IN THE SUPREME COURT OF NAURU

AT YAREN

Appeal No. 45 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:

BS25

Appellant

AND:

REPUBLIC OF NAURU

Respondent

Before: Brady J

Date of Hearing: 26 November 2025

Date of Judgment: 2 December 2025

Citation: *BS25 v Republic of Nauru*

CATCHWORDS:

APPEAL – Refugees – Refugee Status Review Tribunal – Whether tribunal failed to afford procedural fairness in relation to country information material – Tribunal did not fail to afford procedural fairness – Appeal Dismissed

LEGISLATION

Refugees Convention Act 2012 (Nr), s.43, 44

CASE AUTHORITIES

AYX16 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2020) 279 FCR 236, *Minister for Immigration and Citizenship v SZQHH* [2012] FCAFC 45; (2012) 200 FCR 233; *MZYPY v the Minister for Immigration and Border Protection* [2014] FCAFC 68

APPEARANCES:

Counsel for Appellant:	Mr A Aleksov (instructed by international Crossover)
Counsel for Respondent:	Ms K McInnes (instructed by Republic of Nauru)

REASONS FOR JUDGMENT

INTRODUCTION

1. The Appellant is a citizen of Bangladesh. He claims to fear persecution because he is a supporter of the Bangladesh Nationalist Party (**BNP**). The Appellant claims to have assisted a BNP candidate during elections. He says that the car which he used to drive the candidate in was vandalised by Awami League (**AL**) supporters, and that his house was vandalised.

2. 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 31 July 2025 (**Tribunal Decision**). The Tribunal affirmed a determination of the Acting Secretary of the Department of Multicultural Affairs (**Secretary**) dated 1 August 2024 (**Secretary's Decision**). The Secretary decided not to recognise the Appellant as a refugee under the Act and found that the Appellant was not a complimentary protection under the Act.

3. By s.43 (1) of the Act, the Appellant may appeal to this Court on a point of law. By s.44(1) of the Act, this Court may make either of the 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.

THE APPELLANT'S CLAIMS AND TRIBUNAL'S FINDINGS

4. The Appellant claims that he has a well-founded fear of persecution for reasons of:

(a) his actual and/or imputed political opinions, as a supporter of the BNP who is opposed to the AL;

(b) his membership of a particular group, as a person who supported his friend [T] in his political activities.

5. The detail of the claims and evidence are set out at length in the Tribunal Decision between [25] and [77]. Without setting out the considerable detail of those paragraphs, it is sufficient for the purposes of this judgement to note the following summary.

6. The Appellant claims that he left Bangladesh because he is a supporter of the BNP and fears returning there because of his support for that party. In 2018 he assisted [T] who were standing for election as a local chairman of the BNP. The Appellant's assistance involved him driving [T] around during his work and political activities. People from the AL made threats to the Appellant. They told him that they had observed him driving and supporting [T] in his political activities. After the 2018 national election, the people who threatened the Appellant vandalised his car on two occasions. He moved to Dhaka.

7. He periodically returned to his village to visit his family. On two occasions when he returned, the people who had previously threatened him vandalised his family's home in the village and telephoned him to inform him that they were responsible. This happened two to three years ago.

8. During the recent election campaign, he returned to his village and worked to support the BNP. He again worked with [T] to support his campaign. Several AL supporters confronted him at a polling place where they threatened him and told him that they did not want to see him in the local area again.

9. The Appellant says that he cannot relocate to Dhaka because it would not be possible to visit his family in the village.

10. More recently, the Appellant raised concerns about the impact of his situation on his mental health. He is deeply concerned about the state of his family and their financial circumstances whilst he is unable to provide for them.

11. The Tribunal accepted that the Appellant is a supporter of the BNP, albeit at a low level: Tribunal Decision at [101] and [116]. The Tribunal also accepted that the Appellant and his car were attacked during the 2018 elections, but considered that the attacks were targeted at [T]: Tribunal Decision at [109].

12. The Tribunal found that developments in Bangladesh since the collapse of Sheikh Hasina's government had generally been positive for low level or ordinary BNP members and that AL supporters could no longer act with impunity. This reduced the likelihood of low-level BNP supporters encountering violent reprisals and being unable to access police protection: Tribunal Decision at [117].

13. The Tribunal did not accept that the Appellant had a genuine political conviction that would motivate him to engage in political activities for the BNP if he returns to Bangladesh. Nor did the Tribunal find that the Appellant would be of interest to AL supporters if he returned to his village, given his lack of political involvement for several years, the absence of [T], and the general political changes in the country since 2020: Tribunal Reasons at [115] and [118].

PROCEDURAL HISTORY

14. The Appellant arrived in Australia in early February 2024. On 18 February 2024 he was transferred to Nauru pursuant to the memorandum of understanding between the governments of Nauru and Australia. On 13 March 2024, the Appellant made an application for refugee status determination (**RSD**).

15. The Secretary's Decision was made on 1 August 2024. The Appellant then applied to the Tribunal for review of that decision. The Appellant provided further submissions to the Tribunal.

16. On 5 November 2024, the Tribunal affirmed the determination of the Secretary that the Appellant was not recognised as a refugee and was not owed complementary protection (**First Tribunal Decision**).

17. The First Tribunal Decision was set aside by this Court by consent of the parties on 18 December 2024.

18. The Appellant filed further submissions to the Tribunal in March 2025. Those submissions also enclosed a further statement of claim and a statement together with a letter from IHMS, the healthcare provider on Nauru at the time.

19. The Tribunal conducted a second hearing on 20 March 2025.

20. Certain post-hearing submissions were then provided by the Appellant's representatives on 2 April 2025.

21. On 31 July 2025, the Tribunal delivered a second decision. This is the Tribunal Decision which is the subject of this appeal. The Tribunal again affirmed the determination of the Secretary.

22. A notice of appeal to this Court was filed on 5 August 2025. An amended notice of appeal was dated 19 November 2025. I heard the appeal in this matter on 26 November 2025.

GROUND OF APPEAL

The Appellant's Submissions

23. By his amended notice of appeal filed 20 November 2025, the Appellant pursues the following single ground of appeal:

> The Tribunal failed to afford procedural fairness in relation to the ICG material from December 2024 and January 2025.

24. The relevant country information is dealt with at paragraph [117] of the Tribunal Decision as follows:

> [117] The Tribunal considers, on the basis of general country [information] discussed at hearing, that developments in Bangladesh since the collapse of Shaikh Hasina's government have generally been positive for low level or ordinary BNP supporters throughout the country and that AL supporters cannot act with impunity. This reduces the likelihood of low-level BNP supporters (such as the applicant) encountering violent reprisals and being unable to access police protection. The Tribunal drew on information from (among other sources) the International Crisis Group (August and December 2024) and the United Kingdom Home Office's Guidance Country Policy and Information Note (December 2024).

25. The International Crisis Group (**ICG**) information from paragraph [117] was footnoted in the Tribunal Decision to two documents titled "Crisiswatch – September 2024" and "Crisiswatch – December 2024 trends and January 2025 alerts".

26. The Appellant accepts that he was aware of the existence of the United Kingdom Home Office Information Note (**UK Report**), noting that it is mentioned in his submissions to the Tribunal. He says however that he was not notified that the Tribunal might rely on material from the ICG dated September 2024, December 2024 or January 2025.

27. The Appellant submits that his only knowledge of the ICG as a source of material was in relation to a report dated November 2024, and therefore the December 2024 and January 2025 material relied on by the Tribunal was not notified to him. It follows therefore, according to the Appellant, that he was not afforded procedural fairness in relation to these reports.

28. The Appellant submits that the general discussion of country information at the hearing was not adequate to afford him procedural fairness. The Appellant needed to know the source and the date of the material so that he might make an effort to undermine the Tribunal's attempt to rely on it. He could not do so without knowing exactly what the Tribunal might rely on.

29. In his oral submissions, counsel for the Appellant informed the Court that although he continued to rely on his written submissions, in consequence of this Court's decision in *AU25 v Republic of Nauru* [2025] NRSC 69 delivered on 19 November 2025, he maintains those submissions only on a formal basis. He submitted that I was wrong in *AU25*, but not clearly so. Accordingly, he did not make any oral submissions inconsistent with *AU25*.

The Republic's Submissions

30. The Republic draws attention to a decision of the Full Court of the Federal Court of Australia in *AYX16 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (2020) 279 FCR 236. The Republic refers to paragraph [70] of that decision as follows:

> The content of the requirement to put adverse information has received particular attention in the context of migration cases in which the relevant adverse information was contained in country information that was not specific to the person who was the subject of the decision. … The existence and content of an obligation to put adverse country information must be assessed on the common law standard. Country information can be repeated in many documents. This may require a particular focus on whether any failure to put particular documents containing country information was reasonable in the circumstances, or amounted to practical injustice. The person who is the subject of a decision should be given the substance of adverse country information, so that he or she may meaningfully respond to it: plaintiff *M61:2010 E v the Commonwealth of Australia [*2010] HCA 41; 243 CLR 319 at [98] (the Court). **However, procedural fairness does not necessarily require that every detail of the country information be put to the person, or that the person be provided with a copy of every documentary source of country information**: see for example, *Minister for Immigration and Citizenship v* ***SZQHH*** [2012] FCAFC45*; (2012)* 200 FCR233; ***MZYPY*** *v the Minister for Immigration and Border Protection* [2014] FCAFC68. [Emphasis added]

31. The Republic submits that this case is relevantly analogous to *SZQHH*, where the decision maker relied on multiple sources of country information, relevantly including a newspaper article which had not been put to the Appellant. The Full Court reviewed the article, which was in evidence, and found that it did not contain anything substantively new or different from the other country information that was put to the Appellant. The Full Court held that the non-disclosure did not amount to a failure to afford procedural fairness. The Republic also relies upon *MZYPY* to similar effect.

32. The Republic submits that in this case, the Tribunal drew upon multiple sources, including information indicating that developments in Bangladesh since the collapse of Sheikh Hasina's government have generally been positive for low level or ordinary BNP supporters. AL supporters can no longer continue to act with impunity. The substance of that information was known to the Appellant.

33. During the hearing before the Second Tribunal, it discussed with the Appellant that there had been a change of government in Bangladesh in the last year and that Sheikh

Hasina had left Bangladesh and the AL was no longer in government. The Tribunal explained that although the situation was uncertain, it seemed that the AL was unlikely to be as powerful, even in village areas, than it was when it was in the national government: Court Book p.225 line 28 to Court Book p.226 line 14. The Republic submits that the Tribunal's discussion of the information was sufficient to convey the substance of the relevant country information.

34. The Republic submits that the Appellant understood the relevance of the information to his claim. His response was that the change applied in the city area, but that the AL was still in power in his village area: Court Book p.225 lines 32-35. The Appellant's representative also responded to the information by contending that the political situation remained volatile. It was premature to conclude that recent changes were fundamental or durable: Court Book p.228 line 36 to p.229 line 3; Court Book pp.163 to 166.

35. The Republic submits that the Appellant has not otherwise identified any adverse information contained in the ICG material from December 2024 and January 2025 that he contends was credible, relevant and significant and of which he was not aware of the substance. There is no denial of procedural fairness in the submission of the Republic.

36. In oral submissions, counsel for the Republic submitted merely that the Republic's position is that there is nothing adverse in the ICG material that is otherwise credible, relevant and significant that the Appellant was not aware of. She otherwise adopted her written submissions.

Consideration

37. I agree with the submission of the Republic that procedural fairness does not require that every detail of relevant country information be put to the person, or that the Appellant be provided a copy of every documentary source of country information: *AYX16* at [70]; *SZQHH* at [27]-[28]. Indeed, as I found in *AU25* at [62], the common law obligation of procedural fairness on the Tribunal was to provide the Appellant with notice of information adverse to the Appellant's case which was "credible, relevant and significant". It was not required to provide the relevant country information to the Appellant.

38. The question in this case is whether the failure of the Tribunal to put to the Appellant the relevant terms, and source, of the ICG December report, amounted to practical injustice.

39. By consent, the Republic tendered the CrisisWatch report of December 2024. It provides a global overview for December 2024 and an outlook for January 2025. The Appellant has not identified any relevant information in that report which was relied upon by the Tribunal in a manner which was inconsistent with the other reports that were relied upon by the Tribunal. Nor is any other particular adverse material identified.

40. Paragraph [117] of the Tribunal Decision recorded the Tribunal's conclusion that developments in Bangladesh since the collapse of the Hasina government have

generally been positive for low-level or ordinary BNP supporters and that AL supporters cannot act with impunity. That issue was addressed by the Appellant in various ways. First, in his statement to the Tribunal (at Court Book p.189) the Appellant said that he did not believe that recent political changes in Bangladesh had reduced his fear of returning to Bangladesh. He contended that the members of the AL and their affiliates remain deeply entrenched throughout the nation and the situation at the local level remains unchanged. Second, the Appellant's representative made extensive submissions on this very issue: at Court Book pp163-166. Third, the Tribunal raised this issue specifically with the Appellant at hearing: Court Book pp 225-226.

41. Procedural fairness did not require that the Tribunal to identify for the Appellant the specific terms of the December 2024 ICG report. The Appellant was well aware of the relevance of the information dealt with in paragraph [117] of the Tribunal Decision. He addressed that information both before, and at, the Tribunal hearing. No practical injustice has been demonstrated.

42. The sole ground of appeal pursued in this matter is not made out.

CONCLUSION AND DISPOSITION OF THE APPEAL

43. For the reasons which I have set out, the Appellant has failed in respect of his ground of appeal. Accordingly, the appeal is dismissed.

44. Pursuant to s.44(1) of the Act, I make an order affirming the Tribunal Decision.

45. I make no order as to costs of the Appeal.

SUPREME COURT OF NAURU

JUSTICE MATTHEW BRADY

2 December 2025