



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: IA/01064/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 29 October 2014**

**Decision & Reasons
Promulgated
On 19 January 2015**

Before

UPPER TRIBUNAL JUDGE CONWAY

Between

**MS SHAMIN ARA ALAM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Hassan
For the Respondent: Mr Duffy

DECISION AND REASONS

1. The Appellant is a citizen of Bangladesh born in 1988. She appealed against a decision of the Secretary of State made on 10 December 2013 to refuse to vary her leave to remain as a Tier 4 (General) Student Migrant under the points-based system and for a Biometric Residence Permit. The application was refused under paragraph 245ZX(a) and 322(1A) of the Immigration Rules.

2. The Appellant had claimed 10 points for Maintenance (Funds) under Appendix C however the Secretary of State considered that documents submitted with the application had been forged. As false documents had been submitted the application was refused under paragraph 322(1A). No points were awarded under maintenance (paragraph 245ZX).
3. The Appellant appealed.
4. Following a hearing at Richmond on 15 July 2014 Judge of the First-tier Monro dismissed the appeal. Her conclusions are at paragraph 9ff. She noted that the sole issue was whether or not the documents relating to a bank account in the name of the Appellant's father were genuine.
5. At [11] she stated: *'The Appellant submitted a letter from the bank certifying that Md Faqrul Alam had been maintaining a Savings Deposit Account under number 0101 1220005217 4 with the bank; the closing balance on 23.12.2012 was BDT18,14,172.00 since 1.10.12. A bank statement covering the period 2.10.2012 until 19.12.2012 was provided'*.
6. She went on (at [12]): *'The Document Verification Report records that a visa assistant from Bangladesh contacted the Topkhana Road Branch of First Security Islami Bank to enquire about the account held in the name of Md Faqrul Alam under Account Number 0101 1220005217 4. The bank representative confirmed that the bank records indicate that this account does not exist so the solvency certificate and bank statement are both forged'*.
7. She noted (at [13]) that the Appellant had for the hearing submitted a *'letter from the Manager of the branch confirming that the account is genuine, has been opened since 28.12.2009 and that the bank had not been contacted by the British High Commission about Md Faqrul Alam'*.
8. Going on to consider case law in relation to paragraph 322(1A) she concluded (at [15]): *'The Appellant has sought to address the allegation that the bank documents submitted are not genuine by providing another letter from the bank stating that they are genuine. However the new letter does not confirm that the previous letter was genuine; does not confirm that the person who signed it was a bank employee; and does not provide any identification documents used to open the account; or copy correspondence between the Appellant's bank and the Appellant's father, to demonstrate that this account exists and has done so since 2009. There was no reason for the Home Office official to fabricate a conversation with the bank, and in the absence of far more cogent evidence to rebut the allegation (she found) that the refusal under paragraph 322(1A) was well founded and that deception was used in the application'*.
9. The judge concluded by finding that the Appellant could not succeed under Article 8.
10. The Appellant sought permission to appeal which was granted on 19 September 2014.

11. At the error of law hearing before me Mr Hassan made two brief points. First, the judge had not considered all the material before her which included deposit slips stamped by the bank and the official envelope in which the later letter from the bank was contained. Secondly, Mr Hassan questioned whether the judge had applied the correct burden of proof in finding dishonesty which was on the Respondent.
12. In reply Mr Duffy submitted that the judge's findings and conclusions were adequate. As the verification report clearly indicated that the bank letter was not genuine it would have been difficult to give weight to other items from the same source. As for the burden of proof it was clear that the judge had found that the verification report had discharged that burden.
13. In considering this matter as indicated the only issue is whether or not the bank document is genuine.
14. The judge correctly noted **Adedoyin (Nigeria) [2010] EWCA Civ 773** and the requirement in the context of paragraph 322(1A), where false documents or information have been submitted that '*dishonesty or deception is needed*'.
15. In finding (at [15]) that deception was used, the judge did not place reliance on the second letter. She did not find that a plausible explanation for the Respondent's concerns had been proffered. She noted that the second letter did not confirm that the previous letter was genuine, did not confirm that the person who signed the first letter was a bank employee, did not provide any identification documents used to open the account, or copy correspondence between the bank and the Appellant's father to demonstrate that the account exists and has done so since 2009. Also, that there was no reason for the Home Office to fabricate a conversation with the bank. These were findings the judge was entitled to make on the evidence before her.
16. Whilst the judge did not specifically refer to the burden of proof being on the Respondent to establish dishonesty it is clear that the judge in accepting for the clear and sustainable reasons she gave that the documentary verification report was accurate was finding that that report discharged the burden.
17. It is correct that the judge did not refer to the envelope that the second letter was apparently submitted with and various deposit slips. I agree with Mr Duffy that the judge for good reason having found that that bank letter could not be relied on, could not have given weight to the items from the same source.
18. For the reasons stated the judge's findings and conclusion that the bank document lodged with the application was a false document in which dishonesty or deception had been shown were sustainable.
19. The First-tier Tribunal's decision shows no material error of law and the decision dismissing the appeal under the Immigration Rules shall stand.

No anonymity direction is made.

Signed

Date

Upper Tribunal Judge Conway