IN THE SUPREME COURT OF NAURU

AT YAREN

[APPELLATE DIVISION] Case No. 20 of 2015

IN THE MATTER OF an appeal against a decision of the Refugee Status Review Tribunal TFN 14052, brought pursuant to s43 of the *Refugees Convention Act* 1972

BETWEEN

ROD 124 Appellant

AND

THE REPUBLIC Respondent

Before:	Crulci J
Appellant:	J. Gormly
Respondent:	L. Brown
Date of Hearing:	11 August 2016
Date of Judgment:	10 July 2017

CATCHWORDS

APPEAL - *Refugees – Refugee Status Review Tribunal – Natural Justice Requested – Information Credible, Relevant and Significant to Tribunal's Decision – Dispositive Relevance – Appeal ALLOWED*

JUDGMENT

1. This matter is before the Court pursuant to section 43 of the *Refugee Convention Act* 2012 ("the Act") which provides:

> **43 Jurisdiction of the Supreme Court**
>
> (1) A person who, by a decision of the Tribunal, is not recognised as a refugee may appeal to the Supreme Court against that decision on a point of law.
>
> (2) The asked to the appeal are the Appellant and the Republic.
> ...

2. The determinations open to this Court are defined in section 44 of the Act:

> **44 Decision by Supreme Court on appeal**
> (1) In deciding an appeal, the Supreme Court may make either of the following orders:
> (a) an order affirming the decision of the Tribunal;
> (b) an order remitting the matter to the Tribunal for reconsideration in accordance with any directions of the Court.

3. The Refugee Status Review Tribunal ("the Tribunal") delivered its decision on the 16 January 2015 affirming the decision of the Secretary of the Department of Justice and Border Control ("the Secretary") of the 22 September 2014, that the Appellant is not recognised as a refugee under the 1951 Refugees Convention[1] relating to the Status of Refugees, as amended by the 1967 Protocol relating to the Status of Refugees ("the Convention"), and is not owed complementary protection under the Act.

4. At the time of the Tribunal's decision, s 43(3) of the Act provided that a Notice of Appeal against a decision of the Tribunal must be filed within 28 days of receiving the written statement of the decision. With effect from 14 August 2015, the 28-day limit was extended to 42 days. On 23 April 2015, the Respondent indicated that it did not object to the time limit being extended to 30 June 2015. The Appellant purported to file a Notice of Appeal on 20 July 2015. In its written submissions, the Respondent opposed the grant of a further extension of time. However, at the beginning of the oral hearing, the Respondent indicated it consented to the extension of time, and the hearing proceeded by way of appeal.

[1] 1951 Refugee Convention and 1967 Protocol, also referred to as "the Refugees Convention" or "the Convention".

BACKGROUND

5. The Appellant is a 27 year-old man from the Madaripur district of Bangladesh. He is unmarried and a Sunni Muslim.

6. The Appellant's father was a member of the Jamaat-e-Islamiye ("JI") and the Appellant claims to have joined the JI himself in 2010.

7. At a transfer interview, before the Secretary and before the Tribunal the Appellant claimed to have been abducted, detained and assaulted by members of the Awami League ("AL") in around August 2012 because of his membership of the JI. The Appellant claims that, should he be returned to Bangladesh, he would continue to be active in the JI and would face persecution by the AL.

8. The Appellant left Bangladesh for Thailand in April 2013, and then travelled to Malaysia and Indonesia. He left Indonesia for Australia in October 2013, and was transferred to Nauru on 28 October 2013.

INITIAL APPLICATION FOR REFUGEE STATUS DETERMINATION

9. Before the Secretary, the Appellant said that, as a member of the JI, he was involved in encouraging others to join the JI, and follow Islamic ideologies, such as praying five times a day, not telling lies, telling the truth, not stealing, maintaining honesty, not taking bribes, and not fighting with other people.

10. In 2012 the Appellant went to a rally in Dhaka. During the rally, activists from another political party threw a bomb into the middle of the gathering. The Appellant fled and returned home safely.

11. About 15 to 20 days later, in about September 2012, the Appellant was abducted while going to the bazaar. He was blindfolded, his mouth taped, and put into a car. He was taken to an unknown place and put in a room for about three days. The Appellant was questioned about his attendance at the rally in Dhaka and beaten with a stick and stomped on. The Appellant said that he lost consciousness and was returned to the bazaar while still unconscious. When he awoke, he was in hospital with relatives. He was told that people at the bazaar recognised him and called his father, who took him to the hospital. He was in hospital for 8 to 10 days with a broken arm before returning home.

12. The Appellant said that he did not completely recover until December 2012. The Appellant then continued to participate in door knocking activities for the JI. However, he stayed at the homes of relatives and friends at night to avoid being arrested by the police. The police, who had been told by the government to arrest him, typically carried out searches and made arrests at night.

13. His father told him that if he stayed in Bangladesh he would be subject to further assaults because of his membership of the JI. His father obtained a phone number for a people smuggler and the Appellant left Bangladesh in April 2013.

14. Since arriving in Nauru, the Appellant said that AL activists went to his home in Madaripur and questioned his father about the Appellant's whereabouts. The activists told his father not to participate in any JI activities. In about January 2014, the Appellant's uncle attended a JI meeting and was shot dead.

15. The Appellant said that there was not anywhere in Bangladesh where he could be safe because activists of the AL and other political parties could locate him.

Secretary's Decision

16. The Secretary accepted that the Appellant is a practising Muslim. However, the Secretary considered the Appellant's other claims to lack credibility.[2] The Secretary was concerned that the Appellant said that he could not recall when the rally in Dhaka, and his subsequent abduction occurred, despite the significance of these incidents to his claim for asylum.

17. While the Appellant submitted a medical certificate from his hospitalisation, which was acquired more than a year after the incident, the certificate indicated that the Appellant only had "huge swelling and severe tenderness of the left arm", and that he was hospitalised for 13 days.

18. The Secretary also questioned the Appellant's explanation that searches and arrests were only performed at night because the police would need to "answer to people if they conducted such activities during the day and they would be exposed".[3]

19. The Secretary further questioned the Appellant's lack of knowledge of JI party structure and activities, his explanation for not growing a beard like many devout Muslims, and conflicting information given with regard to the political link between the JI and the Bangladesh Nationalist Party ("BNP").

20. The Secretary therefore did not accept as credible that the claims that:

    - *The Applicant was a member of the Jamaat-e-Islami political party and was involved in activities supporting, promoting and encouraging people to join the party.*
    - *Activists of the opposition ruling party of Bangladesh abducted and physically assaulted the Applicant for reasons of his claimed*

[2] BD 45.
[3] BD 46.

membership of Jamaat-e-Islami, and that they caused him injuries including a broken arm for which he required hospitalisation.

- *The Applicant was in hiding for the last 6 to 7 months of his residence in Bangladesh, to avoid being harmed by the police or other party government people because of his involvement with the Jamaat-e-Islami.*
- *Activists of the ruling party went to his family home and questioned the Applicant's father after he fled Bangladesh for reason of his past activities supporting Jamaat-e-Islami.*
- *The Applicant would attract adverse attention on return to Bangladesh for reason of his Islamic faith.*[4]

21. Having found the above claims not to be credible, the Secretary found that the Appellant had no well-founded fear of persecution on the basis of his political opinion. For the same reasons that the Secretary had rejected the application for refugee status, the Secretary found that Nauru did not owe the Appellant complementary protection.[5]

REFUGEE STATUS REVIEW TRIBUNAL

22. At the hearing before the Tribunal the Appellant restated his claims in relation to the JI rally in Dhaka in August 2012, of being abducted, detained, and assaulted by AL activists. The Appellant also reiterated his claims about staying the night at the homes of relatives and friends to avoid arrest after being released from hospital, because the police arrested people at night when villagers could not see them approaching.

23. The Tribunal questioned the Appellant as to the correct reason for the arrest of ten of JI's "big leaders". The following exchange occurred:

> MS ZELINKA: Okay. But was there a particular cause that JI was – wanted to speak about publicly in this – in the middle of 2012?
>
> THE INTERPRETER: Yes, it's because they arrested the big... from the party. The government arrested them for no reason, and some of them been sentenced to death and some are being hung to death as well, so that was the reason why they have.
>
> MS ZELINKA: And you say it was for no reason but do you know the reason that was given by the government for the arrest of the JI leaders?
>
> THE INTERPRETER: They make different allegations like accusations because saying so and so and then probably make reason.

[4] BD 49.
[5] BD 50 – 51.

MS ZELINKA: Anything more specific, not just allegations, but do you know what did the government allege that the JI leaders were doing and that's why they arrested so many of the older leaders.

THE INTERPRETER: They said they were against country and that's why they were arrested.[6]

24. The Tribunal also questioned the Appellant about the two "big leaders" who the Appellant said were to speak at the rally in Dhaka. The Tribunal's reasons state that the Appellant identified these as JI Assistant Secretary-General ATM Asharul Islam, and Secretary-General Ali Ashan Mohammad Mujahid.[7]

25. The Tribunal then put it to the Appellant that both these leaders were, at the time of the rally, in detention during their trials at the International Crime Tribunal ("ICT"). The Tribunal said:

MS McINTOSH: And I'm asking you about this because there's information here that at the time he was on trial before the International Crimes Tribunal, and the trial started on 19 July 2012, so very unlikely he would have been able to attend that rally.

THE INTERPRETER: It's all false cases, false allegation the government – the government really didn't – that's what I get out of this Jamaat-e-Islami of the country.

MS McINTOSH: Whether that's the case or not, the fact is you've said that you heard he was going to be speaking at that rally, it seems, could mean you were not at the rally, or you were not involved with JI?

THE INTERPRETER: I did went to the rally and he was supposed to attend the rally and he didn't show up.[8]

26. The Tribunal had a number of concerns about the veracity and plausibility of the claims presented by the Appellant, and put these to the Appellant. The Tribunal said:

"*With regard to plausibility, the Tribunal was concerned that the applicant had no real grasp of JI ideology and yet was claiming that he was targeted because he was such a good recruiter for the JI party. The Tribunal was also concerned that the applicant, despite claiming to have been am (sic) active member or JL , was unable to clearly described the JI flag and r emblem (sic) as requested, but named a series of elements and colours that collectively applied to the insignia of two separate organisations, Jamaat-e-Islami and Bangladesh Islami Chchatra Shibir. The Tribunal noted that no harm had ever befallen him in over two years of door-knocking nor while attending several rallies,*

[6] Tribunal Transcript p 17 ln 13 – 33.
[7] BD 123.
[8] Tribunal Transcript p 36 ln 36 - p 37 ln 2.

yet he claim that September 2012 he was suddenly abducted, detained and badly beaten by unknown people whom he assumed to belong to the Awami League. The Tribunal also noted its concerns over the testimony relating to being out door-knocking for JI for four months whilst being "in hiding". It noted marked differences between testimony given at the RSD hearing and the present Tribunal one; and issues such as the medical certificate – obtained over a year after hospitalisation – describing his arm as having "severe swelling" whilst the applicant stated that it was broken."[9]

27. The Tribunal was also concerned that the Appellant could not:

"outline correctly the reason for the arrest of ten important JI leaders during 2012, nor the rationale for the trial they have been involved with since that time. The Tribunal notes that the JI website has a prominent running story about "the so-called war crimes" with pictures and updates of the ten defendants."[10]

28. The Appellant's representative submitted that the Appellant had forgotten many details at the transfer interview, but now remembered those details, and his account was consistent and credible.

29. The Tribunals concerns were not satisfied and the Tribunal found that the Appellant was not an active member of the JI.[11] The Tribunal also found that AL activists did not abduct the Appellant because of his membership of JI.[12] It was therefore not satisfied that the Appellant had suffered harm in the past because of his political opinion and did not have any well-founded fear of future persecution on this basis.[13] The Tribunal similarly found that the Appellant was not owed complementary protection by Nauru.[14]

THIS APPEAL

30. On 17 June 2016, the Appellant filed an "Amended Notice of Appeal", which appears to have been in the nature of a proposed Notice of Appeal, given leave had yet to be granted to Appeal. The hearing proceeded on 11 August 2016.

31. On 23 December 2016, the *Refugees Convention (Derivative Status and Other Measures) (Amendment) Act 2016* was enacted ("Amending Act"), which provided in s 24 that s 37 of the Act was repealed. On 9 March 2017, in light of the Amending Act, Khan J made orders granting the parties leave to file amended pleadings and supplementary submissions on the amended grounds of appeal.

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[9] BD 126 [23].
[10] BD 128 [31].
[11] BD 129 [33].
[12] BD 129 [34].
[13] BD 130 [40].
[14] BD 131 [44].

32. The Further Amended Notice of Appeal was filed on 28 March 2017. The first ground of appeal relates to the information from the JI website about the arrest of 10 JI leaders, and rationale for their trials at the ICT. The second ground relates to the information concerning the detention of ATM Asharul Islam and Ali Ahsan Mohammad Mujahid. Those grounds are expressed in identical terms and provide as follows:

    1. In determining that the appellant is not a refugee for the purposes of section 4 of the *Refugees Convention Act 2012* (Nr) (the Act), the Refugee Status Review Tribunal (the Tribunal) made an error of law in that it failed to comply with s 37 of the Act.

       Alternative Ground 1
       In determining that the appellant is not a refugee for the purposes of section 4 of the *Refugees Convention Act 2012* (Nr) (the Act), the Refugee Status Review Tribunal (the Tribunal) failed to comply with s 22(b) of the Act in that it did not act according to the principles of natural justice.

33. The third ground was not pressed at the hearing, but is maintained in the supplementary submissions. That ground provides as follows:

    3. The Tribunal failed to accord the appellant natural justice and was therefore in breach of s 22 of the Act in that it did not put the appellant on notice of the adverse inference it drew that even if ATM Asharul Islam and Ali Ahsan Mohammad Mujahid had been advertised as speakers prior to their arrest there would have been notices prior to the rally about their cancellation as speakers.

34. At the time of producing the supplementary submissions, there was an error in s 2(2) of the Amending Act such that s 23 was deemed to have had effect from 10 October 2012, being when the original Act was enacted, rather than s 24, as presumably intended. The Appellant's supplementary submissions therefore maintain arguments with reference to s 37 in the event that it continued to stand at the time of judgment. However, on 5 May 2017, the Parliament passed the *Refugees Convention (Amendment) Act 2017*, which provides that the repeal of s 37 is deemed to have had effect from 10 October 2012. The appeal therefore falls to be determined on whether the conduct of the Tribunal breached the principles of natural justice in the common law. In deciding this question, the Court has had regard to the original and supplementary submissions, and the oral submissions made at the hearing.

RELEVANT LAW

Section 22: Way of Operating

The Tribunal:

(a) is not bound by technicalities, legal forms or rules of evidence; and

(b) must act according to the principles of natural justice and the substantial merits of the case.

Section 40: Tribunal must invite applicant to appear

(1) The Tribunal must invite the applicant to appear before the Tribunal to give evidence and present arguments relating to the issues arising in relation to the determination or decision under review.

...

Party's Submissions

35. The Appellant submits that the information from the JI website relating to the reason for the leaders' arrests, the rationale for the trial at the ICT and the information concerning the detention of Mr Islam and Mr Mujahid, was part of the reason for affirming the Secretary's decision because it was relied on to assess the Appellant's knowledge of JI and to conclude that the Appellant did not attend the Dhaka rally in 2012, and was not an active member of JI.

36. The Appellant submits that there was no reference to the website, or reason for the leaders' arrest, in the Secretary's decision, or the submissions to the Tribunal. The Tribunal also neglected to disclose the information to the Appellant in the hearing, or otherwise give the Appellant an opportunity to comment on the information. The Tribunal also did not mention Mr Islam at all during the hearing, and the Appellant in fact said at the hearing that the other speaker was "Samsuj Zaman". The Tribunal failed to afford the Appellant natural justice by not giving the Appellant an opportunity to comment on the information on the website, or the information that Mr Islam and Mr Mujahid were in detention at the time of the rally, and could not have attended.

37. In relation to ss 22 and 40 of the Act, the Appellant referred the Court to a number of authorities that the Appellant says support their submission that the Tribunal breached the natural justice requirements of ss 22(b) and 40(1) because the Tribunal failed to advise the Appellant of any adverse material, or adverse conclusions not obviously open on the material.[15]

38. The Respondent submits that the Tribunal did not fail to act according to the principles of natural justice. The key issue in the review, according to the Respondent, was whether the Appellant attended the rally in August 2012, and was a member of JI. This was "abundantly clear" to the Appellant.[16] In any event, the information from the JI website was only relevant insofar that it revealed the Appellant's lack of knowledge about JI and its leaders, and no inference of fact was drawn from the material. The

[15] *DWN 066 v Republic* [2017] NRSC 23 ; *Minister for Immigration and Border Protection v SZSSI* [2016] HCA 29; *Re Minister for Immigration & Multicultural Affairs; Ex parte Miah*
[16] Respondent's Submissions [9].

Respondent submitted that natural justice did not require the Tribunal to put such material to the Appellant.

39. In addition, the Tribunal specifically put to the Appellant that Mr Mojaheed was detained and would not have been able to speak at the rally.[17] The Appellant was given an opportunity to comment and said that the allegations were false,[18] and the Appellant's representative said that there was no evidence that Mr Mojaheed was not allowed to attend the rally, despite the trial, or was intended to speak at the rally but had to pull out because of the conflict.[19] The Respondent contends that there was therefore no breach of natural justice and the appeal should be dismissed.

CONSIDERATIONS

40. Most of the Australian authorities put before the Court in submissions are in the context of claims under s 424A of the Migration Act 1958 ("Cth") ("Migration Act"), however *Kioa v West*[20] considered the common law principles of natural justice and discussed the circumstances in which an Applicant is entitled to reply to adverse information. This suggests that the question of "Does the information have a dispositive relevance or is it going only to the credibility of the person?"[21], as framed by the Appellant, is relevant to the current case.

41. The case of *Kioa v West* has been approved of by this Court[22] in previous cases when considering the principles of natural justice in the context of an appeal against a decision of the Tribunal. As held by Brennan J:

> *"A person whose interests are likely to be affected by an exercise of power must be given an opportunity to deal with relevant matters adverse to his interests which the repository of the power proposes to take into account in deciding upon its exercise...*[23] *The person whose interests are likely to be affected does not have to be given an opportunity to comment on every adverse piece of information, irrespective of its credibility, relevance or significance. Administrative decision-making is not to be clogged by enquiries into allegations to which the repository of the power would not give credence, or which are not relevant to his decision or which are of little significance to the decision which is to be made.*
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> ....
>
> *Nevertheless in the ordinary case where no problem of confidentiality arises an opportunity should be given to deal with*

[17] See T36 – 37.
[18] See [25] above.
[19] T116 ln 24 – 26.
[20] *Kioa v West* (1985) 159 CLR 550 at 588 (per Mason J)
[21] Transcript p 20 ln 41 – 44.
[22] *DWN066 v R* [2017] NRSC 23; *ROD122 v R* [2017] NRSC 39
[23] *Kioa v West* (1985), Brennan J, cites *Kanda v. Government of Malaya* [1962] UKPC 2; (1962) AC 322, at p 337; *Ridge v. Baldwin*, per Lord Morris at pp 113-114; *De Verteuil v. Knaggs*, at pp 560,561

adverse information that is credible, relevant and significant to the decision to be made. ... There was nothing in the circumstances of the case - neither in the administrative framework created by the Act nor in any need for secrecy or speed in making the decision - which would have made it unreasonable to have given Mr and Mrs Kioa that opportunity. The failure to give Mr Kioa that opportunity amounts to a non-observance of the principles of natural justice." [24] (emphasis added)

42. In *MZXBQ v Minister for Immigration and Citizenship and Another*[25] the claim was in relation to s 424A of the Migration Act. The Appellant claimed to have a well-founded fear of persecution on the basis of his political opinion. His claim was rejected and he sought merits review. At a hearing before the Tribunal, the Appellant was questioned about monetary contributions from his friends to provide a bond for his release from immigration detention. The Tribunal indicated that the information was relevant to an assessment of the Appellant's credibility but it did not mention the information in the written statement of the decision.

43. Upon review by the Federal Magistrates Court, it was found that, as the information was not "the reason, or a part of the reason, for affirming the decision", s 424A was not enlivened. Upon appeal, Heerey J found that s 424A was not enlivened as the information went to the Appellant's credibility only.

44. The Respondent in this matter before the Court highlighted what was said in *MZXBQ:*

> *"SZBYR 81 ALJR 1190; 235 ALR 609, and in particular [17] of the majority judgment, essentially says that the Tribunal must assess the "information" in question in terms of its dispositive relevance to the Convention claims advanced by the applicant before the Tribunal. For example, let it be assumed an applicant claimed a fear of persecution in a country because he was a Christian, and the Tribunal has a written statement from X that the applicant said to him he never was a Christian and had invented the claim in order to get a visa. If true, X's statement, being "evidentiary material or documentation", would be a reason for the Tribunal's affirming the refusal of a visa. It would "undermine" his claims to have well-founded fear of persecution by reason of religion. By contrast, a statement by Y that the applicant had worked in Australia under a false name would at best only go to the applicant's credibility...*
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> *It can also be noted that the section speaks of information that "would" be the reason etc, not "could" or "might". This is another*

[24] *Kioa v West* (1985)) 159 CLR 550 at 38
[25] *MZXBQ v Minister for Immigration and Citizenship and Another* [2008] FCA 319.

indication that information merely going to credibility is not within the section. An applicant may be disbelieved on some issues, but believed on others, or the applicantion may be determined one way or the other by issues unrelated to credibility. Lack of credibility in itself does not necessarily involve rejection, denial or undermining of an applicant's claims."[26]

45. The Australian High Court case of *Miah*[27] found that the delegate had failed to accord the Applicant natural justice by not informing him of the new information the delegate relied on in making his decision. Mc Hugh J said:

> "*Examples of material that would not require comment by the applicant would include non-adverse country information, favourable or corroborative information in the public domain and information based on the circumstances already described in the application. But there are cases where the exercise of this power does require that the applicant be given an opportunity to comment on the material. An example is where the delegate proposes to use new material of which the applicant may be unaware and which is or could be decisive against the applicant's claim for refugee status. The need for disclosure by the delegate is even stronger where the material concerns considerations that have changed since the date of application and is being used after considerable delay. It is stronger still when the material is equivocal or contains information that the applicant could not reasonably have expected to be used in the way the delegate uses it.*"[28]
> (emphasis added)

46. The Respondent submits, at [14] of the supplementary submissions, that the information about the reason for the arrest of the JI, and the rationale for their trial, "contained undisputed statements of fact that were not adverse to his interests but which were used to test his knowledge of JI and its leaders".

47. At the hearing, Mr Gormly accepted that the information was relied on by the Tribunal to undermine the Appellant's claims,[29] however, Mr Gormly further submitted:

> "*The information is in respect of the claim directly. It's about what happened to these 10 JI leaders. The appellant said they were just*

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[26] *MZXBQ v Minister for Immigration and Citizenship* [2008] FCA 319 at [27]-[29].
[27] *Re Minister for Immigration and Multicultural Affairs; Ex parte Miah* (2001) 206 CLR 57
[28] Ibid., at [141].
[29] Transcript p 25 ln 3 – 5.

arrested for some made up reason. The tribunal have said, "Well, that made up reason was war crimes and you should have known that, and because of that I'm going to conclude in part – not in full, but in part that's all that's required. You didn't attend the rally and you're not an active member." There's a connection in ground 2 with the specific knowledge the tribunal has 2 JI leaders. The information is that they were detained and therefore couldn't have been at the rally, and then that set off that rather torturous reasoning that, "You should have known that they wouldn't have been at the rally," and you said you were anticipating to see them there. You didn't see them there but you should have because their would have been advertised or cancellation notices would have been put up."[30]

48. This suggests that the question "Does the information have a dispositive relevance or is it going only to the credibility of the person?"[31], as framed by the Appellant, is relevant to the current case. As set out by Mr Gormly (see [47] above), the information may relate directly to the Appellant's claims.

49. Extrapolating from the fact that the Appellant was not aware of the reasons for the JI leaders' arrest, and the rationale for the trial, the Tribunal concluded, firstly, that the Appellant did not attend the rally, and, secondly, that the Appellant was not a member of JI.

50. Furthermore that the two particular JI leaders were in detention at the time of the rally (whom the Appellant believed to be speaking at the rally), the Tribunal drew the same conclusions. In the same way that information that the Applicant was not a Christian was a reason for refusing the visa in the example provided in *MZBQB*, information that the Appellant could not have been at the rally was a reason for refusing refugee status here.

51. The information relied upon by the Tribunal of the arrest and trial of the JI leaders, and detention of two key leaders at the time of the rally, was "credible, relevant and significant" to the Tribunal's decision. The information falls within the example of disclosable material provided by McHugh J in *Miah.*

52. The information relied upon by the Tribunal has "dispositive relevance" and should have been put to the Appellant for comment; the appeal succeeds.

ORDER

53. (1) The Appeal is allowed.

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[30] Transcript p 25 ln 13 – 24.
[31] Transcript p 20 ln 41 – 44.

(2) The decision of the Tribunal TFN 14052 dated 16 January 2015 is quashed.

(3) The matter is remitted to the Refugee Status Review Tribunal under section 44(1)(b) for reconsideration according to law.

Judge Jane E Crulci

Dated this 10 July 2017

THE SEAL OF THE SUPREME COURT
REPUBLIC OF NAURU