



IAC-CH- CK-V1

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

Appeal Number: IA/45108/2014

THE IMMIGRATION ACTS

**Heard at Columbus House,
Newport
On 15th July 2015**

**Decision and Reasons
Promulgated
On 17th July 2015**

Before

UPPER TRIBUNAL JUDGE POOLE

Between

**MR SANDEEP REDDY MAL REDDY
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr John Waite, Counsel

For the Respondent: Mr Irwin Richards, Home Office Presenting Officer

REMITTAL & REASONS

1. The appellant is a male citizen of India, born 10 October 1984. He made application in August 2014 for leave to remain as a Tier 4 (General) Student. The application was refused. He appealed that decision. He did not request an oral hearing.
2. The appeal was considered by Judge of the First-Tier Tribunal Ghani who dealt with the appeal without an oral hearing upon the basis of the papers before him. The appeal was dismissed and the reasons are

contained in a determination dated 17 February 2015, which runs to little more than one side of A4.

3. Paragraph 6 of the determination noted that the appellant “maintains that further grounds (of appeal) will be submitted” and that no further grounds had been submitted. Having the appeal dismissed the appellant sought leave to appeal upon the basis that further grounds had indeed been submitted and it is alleged that the First-Tier Tribunal Judge erred in law in deciding the appeal without reference to those further grounds.
4. The application then came before another judge of the First-Tier Tribunal who granted leave to appeal. That judge noted that further grounds were now on file and there was a Royal Mail “tracking” slip submitted as proof of delivery. The judge considered that it was arguable that the appellant had been deprived of a fair hearing and accordingly permission was granted.
5. Thus the matter came before me in the Upper Tribunal. Mr Waite was unable to add any further information. Mr Richards confirmed that the Home Office had not received a copy of the further grounds of appeal. Mr Richards noted that such further grounds were available and should have been placed before Judge Ghani. In the circumstances he could not resist the application and agreed that the matter should be remitted back to the First-Tier Tribunal as the appellant had been deprived of a fair hearing.
6. I announced my decision that through no fault of his the First-Tier Tribunal Judge had made a material error of law. The further grounds which purport to give an explanation as to the central issue of the appeal had been received by the Tribunal Office, but not placed before the judge. I consider that the appellant has been deprived of a fair hearing. The error was material to the outcome and it must be the case that Judge Ghani’s decision should be set aside and the appeal remitted back to the First-Tier Tribunal for a hearing *de novo*.

Signed

Date

Upper Tribunal Judge Poole