



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

Appeal Number: IA/24102/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 29 May 2015**

**Decision & Reasons  
Promulgated  
On 03 June 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVID TAYLOR**

**Between**

**MR MD ALMUCH HOSSAIN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: None

For the Respondent: Mr P Duffy, Home Office Presenting Officer

**DECISION AND REASONS**

1. Although this is strictly an appeal by the Secretary of State I have, for the sake of consistency, continued to refer to the parties by their original designations in the First-tier Tribunal. The Secretary of State thus continues to be called "the respondent".

2. The Secretary of State has appealed, with permission, against the decision of First-tier Tribunal Judge G A Black who, in a decision promulgated on 12 February 2015, allowed the appellant's appeal, under the Immigration Rules, against the respondent's decision of 23 May 2014 refusing his application for further leave to remain as a Tier 4 (General) Student.
3. The appellant is a 28 year old citizen of Bangladesh who has been in the United Kingdom on a student visa since March 2011. He had leave to study an accountancy ACCA course at Bedfordshire College which he passed successfully. He also undertook, perfectly lawfully, a supplementary course at London West Valley College and obtained a postgraduate diploma in business administration on 25 March 2014. During the time of his studies Bedfordshire College had its sponsorship certificate withdrawn and the appellant, without seeking further leave from the respondent, continued his accountancy studies at London West Valley College where he had been on the supplementary course. He subsequently completed an MBA course with Sunderland University.
4. The appellant's application for further leave was refused by the respondent on 23 May 2014. It was refused because he had failed to seek permission from the respondent to transfer his main college from Bedfordshire College without seeking permission to transfer his main studies to London West Valley College. That was a breach of paragraph 322(3) of the Immigration Rules.
5. Judge Black, in allowing the appeal, held, at [18] that there was policy guidance in force at the relevant time allowing the appellant to undertake a supplementary course without permission. That was the basis of her decision to allow the appeal.
6. Permission to appeal was given on 9 April 2015 on the basis of the grounds submitted by the respondent. The essential parts of the grounds were as follows:
  - "4. It is not in dispute that the appellant did not inform the Secretary of State for the Home Department that he was studying at an institution other than the one for which he was granted leave to remain. It therefore then cannot be in dispute that the appellant fell foul of Section 50 of the Borders, Citizenship and Immigration Act 2009.
  5. If a student chooses to study at an institution different from the one for which leave was granted to study at, the student is required to make an institution specific application and obtain permission from the Secretary of State.
  6. It is accepted that the appellant's EBMA postgraduate diploma in business administration at the London West Valley College was a supplementary course of study. However, when the appellant continued to study there after Bedfordshire College had its

licence revoked, and he could not attend the ACCA course, the postgraduate diploma ceased to be supplementary.”

7. At the hearing before me the appellant appeared in person. He told me that he had dispensed with the services of his solicitors about a week ago. He said that he had not received copies of the grounds nor of the permission to appeal even though I was satisfied from the Tribunal file that copies had been sent both to him, at his correct and current address, as well as to his solicitors. They had not been returned by the post office. The appellant was assisted by a McKenzie friend. I explained the substance of the grounds in simple terms.
8. The appellant did not ask for an adjournment. Indeed, at the end of the hearing, he asked for a speedy decision because, he said, he had completed all his studies in the UK and now wished to return permanently to Bangladesh as quickly as possible because his mother is unwell.
9. In making his submissions, Mr Duffy relied on the grounds. The appellant had studied at his new college for his main subjects without obtaining permission from the respondent. That could not be regarded as a supplementary course. The First-tier Tribunal Judge, it was submitted, was wrong to have allowed the appeal. She had not taken the point that the appellant was studying at the new college as his main course. The decision should be set aside and should be re-made dismissing the appeal.
10. In reply Mr Hossain, with the assistance of his McKenzie friend (a qualified OISC practitioner) acknowledged that he had studied for both exams at the second college. He has passed all his exams including the final MBA course with Sunderland University. All his studies are now complete and he just wants to go back to Bangladesh as soon as possible. He does not want to have a black mark against his name for, apparently, having breached the Immigration Rules and that is the reason he opposes the respondent’s application today.
11. I am, however, satisfied, that the decision of the First-tier Tribunal does contain a material error of law such that it must be set aside. The grounds, as set out above, accurately represent the law and the Immigration Rules. The appellant was not permitted, under his student leave, to undertake his main course of studies at any college other than that which had previously been approved by the Secretary of State. In failing to make such a finding the First-tier Tribunal Judge erred in law and her decision must therefore be set aside.
12. It follows also that, for the reasons set out in the grounds, the appellant cannot succeed in his appeal. His appeal against the refusal to grant him further leave to remain as a student must be dismissed.

**Notice of Decision**

**The decision of the First-tier Tribunal contained a material error of law and is hereby set aside. I re-make the decision by dismissing the appeal of the appellant, Mr Hossain.**

**No anonymity direction has been requested and none is made.**

Deputy Upper Tribunal Judge David Taylor

**TO THE RESPONDENT  
FEE AWARD**

As I have dismissed the appeal I make no fee award.

Deputy Upper Tribunal Judge David Taylor