



The Upper Tribunal
(Immigration and Asylum Chamber)

Appeal number: IA/11914/2013

Heard at Field House
On 9 October 2013

Determination sent
11 October 2013

THE IMMIGRATION ACTS

Before

Upper Tribunal Judge Clive Lane

Between

RUMANA BEGUM

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the appellant: Mr Hossain, A1 Law Chambers

For the respondent: Mr Tarlow, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, Rumana Begum, was born on 5 January 1991 and is a female citizen of Bangladesh. She appeals to the Upper Tribunal against the determination of the First-tier Tribunal promulgated on 12 August 2013 dismissing her appeal against the decision of the respondent dated 18 April 2013 cancelling her leave to enter the United Kingdom.

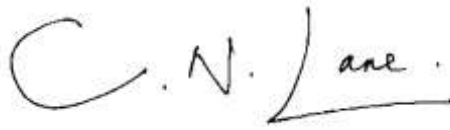
2. The college to which she had applied to study has the status of “Highly Trusted Sponsor” and had issued a CAS in respect of her application to study there and on the basis of her score in relevant English language test. However, upon her arrival in the United Kingdom, she had been interviewed by the respondent’s officers who had concluded that she had made false representations as regards her ability to speak English; it is recorded by the officers that the appellant could communicate with them only with the assistance of an interpreter.
3. The First-tier Tribunal had concluded that the appellant had not used deception to obtain her place at the college [14]. The judge had, however, found that there had been a “fundamental change of circumstances” such that the appellant’s appeal fell to be dismissed under paragraph 321A(1) of the Immigration Rules [14].
4. Mr Tarlow, for the respondent, did not seek to persuade me to uphold the First-tier Tribunal’s determination. He acknowledged that it made little sense for the judge to characterise the difficulties which the appellant had experienced in speaking to the immigration officers as a “change of circumstances” within the meaning of paragraph 321A; it was unlikely that the appellant’s ability to communicate in English had deserted her *en route* to the United Kingdom and it made no sense for the judge to have gone behind the CAS and test results, the authenticity of which the respondent had not challenged. The position of students entering the country is as described by the Upper Tribunal in **Khaliq (entry clearance- paragraph 321) Pakistan [2011] UKUT 00350 (IAC)**:

We reach that conclusion with no enthusiasm. The appellant has been judicially assessed as untruthful. He has been prepared to deceive others as to the level of his competence in English. He has arrived to undertake a course that his Highly Trusted Sponsor college admitted him for, but says that it would have difficulty in delivering to him. But the UKBA’s decision to allow colleges, rather than Entry Clearance Officers, to assess whether students should be admitted, and to remove from both Entry Clearance Officers and Immigration Officers the power to reach any view independent of the colleges (most of which have a clear financial motive to admit as many students as possible) forces us to the conclusion we have reached. It is one which demonstrates that the Immigration Rules, as in force at the relevant time, provide little security against the admission of what may be described as bogus students. Changes have since been made, but they do not affect this appeal.

5. In the circumstances, I find that the First-tier Tribunal erred in law such that its determination falls to be set aside. I remake the decision allowing the appeal against the respondent’s decision to cancel the appellant’s leave to enter.

DECISION

This appeal is allowed. I have remade the decision. The appellant's appeal against the decision of the respondent dated 18 April 2013 is allowed under the Immigration Rules

A handwritten signature in black ink that reads "C. N. Lane". The signature is written in a cursive style with a horizontal line underneath the name.

Signed
Upper Tribunal Judge Clive Lane

Dated 9 October 2013