

THE HIGH COURT

JUDICIAL REVIEW

[2011 No. S520 J.R.]

IN THE MATTER OF THE REFUGEE ACT 1996 (AS AMENDED) IN THE MATTER OF THE IMMIGRATION ACT 1999 IN THE MATTER OF THE ILLEGAL IMMIGRANTS (TRAFFICKING) ACT 2000 AND IN THE MATTER OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS ACT 2003

BETWEEN

S.Q, Z.S, R.S (MALE) (A MINOR SUING BY HIS FATHER AND NEXT FRIEND S.Q.), R.S (FEMALE)(A MINOR SUING BY HER FATHER AND NEXT FRIEND S.Q) AND Z.S. (FEMALE) (A MINOR SUING BY HER FATHER AND NEXT FRIEND S.Q.)
APPLICANTS

AND

THE REFUGEE APPEALS TRIBUNAL, THE MINISTER FOR JUSTICE EQUALITY AND LAW REFORM, ATTORNEY GENERAL, IRELAND
RESPONDENTS

JUDGMENT of Mr. Justice Robert Eagar delivered on the 10th day of December 2014

1. This is a telescoped application for an order of *certiorari* quashing the decision of the first named respondent and seeking an order remitting the appeals of the applicants for determination *de novo* by a separate member of the Refugee Appeals Tribunal.
2. Written submissions were prepared in relation to this matter and I will address these submissions later in the judgment.
3. The first named applicant (hereinafter described as the applicant save where required for clarity's sake) swore an affidavit grounding the Notice of Motion for Judicial Review on the 23rd June 2011. One of the exhibits of the applicant's affidavit included an authorisation to institute proceedings on behalf of his minor children. He agreed to act as next friend to the said children in the proceedings.

Facts of the Case

4. The applicant completed an ASY1 Form on the 22nd June 2007 as did the second named respondent, his wife. The third named and fourth named minor children were included in their mother's application for asylum and ASY1 Forms were completed in that regard on the 22nd June 2007. The fifth named applicant was born in Ireland on the 5th March 2010 and her ASY1 Form was completed on her behalf by the applicant on the 22nd April 2010.
5. The application for refugee status questionnaire for the Office of the Refugee Applications Commissioner was completed by the applicant on the 2nd July 2007 and by the second named respondent on the 30th June 2007. The application for refugee status questionnaire was completed on behalf of the fifth named respondent by her father on the 30th April 2010.
6. The interview prescribed by s.11 of the Refugee Act (as amended) took place in relation to the applicant on the 22nd November 2007 and by the second named applicant on her own behalf and on behalf of the third and fourth named applicant on the 22nd November 2007. The interview on behalf of the fifth named applicant by her father took place on the 21st May 2010.
7. The report of the Refugee Applications Commissioner pursuant to s.13 (1) of the Refugee Act 1996 (as amended) recommended that the applicant should not be declared a refugee and this applied to the second named, third named and fourth named applicants. This decision was made on the 4th of January 2008 in respect of the first applicant, and on the 30th January 2008 a similar decision was taken in relation to the second named, third named and fourth named applicants. On the 24th May 2010 the recommendation of the Refugee Applications Commissioner was that the fifth named applicant should not be declared a refugee.
8. The applications of the appeals of the applicant and the first and the second, third and fourth applicants were heard on the 11th December 2009 as well as the 3rd August 2010 which included the appeal of the fifth named applicant. The conclusion of the report of the first named respondent was dated the 2nd June 2011 and affirmed the recommendation of the Refugee Applications Commissioner.

The Applicant's Claim

9. The applicant was born in Lahore, Pakistan on the 2nd July 1972 and he claims to be an Ahmadi Muslim. He married the second named applicant on the 18th July 1999 and they have three children. The applicant, the second, third and fourth named applicants fled Pakistan on the 2nd June 2007 and arrived in Ireland on the 22nd June 2007 having travelled via an unknown country where he did not apply for asylum nor did he do so at the unknown port, his point of entry into the State. The applicant gave evidence and the second named applicant gave evidence before the first named respondent. The applicant said that he and his wife and their families are Sunni Muslims and he married his wife under Sunni rites. His father was very religious as were members of his family. They lived beside a Mosque and each Friday the Imam could be heard preaching "all over the street" through loudspeakers and a sound system.

10. The applicant gave evidence that the Sunnis do not practice what they preach and the following practices which are forbidden by Sunnis are not adhered to:-

- a) Watching television at home.
- b) Celebrating weddings and birthdays at home.

c) Lending money without interest.

d) Sending children to Co-Educational Schools.

11. People living in the applicant's area followed the Imam's word. Having considered what was preached and the failure of Sunnis to follow the rules, the applicant wondered could the preacher show him the right path to follow. Because he was only aware of the Sunni way of life the applicant tried to find the right path. In 2007 he spoke to Waseem Mahmoud and his wife's uncle and the local community leader in Lahore about religion. Waseem told the applicant he is an Ahmadi and would try to bring him to meet other people of the same faith. On two occasions the applicant had a meeting with Waseem and other Ahmadi members during which he was told about the religion, that they practice what they preach and that there was no contradiction in their deeds and practice. He thought the Ahmadis were the right people.

12. On the 6th May 2007 the applicant accompanied by his wife and her uncle visited Waseem and after praying and taking an oath, the applicant converted to the Ahmadi faith. According to this culture, a wife follows her husband's footsteps however she is not forced to convert. The applicant imparted whatever knowledge he had about the faith to his wife who was also converted. After converting it is not necessary to give a donation.

13. The applicant had "a little idea" that by converting he would face problems with his family. He had no idea that his family would go to the extent of threatening him. At one stage they put a gun to his head and told him they would shoot him and finish his family.

14. The applicant intended to inform his family at the right time in the future that he had converted. However two days after converting, his wife told his brother's wife who informed her husband and she in turn informed the applicant's family. The applicant's brother's wife and his wife were friends and they lived in the same house and when asked why his wife informed his brother's wife he replied "because women have 'small talk in the kitchen'".

15. Having heard about their conversation the applicant stated that they were annoyed and he agreed with his father that he had converted. In the presence of his uncle and cousin he was shouted at, threatened and abused. His wife went to the room to save him and was also a victim. He was locked in a bedroom, beaten with sticks and belts and his father slapped him a lot.

16. While being beaten the applicant was told that he had made "a big mistake and a wrong thing" and he was told to reconvert or it would be bad for him. He was locked in a room for 7-8 hours. His brother, who was involved in beating him let the applicant out of the room because he heard the applicant's children screaming and crying. They were hungry and they pleaded to be let out of the room. Being an uncle the applicant's brother had feelings for the children. The applicant was given a day to reconvert but told his family he would not do so and wanted to live his own life. The applicant claims that he saw "hate in their faces and their attitude" but he did not reconvert, that he wanted to stand by his decision and he was frustrated by his family's reaction. The applicant feared for the lives of his wife and children. His family told him that if he did not reconvert they would kill him and his wife and take his children and because he spoiled his life they did not want to see his children going the same way. This incident occurred one or two days after his conversion.

17. One day when the applicant felt ill he was not permitted to visit a doctor or seek treatment. After recovering a few days later, the applicant took his children to school and returned to work. When his wife went to the school to escort the children home they were not there. A watchman told her that a member of the family had taken the children. She telephoned the applicant and told him that she did not know who had taken the children. They were shocked. The second named applicant received a telephone call from one of his cousins who told her "you see how easy it is to get the children from school. We will do worse with you and your family, it is very easy for us and we will harm you every way." The applicant thought his children were kidnapped 3 to 4 days after the 6th May 2007. His cousin brought the children home.

18. At that stage the applicants felt they were in big danger and he thought his family would kill him. In mid-May the applicant decided to hide his wife and children in a safe house so he took them to Zubar's home (his wife's uncle) and returned to his family home. His family had no idea that his wife and children were at her uncle's home. They continued abusing him.

19. The applicant claims he returned to his family home after taking his family to Zubar's house because he wanted to speak and negotiate with his family to find a solution but they would not listen to him and they beat and threatened, put a gun to his head and said they would shoot him and they told him "you think you have done the right thing." At midnight on the 19th May because his family would not compromise and he felt they would kill him, the applicant jumped over a wall when everyone was in the house asleep and fled to Zubar's house where he remained hidden for 15 days.

20. Zubar told the applicant he was not safe in Pakistan and should go elsewhere. Zubar contacted Nadeem, an agent, to take him out of the country. Zubar and the applicant paid Nadeem a sum of money. When the applicant asked him where he was taking them he said "this is not your matter" and he would take them to a safe place. The applicant had no idea what documents they needed to travel. He gave Nadeem their passports and identity cards and he said he would manage the documents.

21. The applicant decided to leave Pakistan although his family were not aware of their whereabouts because he was certain they would be found and he had no idea where to hide. They left Lahore with Nadeem by train on the 2nd June 2007 and after arriving in Karachi, they were taken to a seaside area where they boarded a cargo ship. They were taken to the bottom of the ship and locked in a room which they were not permitted to leave. The applicant claimed that he saw a lot of people on the ship when they boarded it. At times they were fed tea, biscuits and rice. He had no idea of the time spent on the ship because the cabin was dark and they did not know whether it was day or night.

22. The applicant claims the ship docked at an unknown port in Ireland on the 22nd June 2007, 20 days after leaving Karachi. After disembarking at night they were met by a person who was waiting for them and they were put inside a container which was on a trailer. He had no idea where they were being taken to or where they had disembarked in Ireland. He had an idea that the lorry was moving, the children were ill and he thinks they travelled for 6-7 hours.

23. When they got out of the lorry in the early hours of the morning at a petrol station they met a black man who had been waiting for them. They travelled in his car and after half an hour they arrived at a house where the driver locked them in a room. The applicant and his family were in a bad condition and were fed tea and biscuits by the driver. After an hour they were driven by this man and 40 minutes later they arrived at the office of the Refugee Applications Commissioner. The driver told them that they were in Dublin. He said that the people at the Office of the Refugee Applications Commission would help them and they were in safe place.

24. At his interview the applicant was asked to explain his lack of knowledge of the Ahmadi religion. He replied he had some meetings

with members of the faith and he had some knowledge. He had spoken firstly to Zubar and Waseem and then to other members of the faith and had attended religious places in Lahore but the Ahmadis were not permitted to worship openly in Pakistan. Waseem is the leader of the Ahmadis in Lahore. The applicant's level of knowledge of the faith was basic since he did not have the opportunity for an in depth study because of his conversion happened suddenly in a short time. The Ahmadis are forbidden to preach and if arrested they are jailed because it is a non-bailable offence and there is not much opportunity to learn about the faith.

25. The Ahmadi religion was founded by Mirza Ghulam Ahmad, whose title is Maseh Maoud in India in 1899. The basic tenet is not to harm anybody, to have complete faith in Allah. Mirza was the promised Imam Mahdi awaited by Sunni Muslims who believes he is the promised one to do good deeds and to regularly pray 5 times a day. In Pakistan, Ahmadis cannot openly worship, therefore they pray "in small places." The difference between Sunnis and Ahmadis is that Ahmadis believe the prophet is here whereas the Sunnis believe the prophet is coming. Ahmadis consider themselves to be Muslim but the Pakistan Government outlaws the faith. A person will lose his job, will not be educated and will face problems if he is revealed to be an Ahmadi.

26. The applicant agreed that there is a large Ahmadi community in Rabwah but they suffer and are not considered to be Muslims. He did not have the opportunity to go there. There are no Ahmadis in Lahore and the applicant referred to Country of Origin Information submitted by him which refers to the problems in Rabwah. The applicant claimed that if no issues are to arise with this family he will face big time problems with the Sunnis. He will be abused, boycotted socially, lose his employment, his children will not be educated and he will not have any social activities. At times the police do bring fake cases against Ahmadis and if they do so he will be imprisoned before trial as it is a non-bailable offence. The applicant fears that he and his wife will be murdered by his family should they return to Pakistan. He will not be permitted to practice his faith. Under the law he is not entitled to a passport to travel to Mecca and if he declares when obtaining a passport that he is an Ahmadi he cannot go to Mecca. Pilgrimage to Mecca is obligatory once in a person's lifetime.

27. The applicant lived in the family home for a few days after the first beating because he wished to speak to his parents. The applicant was asked that having recovered from the injuries after two days did he consider leaving the family home at that stage. He replied that from the first day he was threatened and he had no option but to save his soul and life. He returned home to attempt to arrive at a solution and he thought there could be a reconciliation with his family which was the reason he kept on returning home after work. His wife and children were living with Zubar. On the 19th May he realised there was no hope for reconciliation because he claimed he was threatened and shouted at. He fled by jumping over a wall. When he returned from work in the evening he was not locked in a room but his family watched him.

28. The applicant was asked did he speak to his work colleagues about his problems. He replied that if people in his locality knew that he had converted there would be a bad reaction. When asked were his problems only with his family the applicant replied all his problems happened over a short period and therefore very few people were aware of his problems but he did have problems with his neighbours. The applicant was asked why his wife's reply at her interview that she had no problems with anybody apart from his family and was this incorrect. He replied that in his culture women do not get out therefore in her mind the only problem was with his family whereas he goes out and faces the problems. A few people were aware he was an Ahmadi because of the shouting and beating. The applicant's wife's uncle, who is a lawyer and is influential, lived in an Ahmadi community. This professional life was different but in his personal life he may have experienced problems however because he was influential his problems were not similar to the applicant.

29. The applicant was referred to his answer that he had met a few Ahmadis before he converted and to his answer at his interview that he did not know others who may have been in a similar position and he was asked did he know any Ahmadis who were in a similar situation as he was. He replied that every Ahmadi in Pakistan faces similar problems but his problems occurred in a short space of time.

30. The applicant did not speak with his family before converting but spoke to his wife's uncle because he did not have the time, he converted suddenly, he would speak to his father later and he would get a better knowledge of the faith by speaking to people.

31. The applicant was asked that since he came from a strict religious family why did he suddenly convert. He replied that he looked at both options and he felt more at peace with the Ahmadi version and he decided to go for it as it appealed to him in every way. The applicant agreed he was asked questions about the Ahmadi faith at his interview. He claims that when he arrived in Ireland he was on heavy medication and felt like a zombie. He attended an Ahmadi Mosque in Galway on one occasion but has not done so since or attended the Mosque in Dublin because of his medical condition.

32. The applicant was asked the reason he did not know the following at his interview:

- a) That the Ahmadi split into two groups.
- b) That Jesus was crucified and buried.

He replied he was suffering from tension at his interview, he is a member of the Jammat-I Ahmadiyya branch and not of the Lahore branch and he does not recollect answering that Jesus was not crucified which he now believes to be the truth and he will not come back. However at his interview he had very little knowledge when he converted and this story belongs to history.

33. The applicant stated his wife's uncle lives in an area where very few Ahmadis live. He disagreed with his answer to the question at his interview that his wife's uncle lives in a predominantly Ahmadi area. A few Ahmadis live in his area and he could not recollect being asked that question. The applicant said he did not envisage he would face big problems from his family and he thought and knew if he told them at the time of converting his family would be annoyed but not to the extent of threatening him. He thought they would be upset and stop speaking to him. He spoke to Zubar and Waseem who did not tell him the problems he would face after converting because perhaps they did not encounter any problems. The applicant was asked did he consider instructing the school authorities that only he and his wife could collect his children from school. He replied that the education system in Pakistan is not good, children can be taken by neighbours and watchmen ensure that the children do not leave the school premises during the study period. The watchman informed them that a member of his family took the children to school. The applicant said that he went back to work after two days and he was permitted to leave the family home and to go to his place of employment and they let his family leave. He was asked was it not unlikely that his family intended to kill or harm him. He replied that members of his family beat him and his family could have gone to the extent to harm or kill him and his family and he had a good and well established understanding that his children were at school and he asked the question why he would leave his country if he did not face serious threat. The applicant submitted the original newspaper in which his father published a public notice disinheriting him.

Analysis of the first named respondent

34. The first named respondent indicated that he had read considerable Country of Origin Information (COI) regarding the treatment of Ahmadis in Pakistan. According to the law Ahmadis in Pakistan must not call themselves Muslims or their faith Islam. The government has enacted specific laws affecting the Ahmadis and they continue to be persecuted in Pakistan. The COI submitted describes acts of violence, killings, burnings of Ahmadi Mosques and the lack of protection afforded to the Ahmadis by government forces. Legislation has also been enacted against their faith. He stated that against this background he must consider whether or not the applicant is an Ahmadi, whether or not he was persecuted and will he face persecution should he be returned to Pakistan.

35. Determining the applicant's claim for refugee status he said he had evaluated his statement in his questionnaire, the notes, his testimony to the Tribunal and the subjective and objective element and the definition of persecution as set out in the UNHCR Handbook. He stated that he was aware of the burden of proof as defined in para. 196 of the Handbook and the principle of the benefit of the doubt as defined in paras. 203 and 204 of the Handbook. The applicant's statement must be coherent and plausible and must not run counter to general known facts.

36. Reference was made to two reports, one of a Consultant Psychiatrist at Navan Mental Health Services dated the 26th May 2009. The Consultant Psychiatrist attached to the Navan Mental Health Service indicated that the applicant had been a patient of his since the 2nd September 2008 and he had been diagnosed as suffering from post-traumatic stress disorder and he was on medication and that he had felt obliged to admit him to the psychiatric unit of Our Lady's Hospital in Navan in order to ensure that he receive the treatment he required. He indicated that both were due to appear before the Refugee Appeals Tribunal on Friday 29th May 2009 but neither of them would be in a position to attend due to the applicant's illness. A further report was submitted by a Senior Registrar in Adult Psychiatry based in Navan Mental Health Services which outlined his history. It is dated the 28th August 2009 and also outlines his arrival in Ireland in 2007. The opinion of the Senior Registrar was that the applicant suffered from Chronic Adjustment Disorder characterised by mild symptoms of depression directly related to uncertainty around his asylum status and the possibility of having to return to Pakistan. She also indicated that the applicant did not currently fulfil criteria for post traumatic stress disorder and that the applicant was fit to attend an asylum hearing.

37. The first named respondent held that the applicant's testimony lacked credibility and coherency nor was it plausible for the reasons set out and he cannot therefore be afforded the benefit of the doubt. He then referred to a number of issues:-

i. The applicant is an educated person after completing his secondary education he obtained a diploma in computer science and before fleeing Pakistan he was a property dealer. The applicant alleged he converted to the Ahmadi religion on the 6th May 2007 when he was aged approximately 35 years because he was disillusioned with the Imam. Having spoken to his wife's uncle and other members of the Ahmadi faith on a few occasions he decided to convert. The applicant agreed that at his interview he was unable to answer basic questions about the Ahmadi faith and he alleges he was on heavy medication and was suffering from tension. However the applicant had not submitted a medical report to substantiate his allegation that he was on heavy medication or that he was suffering from tension prior to his interview by the Refugee Applications Commissioner. The reports of the two Psychiatrists deal with the applicant's problems before his appeal to the Refugee Appeals Tribunal and did not substantiate the applicant's allegation that he was on medication or suffering from tension as he alleged at his appeal when the interview took place on the 22nd November 2007.

ii. The applicant agreed at his appeal there was no urgency to convert suddenly. Therefore it is not credible that he allegedly converted without having full knowledge of the tenets of the faith nor that his mentors did not inform him of the consequences of converting or of the government's attitude towards Ahmadis. The applicant has given reasons why he converted suddenly without knowing much about the Ahmadi faith and he agreed there was no urgency to convert. The first named respondent said that it was incomprehensible and defied logic that the applicant, an educated man whose family are devout Sunni Muslims would allegedly convert without researching the tenets of his new faith which he claims was appealing. His allegation that there are no sources that he could gain knowledge about the Ahmadi faith or that he had no time is disingenuous and wholly lacking credibility.

iii. The applicant's testimony contradicted with the second applicant's testimony in the following respects. The applicant claims his wife told his sister-in-law that they had converted and that his wife was not aware of his plan to tell his family at a future date and that his wife was aware that he faced problems with his family whereas the second named applicant claimed that she said they intended to convert. The applicant agreed that when questioned by his father that he had converted whereas the second named applicant claimed that his family asked him not to convert. The first named applicant alleged he was beaten and given a day to reconvert whereas the second named applicant alleges her husband was beaten when he refused not to reconvert.

iv. He made the point that although neither the applicant nor the second named applicant were asked to comment on the contradictions in the testimony they are nevertheless irreconcilable and he held that it was not credible that the applicant and his wife's accounts would differ substantially.

v. The applicant's account that he did not expect the reaction from his family is disingenuous and wholly lacking in credibility and viewing of his testimony that his family were strict Sunnis and very religious. This undermines his credibility that he allegedly converted to the Ahmadi faith and also because of his lack of knowledge about the faith and that there was no urgency to convert. Therefore the alleged threat of being killed, the alleged beating, his allegation of being locked in a room for 7 or 8 hours that his children were kidnapped or that he and his wife escaped from his family home is a fabrication.

vi. According to COI submitted on behalf of the applicant, Lahore has a sizeable Ahmadi population and contradicts his testimony. His lack of knowledge further undermines his credibility that he converted as he alleges.

vii. At his interview the applicant was unaware that the movement had split into two groups. However when told that according to information there are two distinct groups the applicant then replied that he was only a new convert and he is finding out more about the faith. The first named respondent said that it was evident from his lack of knowledge about the Ahmadi religion both at his interview and his appeal that he had made no effort to acquire knowledge about his new faith from the date of his alleged arrival in Ireland to the date of his appeal. He had given a reason for only attending a Mosque in Ireland on one occasion which the first named respondent did not accept.

viii. The applicant's account of his journey to Ireland is not credible. It is not credible that he could board a ship without being noticed by crew members or that their presence on the ship was not discovered in view of the applicant's testimony that his children were ill and crying. It is further not credible that they proceeded from the dock area in the manner they allege without the truck being stopped at custom clearance.

ix. The first named respondent found that the applicant had not demonstrated that he was allegedly persecuted in Pakistan or that he faced a real risk of persecution if he returned to Pakistan. In making this finding he had regard to the findings regarding the lack of evidence as to why the applicant was allegedly persecuted by his parents. He commented that he did not accept the applicant's personal credibility and it followed that he did not have to consider the likelihood of the applicant facing arrest and imprisonment on return to Pakistan. He stated that the cumulative effect in relation to the applicant's credibility materially, detrimentally affects the veracity of what he purports to state and the substantive thrust of his claim. He said he could not afford the applicant the benefit of any doubt. He said that the applicant had contrived a story for the Tribunal which the first named respondent rejected and his failure to tell the truth during his appeal had been exposed in cross examination.

x. He further said that in assessing the credibility of the applicant he had had the opportunity of hearing and observing the manner in which he gave his evidence and his demeanour. He said he found him to be inconsistent, contradictory, implausible, contrived and wholly lacking in credibility and he found the applicant to be deliberately evasive and vague.

Discussion

38. Counsel on behalf of the applicant submitted that at a number of documents and Country of Origin reports in support of the applicant's claims were submitted. The most significant document was a notice placed by the father of the first named applicant stating that he had banished and disinherited his son as a result of his son "changing his religious beliefs in converting to an extremely condemned religious sect", a receipt dated 2nd September, 2007, signed by the finance secretary of the Majlis Khuddam-ul-Ahmadiyya UK based at Morden, Surrey (the worldwide headquarters of the Ahmadi community) for the payment of Kuddam, an ID card for sixth Jalsa Salana (annual convention) signed by Ibrahim Ahmed Noonan (The Imam of the community in Ireland) and the business card of Wassim Mahmood. Mr. Mahmood is described as an Ahmadi leader who helped convert on or about 6th May, 2007.

39. Counsel stated that no reason is given as to why the two medical reports affect the credibility of the applicant in relation to their content. It was incomprehensible that he said that there were no sources that the first named applicant "could gain knowledge from or that he had no time is disingenuous and wholly lacking credibility". This was an indication that the first named respondent should have considered all of the evidence, including the explanations furnished before rejecting a claim on credibility grounds.

40. Counsel also indicated that because neither of the applicants were afforded an opportunity to clarify the contradiction in the testimony, this represented a *prima facie* breach of fair procedures and warranted a grant of *certiorari*. Counsel also stated that the other reasons were all based on conjecture and that the travel issue was a peripheral matter. Finally, he made the point that findings based on demeanour require special care and attention.

41. Counsel on behalf of the respondents indicated that the first named respondent had found the personal credibility of the applicant's story and the credibility of whether, in fact, they had converted to the Ahmadi faith had been rejected by the Refugee Applications Commissioner, and listed arguments in response to counsel on behalf of the applicants.

The Decision of the Court

42. It appears to me that the first named respondent dealt entirely with the question of the credibility of the applicants claims and that he absolutely rejected their credibility.

43. I am satisfied that the first named respondent made very coherent findings of credibility, that the determination was sound and was not vitiated by any material error of law or any principle of natural or constitutional justice.

44. In *IR v. Refugee Appeals Tribunal* [2009] IEHC 353 Mr Justice Cooke found the following principles had emerged from the case law as a guide to the manner in which evidence to credibility ought to be treated and the review of his conclusions on credibility being carried out:-

"1. The determination as to whether a claim to a well founded fear of persecution is credible falls to be made under the Refugee Act 1996 by the administrative decision-maker and not by the Court. The High Court on judicial review must not succumb to the temptation or fall into the trap of substituting its own view for that of the primary decision-makers.

2. On judicial review the function and jurisdiction of the High Court is confined to ensuring that the process by which the determination is made is legally sound and is not vitiated by any material error of law, infringement of any applicable statutory provision or of any principle of natural or constitutional justice."

Mr Justice Cooke continued:-

"A finding of lack of credibility must be based on correct facts, untainted by conjecture or speculation and the reasons drawn from such facts must be cogent and bear a legitimate connection to the adverse finding."

45. I am satisfied that the first named respondent made very coherent findings of credibility that the determination was sound and was not vitiated by any material error of law or any principle of natural or constitutional justice and in those circumstances I therefore refuse the relief sought.