Court was taken to paragraph 52 of the Tribunal decision which states:

The Tribunal notes and takes into account, country information discussed at hearing, indicating that the former AL government took strident measures against JI, including deregistering the political party and in many instances, persecuting leaders and members. However, it has the following broad concerns about the applicant's claims of past harm:

- The Tribunal places weight on the applicant's evidence that his father, despite his long-term JI membership, his local leadership position from 2016 and his strong following, was able to sustain his family and property interests in the area over a long period. In other words, the applicant did not explain adequately why AL activists (and in his father's case, the police) failed to take decisive action against him and his father, when there had been ample opportunities for them to do so.

That paragraph was supported by footnote with a reference to the International Crisis Group report stated earlier.

14. The essence of the claim was that the Tribunal did not show the necessary connection with the evidence particularly in the International Crisis Group report and the appellant's claim as to those issues causing him to have a well-founded fear.

15. He said that was not in line with what s34(4) required.

16. Consul for the respondent said the Tribunal did comply with s34(4) and paragraph 52 as a whole identifies concerns that the Tribunal had not considered.
17. The respondent's case is that The Tribunal's non-acceptance of the appellant's case was because of the unconvincing nature of that case.
18. Although death threats were claimed, there was just no cogent evidence of them, and against the background of the appellant's father being able to take on a leadership role in JI in 2016, when bans against the organisation were in place, and sustain work programs, and followers, avoid serious harm and even able to obtain an unsecured loan, suggested at best that AL activity against him was limited and did not amount to persecution or prescribed treatment under the *Refugee Convention*.
19. He said engagement with the country information then, and there was a footnote reference to some information, was enough and s34 did not require a descent into reasons of why an explanation was inadequate.
20. Counsel clarified that submission with reference to TTY167 v Republic of Nauru¹, per Wimalasena P, Palmer and Makail JJ, that:

Moreover, in Minister for Immigration and Multicultural Affairs; ex parte Durairajasingham [2000] HCA 1; 74 ALJR 405, the High Court of Australia stated that it would be contrary to the direction in section 420 of the Immigration Act, which is identical to section 22 of the Refugees [Convention] Act, for a Tribunal to give line by line refutation of evidence. It stated at para [65]:

‘... it is not necessary for the Tribunal to give a line-by-line refutation of the evidence for the claimant either generally or in those respects where there is evidence that is contrary to findings of material fact made by the Tribunal’.

21. This concept was supported by the High Court decision In The Republic of Nauru v WET040² per Gageler, Nettle and Edelman JJ, where the scope of the obligation to give reasons was stated:

What has been said thus far is sufficient to dispose of the appeal. Counsel for Nauru contended in the alternative, however, that, even if the Tribunal had not given full reasons for regarding the respondent's claims as implausible, the Tribunal's reasons would have satisfied the requirements of s34(4) of the Refugees Act. Counsel referred in support of that contention to the judgment of McHugh J in *Re Minister for Immigration and Multicultural Affairs; Ex parte Durairajasingham* regarding the extent of the obligation to give reasons under s 430(1) of the *Migration Act*.

38. In *Durairajasingham*, the applicant, who was a Sri Lankan citizen of Tamil ethnicity, challenged the findings of the Refugee Review Tribunal on

¹ [2024] NRCA 1

² No 2 [2018] HCA 60

the basis that inter alia the Tribunal breached s430(1) by failing to set out reasons for their finding that the applicant's claim that members of a Tamil party known as PLOTE tried to recruit him was "utterly implausible". McHugh J rejected the challenge as follows:

"[T]his was essentially a finding as to whether the [applicant] should be believed in his claim – a finding on credibility which is the function of the primary decision maker par excellence. If the primary decision maker has stated that he or she does not believe a particular witness, no detailed reasons need to be given as to why that particular witness was not believed. The Tribunal must give the reasons for its decision, not the sub-set of reasons why it accepted or rejected individual pieces of evidence. In any event, the reason for the disbelief is apparent in this case from the use of the word 'implausible'. The disbelief arose from the Tribunal's view that it was inherently unlikely that the events had occurred as alleged."

22. Those sentiments were properly adopted by the primary judge at paragraph 19 when he referred to there being no need for a running commentary on its thoughts, referring to AU25 v Republic of Nauru³.
23. The expression of doubt throughout the Tribunal decision after referring to his evidence about threats to himself and his father is in line with the authorities as to what, at the minimum, needs to be stated, or put another way, engaged with.
24. For these reasons, there has been no failure to give adequate reasons and we dismiss the appeal.

ORDER

1. The appeal is dismissed

DATED this 25 day of June 2026



Khan P
President of the Nauru Court of Appeal



Palmer JA



³ [2025] NRSC 69

Justice of the Nauru Court of Appeal

A handwritten signature in blue ink, appearing to read 'Coates', is written over a horizontal line.

Coates JA
Justice of the Nauru Court of Appeal

