



**Upper Tribunal
Immigration and Asylum Chamber**
IA/23452/2013

Appeal Number:

THE IMMIGRATION ACTS

**Heard at: Birmingham
Promulgated
On: 4 September 2014
September 2014**

Decision

On: 5

Before

Upper Tribunal Judge Pitt

Between

Secretary of State for the Home Department

Appellant

and

Mazharul Haque

Claimant

Representation:

For the Appellant: Mr Mills, Senior Home Office Presenting Officer
For the Claimant: Not present

DETERMINATION AND REASONS

1. The claimant is a citizen of Bangladesh and was born on 10 October 1990.

2. For the purposes of this decision I refer to the Secretary of State as the respondent, her position before the First-tier Tribunal.
3. This is the Secretary of State's appeal against the determination promulgated on 10 January 2014 of First-tier Tribunal Judge Bart-Stewart which refused the claimant's Tier 4 and Article 8 appeals but allowed the case to the extent that the s.47 removal decision was found not lawful.
4. The claimant initially appealed against the decision of Judge Bart-Stewart but in a letter dated 28 January 2014 withdrew that challenge before it was considered. In so far as the decision of Judge Bart-Stewart refused the Tier 4 and Article claims, therefore, it stands.
5. The respondent was correct, in my view, to appeal the judge's decision regarding the s.47 notice and the First-tier Tribunal equally correct to allow the application for permission to appeal out of time. The provisions of s.51 of the Crime and Courts Act 2013 amended the legislation to the effect that the respondent was able to make a s.47 removal decision at the same time as refusing the substantive appeal. The s.47 decision was therefore lawful and Judge Bart-Stewart in error in finding it to be otherwise.
6. For these reasons, I set aside the decision of the First-tier Tribunal to the limited extent set out above and remade it, finding the s.47 removal decision to be lawful.

DECISION

12. The decision of the First-tier Tribunal contains an error on a point of law only in relation to the s.47 notice. That part of the decision only is set aside and remade, the s.47 notice being found to be lawful.

Signed: 
Upper Tribunal Judge Pitt

Date: 4 September 2014