

**NOTE: THE CONFIDENTIALITY OF THE NAME OR IDENTIFYING PARTICULARS OF THE APPLICANT AND OF HIS CLAIM OR STATUS MUST BE MAINTAINED PURSUANT TO S 151 OF THE IMMIGRATION ACT 2009.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 26/2015  
[2015] NZSC 91**

BETWEEN

SK  
Applicant

AND

THE IMMIGRATION AND  
PROTECTION TRIBUNAL  
First Respondent

THE CHIEF EXECUTIVE, MINISTRY  
OF BUSINESS, INNOVATION AND  
EMPLOYMENT  
Second Respondent

Court: William Young, Glazebrook and Arnold JJ

Counsel: Applicant in person  
D L Harris for the First Respondent  
S M Earl for the Second Respondent

Judgment: 24 June 2015

---

**JUDGMENT OF THE COURT**

---

- A The application for leave to appeal is dismissed.**  
**B Costs of \$2,500 are payable to the second respondent.**
- 

**REASONS**

[1] Mr SK, the applicant, is a citizen of Bangladesh whose claim for refugee and/or protected person status was declined by a Refugee and Protection Officer on

17 January 2014. His appeal to the Immigration and Protection Tribunal was dismissed on 28 May 2014.<sup>1</sup>

[2] The Tribunal decided to dispense with an oral hearing as it considered the appeal to be prima facie manifestly unfounded.<sup>2</sup> On the merits, the Tribunal considered that any risk of serious harm was speculative and remote.<sup>3</sup> There was thus no well-founded fear of persecution<sup>4</sup> and no risk of torture, cruel treatment or arbitrary deprivation of life if Mr SK were deported.<sup>5</sup>

[3] On 31 October 2014, the High Court declined Mr SK's application for leave to appeal under s 245 of the Immigration Act 2009 and leave to bring judicial review proceedings under s 249 of the Act.<sup>6</sup>

[4] In the Court of Appeal, Mr SK pursued only the application for leave to bring review proceedings. The Court of Appeal declined that application on 25 February 2015.<sup>7</sup>

[5] Mr SK now seeks leave to appeal to this Court. He says that he should have been given an oral hearing in the Tribunal, and that the Tribunal overlooked relevant evidence and that it failed to draw the correct inferences from the evidence.

### **Our assessment**

[6] Essentially Mr SK is seeking to challenge the findings of fact made in the Tribunal (including that the claim was prima facie manifestly unfounded). These findings of fact were particular to his circumstances and nothing raised suggests they were in error. They do not raise issues of general or public importance.

[7] The test for leave to appeal to this Court is not met.<sup>8</sup>

---

<sup>1</sup> *[Re SK]* [2014] NZIPT 800659 [*SK* (IPT)] at [4].

<sup>2</sup> At [4] and [8]. This was pursuant to s 233(3)(b) of the Immigration Act 2009.

<sup>3</sup> At [34].

<sup>4</sup> At [35].

<sup>5</sup> At [41] and [46].

<sup>6</sup> *SK v Immigration and Protection Tribunal* [2014] NZHC 2693 (Faire J) [*SK* (HC)].

<sup>7</sup> *SK v Immigration and Protection Tribunal* [2015] NZCA 26, [2015] NZAR 335 (Randerson, Winkelmann and Venning JJ) [*SK* (CA)].

<sup>8</sup> As this is the case, we do not need to make any comment on s 249 of the Immigration Act.

[8] The application for leave to appeal is dismissed with costs of \$2,500 payable to the second respondent.<sup>9</sup>

Solicitors:  
Crown Law Office, Wellington for First Respondent  
Meredith Connell, Auckland for Second Respondent

---

<sup>9</sup> Costs are not sought by the first respondent as it indicated it would abide by this Court's decision.