Federal Court  Cour fédérale

Date: 20230412

Docket: IMM-5000-22

Citation: 2023 FC 515

Toronto, Ontario, April 12, 2023

PRESENT: The Honourable Madam Justice Aylen

BETWEEN:

AL AMIN SHOHAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant, a citizen of Bangladesh, seeks judicial review of the decision of the Immigration Division of the Immigration and Refugee Board of Canada [ID], dated May 13, 2022 [the Decision] finding the Applicant inadmissible to Canada under paragraph 34(1)(f) of the *Immigration and Refugee Protection Act*, S.C. 2001, c 27 [*IRPA*] in reference to paragraph 34(1)(b). The ID found that the Applicant was a member of the Bangladeshi Nationalist Party

[BNP] and that the BNP is an organization that has engaged in or instigated the subversion by force of any government.

[2] For the reasons that follow, I am not satisfied that the Applicant has established any basis upon which the Court should intervene and accordingly, the application for judicial review shall be dismissed.

I. Background

[3] The Applicant arrived in Canada on August 16, 2018 on a study permit and submitted a claim for protection on February 19, 2019.

[4] In his Basis of Claim [BOC] form, the Applicant states that he is a member of the BNP, and more specifically, a member of the student wing, the Chatra Dol. The Applicant states that he signed a formal written statement to confirm his membership at a BNP office in April of 2016 and met with representatives of the BNP, who assigned him the position of "field worker". The Applicant states that his membership with BNP ended in August of 2018 when he left Bangladesh and came to Canada.

[5] The Minister issued a report under subsection 44(1) of the *IRPA* against the Applicant, alleging that there were reasonable grounds to believe that the Applicant was a member of BNP, which is an organization that has engaged in terrorism or subversion by force, pursuant to

paragraphs 34(1)(c) and 34(1)(b) of the *IRPA* and was therefore inadmissible under paragraph 34(1)(f) of the *IRPA*.

[6] The Minister referred the matter to the ID for an admissibility hearing pursuant to subsection 44(2) of the *IRPA*. The hearing took place on January 24 and 28, 2022.

[7] The ID considered the following issues: (i) whether the Applicant is a foreign national in Canada; (ii) whether the BNP is an "organization" within the meaning of paragraph 34(1)(f) of the *IRPA*; (iii) whether the Applicant is a member of the BNP; (iv) whether there are reasonable grounds to believe that the BNP engages, has engaged, or will engage in or has instigated acts of terrorism; and (v) whether there are reasonable grounds to believe that the BNP engages, has engaged or will engage in or has instigated acts of subversion by force.

[8] Before the ID, neither party contested that the Applicant was a foreign national in Canada and that the BNP was an "organization" within the meaning of paragraph 34(1)(f).

[9] On the third issue as to membership, the ID concluded it had been established that the Applicant was a member of BNP from April of 2016 until August of 2018. In his BOC form, the Applicant stated that he is a member of the BNP and described the history of his involvement and membership. In his narrative and his testimony, the Applicant expanded on his contributions to the organization, explaining that he was involved in distributing information, speaking to the public about BNP causes, recruiting new members, organizing meetings and raising money for the poor.

[10] The Applicant raised the temporality of his membership as an issue, asserting that the timing of his membership with the BNP did not align with the Minister's allegations about the BNP's terrorist or subversive activity. The Applicant asserted that the Minister's submissions regarding Bangladesh only covered up until approximately mid-2015, however there was nothing to demonstrate BNP's character when the Applicant joined one year later in April of 2016. The Applicant argued that paragraph 34(1)(f) may not apply where the organization has undergone a fundamental change in circumstances to such an extent that it has expressly given up any form of violence. The ID rejected this argument, stating that there were no reasonable and probable grounds to believe that the BNP would have suddenly changed its course one year later sufficiently to meet the evidentiary standard for a temporal exception to membership. Further, the Applicant's own country condition evidence included sources from 2018 and 2022 demonstrating the continued leadership of BNP leaders responsible for subversive tactics. The ID found that the BNP had not drastically changed its direction as an organization.

[11] At the hearing before the ID, counsel for the Minister argued that BNP is both a terrorist organization and responsible for acts of subversion in Bangladesh within the meaning of section 34 of the *IRPA*. The Applicant argued that the BNP is neither a terrorist organization nor has been responsible for acts of subversion.

[12] In its reasons for decision, the ID reviewed the historical development of the BNP and the larger context of political violence in Bangladesh with reference to the country condition evidence. In particular, the ID noted that opposition politicians often implemented violent protests, blockades and general strikes across all sectors of the economy – these violent strikes being known locally

as “hartals” - to undermine their opposition. The country condition evidence demonstrated the extent to which the BNP used hartals as a political and strategic tool, and this was especially so in the period of 2013 to 2015. For example, in 2013 more than 500 people were killed in hartals. The Minister’s evidence also demonstrated that senior BNP officials are directly responsible for continuing to incite ongoing hartals. For example, on January 19, 2015, the BNP leader’s spokeswoman is quoted as asking the people “to continue protests until the government is toppled”.

[13] The ID also noted that the BNP has an alliance with an extremist organization called Jamaat, an organization with a propensity for violence that mobilizes street power for BNP. The BNP-Jamaat alliance was responsible for ongoing strikes and political violence in Bangladesh.

[14] As to the fourth issue, the ID concluded that the Minister’s allegation of inadmissibility based on membership in a terrorist organization must fail. Applying the principles from the case law on the definition of terrorism in paragraph 34(1)(c) of the *IRPA,* the ID concluded that the BNP was not a terrorist organization as, according to the evidentiary record before it, the requisite intent element – the intent to cause death or serious bodily harm – was not a guiding principle of the BNP or its controlling members. The ID notes that at no time has the BNP as a political organization adopted the terrorist or extremist views of Jamaat or its alliances.

[15] However, on the final issue of subversion by force, the ID agreed with the Minister and concluded that there was sufficient evidence that the BNP has engaged in the subversion by force as per paragraph 34(1)(b) of the *IRPA*. The ID noted that subversion by force does not require specific intent, as required by a finding of terrorism. Rather, the ID noted that the intention of

subversion is much more broadly defined as to the use of force or the threat thereof with the intention to overthrow a government. The ID found that the evidence demonstrated that the BNP intended to use force, or the threat thereof, in an attempt to undermine and overthrow the government of Bangladesh.

[16] The Applicant had argued before the ID that the inference that BNP's calls for political protest was to infer that BNP advocated for violence was a "great leap in logic". The Applicant submitted that there is no evidence that BNP, in the implementation of hartals, has a purpose to cause death or serious injury. However, the ID dismissed this argument. The ID found that it was not a leap of logic to find that BNP's calls for hartals were synonymous with the intentional threat of force, which is very different from the intentional infliction of death or bodily harm. On the basis of the country condition evidence about senior BNP officials inciting and calling for hartals, the ID concluded that BNP was well aware that they were inherently inciting the threat of force. The ID found that the fact that widespread violence and death did ensue was further evidence that subversion was present.

[17] The ID assessed the BNP-Jamaat alliance in the context of subversion by force, and concluded that there was sufficient evidence that BNP utilized that relationship for its own subversive purposes vis-à-vis benefiting from Jamaat's violent street agitation tactics. The ID found that when looking at the actual strategies that the organization has utilized to achieve its means, the BNP condoned Jamaat's extremism.

[18] The ID concluded that there were reasonable grounds to find that the Applicant was a member of an organization which has engaged in or has instigated the subversion by force of a government and is therefore inadmissible to Canada pursuant to paragraphs 34(1)(f) and (b) of the *IRPA*. On May 13, 2022, a deportation order was issued against the Applicant pursuant to subsection 45(d) of the *IRPA*.

II. Relevant Legislation

[19] The relevant provisions of the *IRPA* state as follows:

Rules of Interpretation	**Interprétation**
33 The facts that constitute inadmissibility under sections 34 to 37 include facts arising from omissions and, unless otherwise provided, include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur.	33 Les faits — actes ou omissions — mentionnés aux articles 34 à 37 sont, sauf disposition contraire, appréciés sur la base de motifs raisonnables de croire qu'ils sont survenus, surviennent ou peuvent survenir.
Security	**Sécurité**
34(1) A permanent resident or a foreign national is inadmissible on security grounds for	34(1) Emportent interdiction de territoire pour raison de sécurité les faits suivants :
…	…
(b) engaging in or instigating the subversion by force of any government;	b) être l'instigateur ou l'auteur d'actes visant au renversement d'un gouvernement par la force;
…	…
(f) being a member of an organization that there are reasonable grounds to	f) être membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle est, a été ou sera l'auteur d'un acte visé aux alinéas a), b), b.1) ou c).

> believe engages, has engaged or will engage in acts referred to in paragraph (a), (b), (b.1) or (c).

III. Preliminary Issues

[20] Before turning to the merits of this application, I wish to address a number of preliminary issues raised in advance of the hearing and at the hearing itself.

[21] On March 28, 2023, counsel for the Applicant sent a letter to the Court seeking an adjournment of the hearing and an extension of time to serve and file a Further Memorandum. The letter did not comply with the requirements for an informal motion (the position for the Respondent was not included nor was a draft order), but I nonetheless convened a case management conference to discuss the relief sought. The Respondent opposed the relief sought, noting that counsel for the Applicant had assumed carriage of this matter from the Applicant's previous counsel in December of 2022 and had not taken any timely steps to seek an extension of time to deliver a Further Memorandum, nor to seek an adjournment of the hearing. Counsel for the Applicant had offered a number of reasons for seeking an adjournment, including his busy personal schedule, the under-resourcing of his law practice, family issues and a request to bring additional case law before the Court. At the case management conference, counsel for the Applicant also raised issues related to his celebration of Ramadan and his ability to make an oral submissions to the Court.

[22] At the case management conference, I advised counsel for the Applicant that I was not satisfied that the requested relief should be granted as he had not moved in a timely manner to obtain the relief sought and that his assertion that Ramadan interfered with his ability to attend the

hearing was undermined by the fact that he had offered the Court new hearing dates that also fell within the Ramadan period and that he confirmed to the Court that he was appearing before other courts and tribunals that same week. Moreover, to the extent that he sought to bring additional legal authorities to the Court's attention, a Further Memorandum was not required and a date was sent by which he was to provide the additional authorities to the Court and the Respondent. A direction was issued following the case management conference detailing the Court's determinations.

[23] On April 3, 2023, counsel for the Applicant filed a motion in writing seeking the same relief addressed at the case management conference and citing the same grounds raised during the case management conference, with the additional ground that counsel for the Applicant did not have access to the certified tribunal record [CTR] until March 31, 2023. By direction dated April 4, 2023, I advised the parties that the Court refused to entertain the motion as it was an abuse of process. At the hearing of the application, counsel for the Applicant suggested that his ability to argue the application was negatively affected by his late receipt of the CTR. However, as I advised him at the hearing, his late review of the CTR was caused solely as a result of his failure to obtain it from previous counsel for the Applicant or from the Registry in a timely manner after his appointment as solicitor of record four months ago.

[24] On April 3, 2023, the Applicant delivered a supplemental book of authorities in compliance with the Court's direction.

[25] At the hearing of the application, counsel for the Applicant advised that he sought to raise a certified question related to the constitutionality of the test employed by the Court to determine whether an organization has engaged in or instigated subversion by force of any government. The Respondent objected to the proposed certified question being raised.

[26] I refused to permit the Applicant to raise the proposed certified question on the basis that the Applicant had not followed the Court's Practice Guideline related to certified questions and in particular, had never raised the proposed question with the Respondent in advance of the hearing. Moreover and importantly, the proposed question had no foundation in any of the arguments made before the ID or in the Applicant's Memorandum of Fact and Law before the Court.

[27] Turning to the arguments made by counsel for the Applicant on the two issues raised in this proceeding, the Applicant's submissions generally bore little to no relationship to the submissions made in his Memorandum of Fact and Law. Rather, counsel for the Applicant improperly attempted at the hearing to transform the proceeding by raising entirely new grounds of review premised on arguments that had never previously been made either before the ID or in the Applicant's Notice of Application or Memorandum of Fact and Law.

[28] By way of example, the Applicant sought to rely, as part of his additional authorities, on a prior decision of the ID (ID File no. 003-B5-00329) in which the ID had found that a 2015 Conflict Research Group report advanced by the Minister in support of a paragraph 34(1)(b) argument lacked reliability. Counsel for the Applicant argued that, in this case, the ID erred by relying on this same report in support of its finding that the BNP had engaged in or instigated subversion by

force of a government, given the earlier determination by the ID that such report was unreliable. This argument appeared nowhere in the Applicant's Memorandum of Fact and Law and no argument had been raised by the Applicant before the ID that the report lacked reliability. While I permitted the Applicant to raise additional authorities at the hearing, I had advised counsel for the Applicant during the case management conference that he was not permitted to raise new arguments. The Applicant's attempt to use this jurisprudence to make a new argument regarding a specific evidentiary determination made by the ID is improper.

[29] This is just but one example of the new arguments that the Applicant attempted to raise at the hearing. In these reasons, I will not entertain nor address this or any of the other new arguments made by counsel for the Applicant.

IV. Issues and Standard of Review

[30] This application raises two issues: (a) whether the ID erred in determining that the Applicant was a member of the BNP; and (b) whether the ID erred in determining that the BNP has engaged in or instigated the subversion by force of the government of Bangladesh.

[31] While I will address each of these issues in turn, the central question before the Court is whether the decision of the ID was reasonable.

[32] When reviewing for reasonableness, the Court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified. A

reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker [see *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 15, 85]. The Court will intervene only if it is satisfied there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency [see *Adenjij-Adele v Canada (Minister of Citizenship and Immigration)*, 2020 FC 418 at para 11].

V. Analysis

A. *The ID did not err in its determination that the Applicant was a member of the BNP*

[33] The standard of proof that applies to an inadmissibility determination under section 34 is "reasonable grounds to believe", which is low [see section 33 of the *IRPA*]. "Reasonable grounds to believe" is more than mere suspicion but less than the civil standard of balance of probabilities [see *Mugesera v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40 at para 114; *Thanaratnam v Canada (Minister of Citizenship and Immigration)*, 2004 FC 349 at paras 11-13]. Reasonable grounds will exist where there is an objective basis for the belief, based on compelling and credible information [see *Mugesera*, *supra* at para 114]. Put differently, reasonable grounds to believe are established where there is a *bona fide* belief of a serious possibility, based on credible evidence [see *Hadian v Canada (Citizenship and Immigration)*, 2016 FC 1182 at para 17, citing *Chiau v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 297 (FCA) at para 60].

[34] "Member" or "membership" is not defined in the *IRPA*. However, the jurisprudence has consistently held that the term should be given an "unrestricted and broad" interpretation given that the context at play concerns national security and public safety [see *Poshteh v Canada (Minister of Citizenship and Immigration),* 2005 FCA 85 at paras 27-29].

[35] The Federal Court of Appeal has held that being a member simply means "belonging" to an organization [see *Chiau, supra* at paras 55-62]. Formal or actual membership in an organization is not required and informal participation or support for a group may suffice, depending on the nature of that participation or support [see *Kanapathy v Canada (Public Safety and Emergency Preparedness),* 2012 FC 459 at para 34]. There is no need for a significant level of integration within the organization [see *Poshteh, supra* at paras 30-31; *Canada (Public Safety and Emergency Preparedness v Ukhueduan*, 2023 FC 189 at para 22].

[36] Nothing in paragraph 34(1)(f) requires or contemplates a complicity analysis in the context of membership, nor does the text of this provision require a member to be a "true" member who contributed significantly to the wrongful actions of the group [see *Kanagendren v Canada (Citizenship and Immigration),* 2015 FCA 86 at para 22].

[37] Given that section 33 of the *IRPA* states that the facts giving rise to inadmissibility include facts that "have occurred, are occurring or may occur", this Court has interpreted this to mean that "membership" is without temporal constraints. This means that a decision maker need only ask whether the applicant is or has been a member of that organization. The decision maker need not match an applicant's active membership to when the organization at issue carried out the

subversive acts [see *Al Yamani v Canada (Public Safety and Emergency Preparedness*), 2006 FC 1457 at para 12].

[38] In determining the question of membership, not every act of support for an organization will constitute membership. Where there are some factors which suggest that the applicant was in fact a member and others which suggest the contrary, those factors must be reasonably considered and weighed [see *Poshteh, supra* at para 36; *Krishnamoorthy v Canada (Citizenship and Immigration)*, 2011 FC 1342; *Thiyagarajah v Canada (Citizenship and Immigration),* 2011 FC 339 at para 20]. Generally, the factors relevant for deciding whether an applicant is a member of an organization for the purpose of section 34 include the nature of the applicant's involvement in the organization, the length of time involved and the degree of commitment to the organization's goals and objectives [see *B074 v Canada (Citizenship and Immigration),* 2013 FC 1146 at para 29].

[39] However, a person's admission of membership in an organization is sufficient to meet the membership requirement within the meaning of paragraph 34(1)(f) of the *IRPA*, "[r]egardless of the nature, frequency, duration or degree of involvement" [see *Foisal v Canada (Citizenship and Immigration)*, 2021 FC 404 at para 11; *Khan v Canada (Citizenship and Immigration)*, 2017 FC 397 at para 31; *Ukhueduan, supra* at para 23] . Once membership is admitted, it is membership for all purposes [see *Al Ayoubi v Canada (Citizenship and Immigration)*, 2022 FC 385 at paras 24-25; *Nassereddine v Canada (Citizenship and Immigration)*, 2014 FC 85 at paras 50-51].

[40] The Federal Court of Appeal in *Poshteh* instructs that the assessment of membership is within the ID's expertise and therefore, deference to the ID is required on judicial review [see *Poshteh, supra* at para 36].

[41] The Applicant submits that the ID erred in conflating and misconstruing his submissions regarding membership with its assessment as to whether BNP had engaged in subversion by force. First, the Applicant submits that his membership with the student wing of the BNP was directed towards social good and not towards what is alleging to be subversive activity by the BNP and that at best, he was a sympathizer or a low level member. Second, the Applicant asserts that the ID ignored the criteria to assess membership as outlined in the case law. The Applicant submits that the ID concluded the Applicant's membership based on his statements in his BOC and testimony without meaningfully considering the nature of his membership, the level of his participation in the BNP or the degree of his commitment to the BNP's overarching goals.

[42] I reject these arguments. The Applicant declared in his BOC that he was a member of the BNP and confirmed his membership in the BNP when he testified before the ID. As noted above, a person's admission of membership in an organization is sufficient to meet the membership requirement for the purpose of paragraph 34(1)(f) of the *IRPA* and there is no obligation on the part of the ID to conduct an assessment of the factors set out in *B074* in such circumstances. It is not open to the Applicant to now attack the ID's membership determination when he himself admitted repeatedly that he was a member of the BNP.

[43] I am satisfied that the Applicant has failed to identify any reviewable error in relation to the ID's membership determination.

B. ***The ID did not err in its determination that the BNP has engaged in or instigated the subversion by force of the government of Bangladesh***

[44] In considering this issue, it is important to keep in mind that the same standard of proof of "reasonable grounds to believe" also applies to the question of whether the BNP has engaged in or instigated the subversion by force of the government of Bangladesh [see *Canada (Public Safety and Emergency Preparedness) v Edom*, 2021 FC 1220 at para 14].

[45] The term "subversion by force" in paragraph 34(1)(b) is not defined in the *IRPA*. However, the Federal Court of Appeal has recognized that Parliament intended "subversion by force of any government" to have a broad application [see *Najafi v Canada (Citizenship and Immigration)*, 2014 FCA 262 at para 78].

[46] There is no universally adopted definition of the term "subversion". Black's Law Dictionary defines subversion as the act or process of overthrowing the government, which is very much in line with the ordinary meaning of the French text "actes visant au renversement d'un gouvernement". Contrary to earlier decisions that stated that the word "subversion" was understood to refer to illicit acts or acts done for an improper purpose, the Federal Court of Appeal has confirmed that shared meaning of the French and English text of paragraph 34(1)(b) does not

ordinarily include any reference to the legality or legitimacy of such acts [see *Najafi*, *supra* at para 65].

[47] "By force" is not simply the equivalent of "by violence". It includes coercion or compulsion by threats to use violent means and reasonably perceived potential for the use of coercion by violent means. Force must be an element, but not necessarily the exclusive element, in the subversion [see *Oremade v Canada (Citizenship and Immigration),* 2005 FC 1077 at para 27-28].

[48] The intention to subvert by force is critical, but is not based solely on subjective intention. It may be presumed that a person knows or ought to have known and to have intended the natural consequences of their actions and the actions of an organization or its members might lead to a reasonable conclusion that force would or could be used if necessary, despite a hope or expectation that it would not [see *Oremade*, *supra* at paras 22, 25-26, 29-30; see *Edom*, *supra* at para 24].

[49] The Applicant submits that the ID ignored this Court's jurisprudence as to how "subversion by force" is to be interpreted by failing to assess whether the activities of the BNP were intended to overthrow the government and misconstruing the evidence before it to arrive at its determination that the BNP has engaged in or instigated acts of subversion of a government. The Applicant submits that the ID's reasons provide no clarity as to why it perceived the acts of the BNP with respect to hartals and protests to be an attempt to overthrow the Amani League and that the evidence before the ID demonstrated that the objectives of the BNP in calling protests and hartals can be linked to the objective of demanding legitimate political change.

[50] I reject the Applicant's assertions. The ID properly adopted and applied the applicable legal principles (as identified above) and reached a reasonable conclusion on this issue. The ID summarized and examined the country condition evidence to confirm that the nature of the hartals were not to effect democratic change, but regime change through inciting the threat of force. The ID relied upon, among other pieces of evidence, the statement of BNP's leader "to continue protests until the government is toppled". I find that it was reasonably open to the ID to rely on this express statement of the leader of the BNP regarding the intentions of the BNP's conduct.

[51] Furthermore, the ID expressly grappled with the issue of whether the acts of the BNP should be characterized as legitimate political tactics or acts of subversion by force and clearly identified why it perceived the actions and expressed intentions of the BNP with respect to hartals and protests to be an attempt to overthrow the government of Bangladesh. I find that the ID's analysis, as set out below, was reasonable, exhibiting the requisite degree of justification, intelligibility and transparency:

> [71] I do not see how repeated calls for hartals can be excused or interpreted in a manner such that the BNP could not be held responsible for the violence that would result. The country conditions evidence supports a view that hartals in Bangladesh, by 2015, had become synonymous with the threat of force, which, in fact, does very often become actual violence. [The BNP leader] herself is reported as stating that calls for hartals would not cease until the government was toppled. To boycott the elections in 2014 would have been one thing, even a legitimate democratic statement perhaps. However, to then replace the BNP' s participation in the democratic process with a tool which is so well-known to cause widespread death, destruction, and disruption to the national economy is far beyond legitimate political protest and veers squarely into the meaning of "'subversion".
>
> [72] Given the long-standing, personal, and acrimonious nature of the feud between ZIA and Hasina, and between AL and the BNP

> more generally, and also given the culture of politics in Bangladesh generally, I am satisfied that Zia's language is more than simple political rhetoric intended to inflame the passions and zeal of its membership. Given that the BNP constitution centralizes power within Zia to such an entrenched degree, Zia's language becomes all the more significant. As Zia directs, the party and its members follow …They may very well be a legitimate political party, But even legitimate political parties can be capable of acts of subversion by force, When a political party choses to step out of the political process and achieve its goals through alternate means, being the hartal, this is excellent evidence that subversion is intended, This is precisely the route that [the BNP leader] chose for her party, and its members, complicit or not in the ensuing use of force, must now bear the brunt of her decision to step outside democracy,
>
> […]
>
> [82] I make one final concluding comment about the nature of subversion by force. The situation of the BNP is not comparable, for example, to a situation where an organization is responsible for civil war, or a coup attempt, for example. Such examples would be comprise, perhaps, a more common understanding of "subversion by force." But that does not make the BNP's activity any less an act of subversion by force. The nature of the BNP's subversion must be seen in a broader historical view. The BNP's style of subversion has been engagement in a long and slow process of undermining the democratic process in Bangladesh as a whole. This process did not unfold all at once or in a short, well-defined period of time, such as you might see in a war or coup attempt, but one can see its culmination, nevertheless, during the period 2013 -2015 where engagement in the democratic process was replaced with the use of force and violent agitation.

[52] The Applicant further asserts that the ID's reliance on BNP's alliance with Jamaat also did not specify whether those acts were intended to overthrow the government or bring about political change. I also reject this assertion. The ID examined the evidence and found that the BNP intentionally utilized and adopted an alliance with Jamaat to pursue its own subversive purposes. I find that it was reasonably open to the ID to make this finding based on the evidence before it.

[53] Accordingly, I am not satisfied that the Applicant has demonstrated any error made by the ID in reaching its conclusion that the BNP has engaged in or instigated the subversion by force of the government of Bangladesh.

VI. Conclusion

[54] In light of my findings above, the application for judicial review shall be dismissed.

[55] I am satisfied that no question for certification has properly been raised in this matter.

JUDGMENT IN IMM-5000-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question will be certified.

"Mandy Aylen"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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