



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/02320/2013

THE IMMIGRATION ACTS

Heard at Field House
On 1 July 2013

Determination Promulgated
On 6 August 2013

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

HARWINDER KAUR

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance or representation
For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, a citizen of India, appeals with leave against the decision of First-tier Tribunal Judge Crawford dismissing her appeal against the respondent's refusal to grant her leave to remain in the UK as a Tier 4 (General) Student Migrant under the points-based system and to refuse her a biometric residence permit. The application

was refused under paragraphs 245ZX(c) and (d) of the Immigration Rules HC 395 as amended.

2. The appellant did not appear or arrange representation at the Upper Tribunal hearing.

Background

3. The appellant was last granted leave to enter the United Kingdom as a Tier 4 (General) Student Migrant, which expired on 2 November 2011. Her application for further leave was made out of time, because the appellant's first submission failed when the issuing bank refused payment on her bank card.
4. The appellant provided a Confirmation of Acceptance for Studies (CAS) assigned by Equinox College. By the time the respondent's decision was made on 2 January 2013, Equinox College was no longer a Tier 4 Sponsor. The appellant has never provided any other certificate of approval for studies.

Permission to appeal

5. Permission to appeal was granted on the appellant's grounds which argued that the respondent failed to apply its policy of granting a further 60 days' leave in order to regularise her stay.
6. The second ground relates to a decision under Section 47: although there is mention of Section 47 removal in paragraph 10 of the grounds of appeal, the respondent's decision dated 4 January 2013 contained no Section 47 decision. The appellant's representatives erred in the grounds of appeal and that element of the grant of permission is erroneous.

Rule 24 Reply

7. On 13 June 2013, the respondent served a Rule 24 reply dated 13th June 2013 which contains the following two relevant paragraphs:
 - “3. The First-tier Judge states at paragraph 9 that the appellant did not have the required funds available in her bank account to pay for her application and therefore her application was declined. It is submitted that the appellant does not have a right of appeal as leave to remain had expired by the time she submitted the second application.
 4. Further or in the alternative the First-tier Judge found that the appellant was not in possession of a valid CAS at the date of decision. Therefore the judge correctly found that the appellant could not meet the requirements of the Rules.”

Discussion

8. The appellant has not attended or sent any representative or written representations to assist the Tribunal in dealing with her appeal. Both in relation to her finances, and to the CAS provided, the respondent's arguments in the Reply are valid. Her

application could not succeed, even if it had been submitted at a time when the appellant had extant leave to remain.

9. The appellant has not satisfied me that there is a material error of law in the First-tier Tribunal's determination. The First-tier Tribunal determination is upheld.

Conclusions

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law. I do not set aside the decision.

Anonymity

The First-tier Tribunal did not make an order pursuant to Rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

Signed

Date

Upper Tribunal Judge Gleeson