IN THE SUPREME COURT OF NAURU

AT YAREN

Refugee Appeal No. 03 of 2025

IN THE MATTER OF an appeal against a decision of the Refugee Status Review Tribunal brought pursuant to s.43 of the *Refugees Convention Act* 2012

BETWEEN:

AC25

Appellant

AND:

REPUBLIC OF NAURU

Respondent

Before: Brady J

Dates of Hearing: 1 May 2025

Date of Judgment: 8 August 2025

CITATION: AC25 *v Republic of Nauru*

CATCHWORDS:

APPEAL – Refugees – Refugee Status Review Tribunal – Political persecution – Whether Tribunal failed to consider country information advanced by Appellant – Whether Tribunal failed to consider a relevant matter which it was required to consider – Tribunal did not fail to consider relevant information – No legal error in Tribunal's findings – Appeal dismissed

LEGISLATION AND OTHER MATERIAL:

Refugee Convention Act 2012 (Nr) ss 43, 44

CASES CITED:

AJ24 v Republic of Nauru [2025] NRSC 15; *Re Minister for Immigration and Multicultural Affairs; Ex parte, Durairajasingham* [2000] 168 ALR 407 at [65]; *TTY167 v Republic of Nauru* [2024] NRCA1 at [20]; *QLN136 v Republic of Nauru* [2022] NRSC 33 at [53] – [61]; *NAHI v Minister for Immigration & Multicultural & Indigenous Affairs* [2004], FCAFC10 at [11] – [13]; *ETA067 v Republic of Nauru* [2018] HCA 46; *Minister for Immigration and Border Protection v SZSRS* [2014] FCAFC 16; (2014) 309 ALR 67 at [34]; *WAEE v Minister for Immigration and Multicultural and Indigenous Affairs* [2003] FCAFC 184; (2003) 236 FCR 593 at [47]; *WET 071 v Republic of Nauru* [2017] NRSC 94 at [39]; *DWN 111 v Republic of Nauru* [2017] NRSC 56 at [33]-[34]; *Minister for Immigration and Border Protection v MZYTS* [2013] FCAFC 114 at [38]-[45]

APPEARANCES:

Counsel for Appellant: Mr A Aleksov (instructed by Craddock Murray Neumann)

Counsel for Respondent: Mr R O'Shannessy (instructed by Republic of Nauru)

JUDGMENT

INTRODUCTION

1. The Appellant is a national of Bangladesh. He arrived in Australia in April 2024. In May 2024, he was transferred to Nauru pursuant to the Memorandum of Understanding between the governments of Nauru and Australia.

2. On 24 June 2024, the Appellant made an application for Refugee Status Determination (**RSD).**

3. Pursuant to s.43 of the *Refugees Convention Act 2012* (Nr) (**the Act**), the Appellant appeals from a decision of the Refugee Status Review Tribunal (**Tribunal**) made on 12 January 2025 (**Tribunal Decision**). The Tribunal affirmed a decision of the Acting Secretary of the Department of Multicultural Affairs (**the Secretary**) dated 6 September 2024 (**Secretary's Decision**) not to recognise the Appellant as a refugee and to determine that the Appellant was not owed complementary protection under the Act.

4. By section 43(1) of the Act, the Appellant may appeal to this Court on a point of law.

5. By section 44(1) of the Act, this Court may make either of these two following orders:

   (a) an order affirming the Tribunal Decision; or

   (b) an order remitting the matter to the Tribunal for reconsideration in accordance with any directions of this Court.

GROUND OF APPEAL

6. The Appellant filed an Amended Notice of Appeal dated 13 March 2025 containing two grounds. When this appeal was heard on 1 May 2023, the Appellant did not pursue the first ground. Accordingly, there is only one substantive ground of appeal which is in the following terms:

   > "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."

7. As the hearing of the appeal progressed, the ground pursued by the Appellant was widened somewhat by reference to other country information that the Appellant contended the Tribunal failed to consider or properly engage with.

8. On 1 May 2025, the Appellant also sought leave to further amend the notice of appeal to include another ground based on my decision in *AJ24 v Republic of Nauru* [2025] NRSC 15. For reasons that I gave on 1 May 2025, I refused that application for leave to further amend the amended notice of appeal.

9. The Appellant seeks an order that the matter be remitted to the Tribunal for reconsideration and that the decision of the Tribunal be quashed.

FACTUAL BACKGROUND

10. The Appellant makes the following submissions in relation to why he is owed protection under the Act.

11. The Appellant fears persecution in Bangladesh due to his political opinion as a supporter of the Bangladesh Nationalist Party (**BNP**). Although he was not actively involved in political activity, he was close to [H], a BNP member and member of the Nabharan Union Parishad.

12. In late January 2024, the Appellant became aware that [H] had gone missing. The Appellant travelled to [H]'s hometown ([M]) to help [H]'s wife. In early February 2024, the Appellant was attacked and injured by supporters of the Awami League (**AL**). He contends that this was because he supported the BNP and he was told that he should instead become an AL supporter.

13. After this, the Appellant decided to return to Dhaka. However, the Appellant's family, including his father, mother and sister who also lived in [M] were assaulted by AL supporters. His father was taken to hospital with severe injuries.

14. The Appellant returned to [M] to visit his father, but he was forced to run and hide when the men who attacked his father came to the hospital looking for him.

15. The Appellant returned to Dhaka but he was traced to his workplace by the men that attacked him. This forced him to flee his workplace and, ultimately, Bangladesh.

PROCEDURAL HISTORY

16. The Appellant made his RSD application on 24 June 2024. The Secretary made his decision on 6 September 2024, determining that the Appellant was not recognised as a refugee under the Act and that he is not owed complementary protection.

17. On 12 September 2024, the Appellant applied to the Tribunal for review of the Secretary's Decision. The Appellant provided the Tribunal with a further statement dated 11 December 2024 as well as detailed further submissions dated 15 December 2024 (**the Submissions**).

18. The Appellant attended a hearing before the Tribunal on 18 December 2024. He was accompanied by a legal representative as well as an interpreter.

19. The Tribunal Decision was made on 12 January 2025. The Tribunal affirmed the determination of the Secretary that the Appellant is not recognised as a refugee and is not owed complementary protection under the Act.

20. On 24 January 2025, the Appellant filed a notice of appeal in this Court. The notice of appeal was amended on 13 March 2025. As I have already indicated, at the hearing of this appeal on 1 May 2025 the Appellant sought leave to add a further ground to the notice of appeal, which application I refused.

21. I then proceeded to hear the remaining ground of appeal as set out in paragraph 6 above on 1 May 2025.

GROUND OF APPEAL – FAILURE TO CONSIDER RELEVANT COUNTRY INFORMATION

Summary of the Ground

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.

The Submission

25. The Submission is 15 pages in length. It sets out detailed submissions in relation to various matters, including aspects of the Appellant's credibility and criticisms of the Secretary's Decision.

26. There is a separate section of the submissions headed "Risk of harm for low-level supporters of BNP in Bangladesh." That part of the Submission contained the following:

> "[42] Low-level BNP supporters and grassroots activists, who may not have the visibility of party leaders, are nonetheless at risk due to their involvement in party activities and their support for the party. They face physical violence and intimidation, arbitrary arrests, detentions and social and economic harassment and enforced disappearances and extrajudicial killings. These actions are part of the Awami League broader strategy to suppress rival parties' activities and maintain their party's dominance.
>
> [43] Low-level supporters of opposition parties often face threats, harassment, and physical violence, especially during periods of heightened political activity. Local cadres affiliated with the Awami League, or associated groups may target these individuals, using violence as a means to suppress rival parties'

activities at the grassroots level. [Footnote Amnesty International, (2018) "Bangladesh: Opposition Supporters Under Siege"]

[44] The targeting of low-level of opposition parties' supporters can be attributed to several factors. First, their involvement in political activities, even at a local level, is seen as a threat by the Awami League Party. Suppressing grassroots support for the BNP helps the AL maintain control over political narratives and electoral outcomes. Additionally, low-profile supporters are often more vulnerable due to their lack of resources and connections, making them easier targets for repression. This creates a chilling effect, discouraging broader participation in politics. [Footnote The Asia Foundation, 2017, The State of Violence in Asia: Bangladesh]

[45] In addition to physical violence, low-level opposition supporters are at risk of arbitrary arrests and detentions. Security forces, including the police and paramilitary groups, have been accused of arresting opposition supporters on flimsy or fabricated charges. These arrests serve to weaken the opposition's presence on the ground and create a climate of fear. Human Rights Watch has documented cases where BNP activists, even those with no significant public role, were detained without due process during political crackdowns.

[46] It is our submission that [the Appellant] has now provided ample written and oral evidence which supports the fundamental nature of his claims."

27. Under the heading "New Information", the Submission then set out detailed paragraphs summarising country information said to be relevant to recent developments in Bangladesh. It is unnecessary for the purposes of this judgment to set out the detail of those paragraphs, which are extensive.

28. By way of summary, the Submission:

(a) Footnoted references to about a dozen items of country information, a number of which dated back as far as 2018, although some were dated from the second half of 2024. The former AL national government headed by Sheikh Hasina fell in early August 2024.

(b) The DFAT country information report referenced in the ground of appeal was dated 30 November 2022. It contained a statement that local governments can significantly influence the day-to-day lives of citizens. They have influence and run programs and departments that deal with matters of community development, social welfare and law and order.

(c) The submissions referred to a report from Crisis 24 titled "Bangladesh: Further protests and related disruptions likely nationwide through at least mid-September" dated 26 August 2024. That report stated that further rallies and related disruptions are likely to persist nationwide through to at least mid-September 2024 and that those travelling to Bangladesh should avoid all public gatherings due to the potential for increased violence. The Australian Department of Foreign Affairs and Trade (**DFAT**) had reported in travel advice on 27 August 2024 that there was an ongoing risk of protests and demonstrations against Bangladesh, with violent clashes throughout Dhaka

and other cities. The Bangladesh Armed Forces were deployed nationwide, but the situation remains volatile and unpredictable.

(d) An article published in The Conversation in December 2024 titled "Protests, Sectarian Violence and a Growing Spat with India: Bangladesh's New Leaders are Beset with Challenges to its Democracy" (**The Conversation Article**) was then referred to in the Submission. Extracts from that article are specifically addressed in the Submission. These extracts referred to matters such as the governance problems, political instability, religious extremism and the fragile economy with which the new government was grappling. Bangladesh's trajectory was said to be "worrying". How the new government dealt with those heightened risks would say a lot about the direction of the country and failure in those areas could lead to yet more instability, complicating the country's long-term prospects.

29. This part of the submission concluded with the following paragraphs:

"[65] Bangladesh's political future and stability will depend on a range of factors, including whether the Awami League will continue to dominate at the local and rural level, the role of the Army and the future government's handling of security, social and economic challenges. The government's ability to address the current challenges while maintaining democratic norms and protecting basic rights remains to be seen. It is likely that Bangladesh will be going through a period of uncertainty for the foreseeable future.

[66] 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 [Appellant's] particular situation, and whether there are new grounds of fear as a result of the new change which is likely to be chaotic for the foreseeable future."

THE TRIBUNAL DECISION

30. After having set out the summary of evidence and the Appellant's claims, the Tribunal then proceeded to deal with the matters raised on the application for review. Starting at [11] of the Tribunal decision, the Tribunal said:

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

[12] The advisor clarified at hearing the only other relevant submission was entitled 'Recent Changes in Bangladesh' submitted in August 2024."

31. The Tribunal also noted that a further statement by the Appellant was provided to it dated 11 December 2024.

32. The Tribunal then, over the course of more than three pages, set out the Appellant's contentions on the review application.

33. At [38], the Tribunal said:

> "[38] The Appellant's representative stated he believed Bangladesh was still volatile, there was widespread unrest and political violence and persistent Awami League influence in rural areas and amongst security forces. He stated the ICG report mentioned the interim government faced significant challenges in relation to economic stability, human rights concerns and violence against minorities, which raised questions about the government's ability to provide security for all citizens. He also submitted there were debates around the interim government's legitimacy which undermined its numerous committees, including the one rewriting the constitution. He also suggested critics thought the reforms may lead be [sic] an Islamic theocracy, and referred to a *Time* article published on 3 October 2024, Bangladesh: How Hasina Could Stage an Unlikely Comeback, which was subsequently identified as an article entitled *How Bangladesh's Ousted Leader Sheikh Hasina Could Stage an Unlikely Comeback*, which said that the director of the South Asian Institute at the Wilson Centre said a return to power for Hasina was quite credible if you looked at the history of dynastic [sic] in South Asia. He also submitted that the article mentioned that Transparency International ranked Bangladesh 147 out of 180 countries worldwide on the corruption index for 2022, which revealed the situation was not stable, or back to normal, and that corruption at the local level was still possible. The [Appellant's] representative submitted the Awami League, was still in power in the [Appellant's] village, and could do whatever they wanted. He submitted changes must be fundamental, effective and durable to negate the [Appellant's] fear of persecution."

34. Paragraph 39 of the Tribunal decision is an extract of more than two pages' length from an ICG report entitled: "A New Era in Bangladesh? The First Hundred Days of Reform" (**ICG Report**). The ICG Report was dated 14 November 2024, and was thus roughly contemporaneous with the hearing and the Tribunal's ultimate decision. The country information quoted from the ICG report dealt with matters such as the security situation in Bangladesh, the efforts to build a political consensus and the level of violence seen after the fall of the Hasina government.

35. The Tribunal proceeded to deal with the substantive issues in the application starting at paragraph [46] of the Tribunal's reasons. The summary of the Tribunal's conclusions in relation to the assessment of the Appellant's refugee claim are set out starting at paragraph [60]:

> "[60] The Tribunal has accepted the [Appellant] is a BNP supporter, however, it has not accepted that he has suffered any past harm.
>
> [61] It was submitted that the [Appellant] feared persecution for reason of his actual and/or imputed political opinion, as a BNP supporter.

[62] It was also submitted at hearing that Bangladesh is still volatile and the written submission states 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 in rural areas, whose lives are subject to local administrations and security authorities, the majority of which have acted with impunity, particularly as Awami League power brokers. The [Appellant's] representative has also said, Shafquat Rabbee, a Bangladeshi-American geopolitical columnist, has written 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', however, because this comment was made four days after the interim government was announced on 8 August 2024, and fails to take into account what has happened since, the Tribunal prefers other country evidence, including the views expressed in the ICG Report discussed at hearing and referred to above.

[63] While the Tribunal accepts the [Appellant] and his family support the BNP, the [Appellant] has stated he himself is not involved in political activities and the Tribunal accepts this as true. The Tribunal also finds the recent political changes in Bangladesh are substantial in that Prime Minister Sheikh Hasina has fled and a new interim government has been sworn in, tasked to restore peace, law and order, fight corruption and prepare for new elections, which the BNP is seen as having the greatest chance of winning. See, for example, How is Bangladesh Doing 1 Month After Sheikh Hasina's Exit? – The Diplomat dated 5 September 2024.

[64] The [Appellant] has suggested that in [M][1] the Awami League is still powerful.

[65] However, the Awami League is no longer the national government and as a result has lost the backing of institutions such as the police, which means it can no longer operate with impunity. The Tribunal refers to recent country information including the ICG report that indicates that at the 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 that there is no credible evidence to support the [Appellant's] assertion that the AL remains completely in control in his (or any other areas), or that [they] are current power brokers, or that the machinery of government that meant they could act with impunity in the past, continues. Neither does it accept that those at the local level are still subject to local Awami League administrations and security authorities who can continue to act with impunity.

[66] In addition, even if there are concerns regarding the interim government and its validity, Sheikh Hasina and the Awami League are clearly no longer in power. The Tribunal notes arguments that the current interim Government in Bangladesh is unconstitutional and that elections need to be held, however, it does not accept that this will increase the risk of any harm to the [Appellant], given he has only claimed to be a BNP supporter.

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1 This is an anonymised reference to the Appellant's home village.

. . .

[68] Due to the low-level support that the [Appellant] has for the BNP, the fact he has not experienced harm as a result of this low level support, and the recent political changes, the Tribunal finds there is no reasonable possibility that the [Appellant] will be persecuted or targeted by the Awami League or anyone else for any reason, including his actual or imputed political opinion in support of the BNP in the reasonably foreseeable future. His fear is therefore not well-founded." (Footnotes omitted)

THE APPELLANT'S ARGUMENTS

36. The Appellant contended in his written submissions to this Court that he had, through his representative, made a "substantial effort" to set out for the Tribunal credible country information to the effect that circumstances in Bangladesh were far from peaceful, even for low level BNP supporters. The Appellant submitted that other than the single mention of this submission at paragraph [11] of the Tribunal reasons, there was no engagement at all in the Tribunal reasons with the substance of the country information and the arguments put by the Appellant's representative.

37. The Appellant described the lack of mention in the Tribunal decision of the DFAT report as being "critical" and a matter upon which the Appellant's representative placed heavy reliance.

38. The Court was invited to infer that the Tribunal did not consider the Submission and, in particular, the country information put forward by the Appellant as part of that Submission.

39. In his oral submissions, counsel for the Appellant expanded somewhat upon the ground of appeal as articulated in writing.

40. Mr Aleksov accepted that the Tribunal did make reference to the Submission and was clearly, therefore, aware of it. However, he submitted that the Tribunal did not engage with the Submission in the sense of evaluating and considering, in particular, the country information contained within the Submission.

41. Mr Aleksov took me at some length through the various aspects of the country information contained in the submission.

42. Counsel for the Appellant, whilst accepting that the Tribunal did mention the Submission in its reasons, says that in doing so, the Tribunal mischaracterised the Submission. At paragraph [11] of the Tribunal decision, the Tribunal said that the Submission "in large part addressed the Secretary's determination." Whilst that is clearly correct, the Appellant submits that the Tribunal Decision contained no particular references to country information that was said by the Appellant to be relevant. Mr Aleksov also noted that the Tribunal's summary of the Submission also did not refer to the passages from the Submission under the heading "Risk of Harm for Low Level Supporters of BNP in Bangladesh".

43. Mr Aleksov's oral submissions were summarised in this exchange:

> "Aleksov: Yes, that's right. If a person puts forward a submission and it contains 10 propositions and they are supported by country information and Your Honour could clearly see in the reasons engagement with nine of those propositions and no mention of the 10th, a proper inference there is likely to be the Tribunal considered it, did not think it was material in the sense that it did not warrant a mention in the reasons. We are not in that situation. We are almost in the reverse. There is a series of solid points being made. They may or may not be right. They may or may not be wrong, but they are solid points, which, on their face, clearly do engage with this case. It is clearly advancing the case and it is supported by what appears to be probative, credible reporting."

44. I asked Mr Aleksov to identify for me which of the particular elements of country information he said were the ones that mattered in terms of the Tribunal's consideration of the matter. He referred me in particular to The Conversation Article from December 2024. He also referred to an article from The Independent entitled "Hundreds of Protesters Tried to Storm Presidential Palace in Bangladesh Amid Fresh Unrest" dated 24 October 2024 (**The Independent Article**). That was summarised in the Submission as being a media report about fresh violence that had gripped Bangladesh demanding the resignation of the president after an interview given by the president in which he raised questions over the resignation letter of Sheikh Hasina.

45. Mr Aleksov also pointed to a travel advice from DFAT dated 27 August 2024.[2]

46. The DFAT travel advice noted the ongoing risk of protests and demonstrations across Bangladesh, with violent clashes throughout Dhaka and other cities.

47. It became apparent during the course of oral submissions that the focus given to the DFAT report dated November 2022 in the Appellant's written submissions, and in his grounds of appeal, was superseded by the reference to the other three, more recent, items of country information that I have set out above.

THE REPUBLIC'S ARGUMENTS

48. The Republic submits that the Tribunal set out the country information that it considered to be material to the decision. It did so at paragraphs [38] – [39] and [62] – [66] of its reasons.

49. The Republic submits that the Tribunal is not obliged to conduct a line-by-line refutation of the Appellant's evidence: *Re Minister for Immigration and Multicultural Affairs; Ex parte, Durairajasingham* [2000] 168 ALR 407 at [65]; *TTY167 v Republic of Nauru* [2024] NRCA1 at [20].

50. The selection and assessment of country information is a matter for the Tribunal in the exercise of its fact-finding function: *QLN136 v Republic of Nauru* [2022] NRSC33 at

[2] The date referred to in the Submission is actually 27 August 2026, but the parties agreed that in fact it was intended to be a reference to 2024.

[53] – [61]; *NAHI v Minister for Immigration & Multicultural & Indigenous Affairs* [2004], FCAFC10 at [11] – [13].

51. The absence of any direct reference to specific country information relied on by the Appellant does not reveal an error of law. The Republic notes that the Appellant's own evidence before the Tribunal was that he was not involved in political activities: Tribunal Decision at [57] and [63]. The Tribunal found that the Appellant was a supporter of the BNP but otherwise rejected his claims, essentially because they lacked credibility. The Tribunal reached its decision on the basis that the Appellant was not actively involved in politics, even at the grassroots level, and in any event the changes in government in Bangladesh meant the Awami League was in decline. The Republic submits that those conclusions were open to the Tribunal.

52. In his oral submissions, Mr O'Shannessy on behalf of the Republic submitted that none of the country information referred to in the Submission bears upon the Appellant's claims in light of the findings made about the Appellant by the Tribunal. The country information referred to in the Submission was provided effectively to pre-emptively rebut a finding by the Tribunal that things had improved in Bangladesh as between Awami League supporters and BNP supporters. The Tribunal understood that, and one would not expect to see in the Tribunal's reasons a comprehensive rebuttal of all of the country information pointing out the things that are poor in Bangladesh at the time of the decision being made.

53. Mr O'Shannessy submitted that the country information provided to the Tribunal on behalf of the Appellant to demonstrate the harm he might face was limited to people who were engaged in party activities. The Appellant here had been found not to be one of those people. He submitted that on the basis of this, the country information simply did not apply to the Appellant.

54. In relation to the particular items of country information identified by the Appellant's counsel, counsel for the Republic submitted that they had no bearing on what might happen to a low-level BNP supporter who does not participate in political activities. The Appellant has failed to identify any claim, or integer of a claim, or even a matter relevant to the Appellant's claim, that was not considered by the Tribunal.

55. Here, the Tribunal had not only referred to the Submission, but it also extracted parts of it in its decision. If there was some fundamental aspect of the Appellant's claim that was left unresolved by the Tribunal, and there was country information bearing upon that, then the situation would be different. However, the Republic submits that I ought not infer that a particular submission was overlooked, nor that it was not read, nor that it was not sufficiently engaged with.

CONSIDERATION

56. In ***ETA067 v Republic of Nauru*** [2018] HCA 46, the High Court of Australia, as the ultimate Appellate Court for this jurisdiction, said (footnotes omitted):

> "[13] The absence of an express reference to evidence in a tribunal's reasons does not necessarily mean that the evidence (or an issue raised by it) was not considered by that tribunal. That is especially so when regard is had to the

content of the obligation to give reasons, which, here, included referring to the findings on any "material questions of fact" and setting out the evidence on which the findings are based. There was no obligation on the Tribunal to refer in its reasons to *every* piece of evidence presented to it.

[14] Further, there is a distinction between an omission indicating that a tribunal did not consider evidence (or an issue raised by it) to be material to an applicant's claims, and an omission indicating that a tribunal failed to consider a matter that is material: including one that is an essential integer to an applicant's claim or that would be dispositive of the review."

57. The High Court also referred to other authorities. One of them was *Minister for Immigration and Border Protection v* ***SZSRS*** [2014] FCAFC 16; (2014) 309 ALR 67 at [34]. The Full Court of the Federal Court of Australia said:

"[34] The fact that a matter is not referred to in the Tribunal's reasons, however, does not necessarily mean the matter was not considered by the Tribunal at all; *SZGUR* at [31]. The Tribunal may have considered the matter but found it not to be material. Likewise, the fact that particular evidence is not referred to in the Tribunal's reasons does not necessarily mean that the material was overlooked. The Tribunal may have considered it but given it no weight and therefore not relied on it in arriving at its findings of material fact. But where a particular matter, or particular evidence, is not referred to in the Tribunal's reasons, the findings and evidence that the Tribunal has set out in its reasons may be used as a basis for inferring that the matter or evidence in question was not considered at all. The issue is whether the particular matter or evidence that has been omitted from the reasons can be sensibly understood as a matter considered, but not mentioned because it was not material. In some cases, having regard to the nature of the applicant's claims and the findings and evidence set out in the reasons, it may be readily inferred that if the matter or evidence had been considered at all, it would have been referred to in the reasons, even if it were then rejected or given little or no weight: *MZYTS* at [52]."

58. In ***WAEE*** *v Minister for Immigration and Multicultural and Indigenous Affairs* [2003] FCAFC 184; (2003) 236 FCR 593, the Full Court of the Australian Federal Court said at [47]:

"[47] The inference that the Tribunal has failed to consider an issue may be drawn from its failure to expressly deal with that issue in its reasons. But that is an inference not too readily to be drawn where the reasons are otherwise comprehensive and the issue has at least been identified at some point. It may be that it is unnecessary to make a finding on a particular matter because it is subsumed in findings of greater generality or because there is a factual premise upon which a contention rests which has been rejected. Where, however, there is an issue raised by the evidence advanced on behalf of an applicant and contentions made by the applicant and that issue, if resolved one way, would be dispositive of the Tribunal's review of the delegate's decision, a failure to deal with it in the published reasons may raise a strong inference that it has been overlooked."

59. The passages that I have referred to above from *SZSRS* and *WAEE* have been adopted in this jurisdiction in cases such as ***QLN 136 v Republic of Nauru*** [2022] NRSC 33 at [59]-[61] per Wheatley J. I note also the decision in this Court in *WET 071 v Republic of Nauru* [2017] NRSC 94 at [39], where Crulci J observed that both the choices and the assessment of the weight of country information were matters for the Tribunal. This is consonant with the decision of Khan ACJ in *DWN 111 v Republic of Nauru* [2017] NRSC 56 at [33]-[34].

60. I have taken note of *Minister for Immigration and Border Protection v MZYTS* [2013] FCAFC 114 where the Full Court of the Federal Court of Australia noted that the tribunal's task there of assessing what might happen to the visa applicant if he were compelled to return (in that instance, to Zimbabwe) could not be lawfully undertaken without a consciousness and consideration of the submissions, evidence and material advanced by the visa applicant: at [38]. In that case, the Tribunal's reasons did not disclose that it understood and undertook this task, but rather the tribunal did not assess in any real or active way what the situation would be at the time of foreshadowed elections in 2011 or thereafter for an "ordinary" Movement for Democratic Change supporter such as the visa applicant if he was returned to Zimbabwe: at [39]. There was also an absence in the tribunal's reasons of any evaluation of the situation in Zimbabwe at the time of its decision: at [44].

61. It is plain enough in this case that the Tribunal was well aware of the existence of the Submission and expressly referred to the Submission at [11] of the Tribunal Decision. The Tribunal set out at paragraph [39] and between paragraphs [62] and [66] a number of items of country information upon which it relied in reaching its conclusion. The Appellant complains that in doing so, the Tribunal did not expressly refer to the country information material addressed in the Submission.

62. Many of the items of country information identified by the Appellant in the Submission related to a period before the fall of the Hasina Government in August 2024. One can readily understand why the Tribunal may not have considered it necessary to expressly address such items of country information in its decision given the fast-changing events in Bangladesh since August 2024.

63. In relation to the later items of country information, and in particular The Conversation Article, the Independent Article and the 2024 DFAT report, I am also not satisfied that the failure of the Tribunal to specifically refer to those items of country information demonstrates that the Tribunal did not consider that information at all. The Tribunal made reference to submissions made on behalf of the Appellant concerning Hasina's political DNA being found in every corner of the Bangladeshi State, but the Tribunal preferred other country information including the views expressed by the ICG Report.

64. The Tribunal was clearly well aware of the continuing volatility within Bangladesh: see e.g. [62] and [65] of the Tribunal Decision. This was the essential point made by the Appellant in the relevant part of the Submission and as summarised in paragraphs [65] and [66] of the Submission as set out above. In that sense, the Tribunal addressed the essential aspects of the Appellant's case about this country information. It was not required, however, in making material findings of fact, to go through the

country information in the Submission line-by-line and address it in the Tribunal Decision.

65. The Tribunal has fully exposed its reasoning in relation to the use of the country information in this case. The Tribunal considered all essential integers of the Appellant's claim which could be dispositive of the review. There is no reason to infer that the Tribunal did not consider, and reasonably engage with, the totality of the Submission. The Tribunal Decision should not be overzealously scrutinised.

66. Consistent with the authorities I have set out above, the Tribunal chose to rely on items of country information that it has identified over other country information set out by the Appellant. That was a decision entirely for the Tribunal. In any event, even if it had chosen to rely on the country information advanced by the Appellant, there is no reason to think that could have been in any way dispositive of the proceeding before the Tribunal. It is not for this Court to second-guess the evidence which the Tribunal preferred as the basis for its decision.

67. The Appellant has failed to make out his ground of appeal.

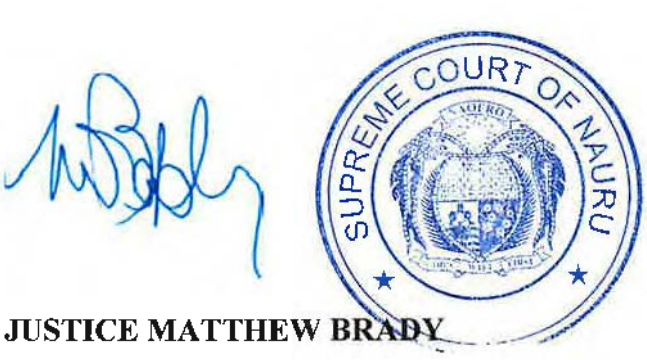
CONCLUSION

68. For the reasons that I have set out in this judgment, the Appellant has failed in respect of his single ground of appeal.

69. The appeal is dismissed.

70. Pursuant to section 44(1) of the Act, I make an order affirming the decision of the Tribunal.

71. I make no order as to the costs of the appeal.



JUSTICE MATTHEW BRADY

8 August 2025