



IAC-FH-AR-V1

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

Appeal Number: IA/22591/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 18 August 2015**

**Decision & Reasons Promulgated
On 21 August 2015**

Before

UPPER TRIBUNAL JUDGE ESHUN

Between

**RAMAKRISHNA REDDY SAKRIMOLA
(ANONYMITY DIRECTION NOT MADE**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Balroop, Counsel, instructed by Shri Venkateshwara Solicitors

For the Respondent: Mr T Wilding, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Robinson dismissing his appeal against the decision of the respondent dated 15 May 2014 to refuse his application for leave to remain as a Tier 1 (Entrepreneur) Migrant.
2. FtTJ Robinson decided the appeal on the papers at the request of the appellant.

3. The respondent refused the appellant's application on the basis that he had not submitted any evidence to demonstrate that he had registered with HM Revenue and Customs as self-employed or registered as a director of a new or existing business, as detailed in paragraph 41-SD(e) (v). The document the Secretary of State required was the Companies House Current Appointments Report.
4. It was not disputed by Mr Balroop that when the appellant made his application on 1 April 2014 he did not submit with it the Companies House Current Appointments Report. The appellant submitted a letter from Companies House dated 14 March 2014 congratulating him on his recent appointment as a company director. This document as far as the respondent was concerned did not comply with the requirements in Appendix A.
5. The appellant submitted an appeal statement in which he stated that before the expiry of his leave under post-study work, he made an application under Tier 1 (Entrepreneur) Migrant category along with a team partner, Mr Durgaprasad Veerapalli. His team partner's application was approved by the Home Office but his application was reused for not providing the Current Appointments Report, which he was now submitting with his appeal statement in support of his application.
6. He stated that in a letter dated 6 August [sic] 2014 the respondent sent him a letter stating that they were prepared to reconsider his application. The letter from the Home Office Sheffield Development Team 5 identified what was described as "a minor omission regards to the evidence that has been submitted" and invited the appellant to submit the Companies House Current Appointments Report within seven days. The judge noted that the report was included in the papers appended to the notice of appeal but there was no indication of when it was lodged with the Home Office. The report was "created: 21/05/2014 15:48:15".
7. The judge noted as follows:
 - "10. Paragraph 41-SD(e)(v) of Appendix A provides that:

'(2)(a) if claiming points for being a director of a UK company at the time of his application, a printout of a Current Appointments Report from Companies House, dated no earlier than three months before the date of the company that is actively trading and not dormant, or struck off or dissolved on in liquidation and showing the date of his appointment as director of the company, and ...'
 11. It is not in dispute that the appellant did not produce documentary evidence from Companies House in accordance with the preceding paragraph. He claims that the Home Office wrote to him pointing this out and giving him the opportunity to send the documents within 7 days. A letter from the Home Office dated 2 May 2014 was included in documents sent to the Tribunal. On 15 May 2014 the application was refused.
 12. It is apparent from documents submitted by Companies House that the Current Appointments Report was generated on 21/5/2014 15:48:15.

This is clearly printed on the first page of the document. It follows that the Current Appointments Report was not submitted by the appellant with the application which was dated 1 April 2014 and was not submitted within the 7 day period given by the Home Office. It was not generated until after the decision was made.

13. I have carefully considered the documentary evidence filed in support of the appeal.
 14. At the time he made the application he did not have the required evidence from Companies House.... I take the view that the evidence referred to was not filed with the application and was not considered by the respondent who had contacted the appellant in writing and gave him an opportunity to rectify his omission. I take the view, following the Upper Tribunal's decision in **Ahmed** (see below) and that the additional evidence received after the date of decision, is not evidence that I am entitled to take into account.
 16. I have considered the appellant's grounds of appeal and I conclude that his application for leave to remain as a Tier 1 (Entrepreneur) is based in part, on evidence that did not exist on the date of the application or the date of decision. I have noted that the respondent gave the appellant an opportunity to send in the missing document, however, the document was not 'missing', it did not exist at the time the application was made. It is apparent that the appellant did not satisfy the relevant requirements of the Rules but was unable to do within the time scale given. His appeal must fail.
8. Permission to appeal the judge's decision was granted by First-tier Tribunal Judge Levin as follows:
- "It is arguable however that the judge erred in law by failing to consider in his decision the letter from Companies House dated 14 March 2014 at page C of the respondent's bundle and which clearly predated the appellant's application and which congratulated him on his appointment as a director of the company. This evidence was clearly material to the issue in the appeal and the judge's failure to consider it and to make a finding on whether it satisfied the requirements of paragraph 41-SD(v) of Appendix A amounts to a material error of law."
9. The basis for the grant of permission was wrong because the respondent had that letter and considered that it was not the required document for the purposes of Appendix A. That was why the respondent invited the appellant to submit that Companies House Current Appointment Report within seven days. The judge's failure to consider that letter did not amount to an error of law
 10. Mr Balroop submitted that the appellant was part of an entrepreneurial team. The appellant's partner's application was granted on 24 May 2015, nine days after the appellant's application was refused. He said they had made the application together. The appellant's partner had submitted the Companies House Current Appointment Report with his application to the respondent. As the appellant's partner had been named in the appellant's application and vice versa, the information required was before the respondent.

11. The issue before me is whether FtTJ Robinson erred in law in his decision. I find that he did not.
12. The judge was not to know why the appellant's team member's application was approved by the respondent. He did not know that the appellant's team member had submitted the Companies House Current Appointments Report with his application. There was also no explanation before him as to why the appellant did not submit the document with his application and no indication that the appellant was relying on the document submitted by his team member to support his application.
13. Mr Balroop submitted that the Secretary of State could have exercised her discretion to exceptionally grant the appellant's application. This was not an argument that has been raised before by the appellant. The Rules require that the appellant submit with **his** application the required documents. He did not submit the Companies House Current Appointments Report with his application and the respondent gave him seven days to submit it. He failed to do so. His application was refused. When the appellant lodged grounds against the respondent's refusal he merely gave general grounds. One of them was that he submitted an application for leave to remain in the UK under Tier 1 (Entrepreneur) within the valid period of application that is before the expiry of his previous leave to remain in the UK under Tier 1 (Post-Study Work). There was no explanation by him in his grounds that he had a team member who had submitted the required document with his application and that document had his name in it. There was therefore nothing in his grounds linking his application with that of his team member apart from the application form.
14. In the absence of the Companies House Current Appointments Report at the time the respondent made her decision, I find that the judge did not err in law in his decision.
15. The judge's decision dismissing the appellant's appeal shall stand.

Notice of Decision

The appellant's appeal is dismissed.

Signed

Date

Upper Tribunal Judge Eshun