



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Number: IA/46341/2014**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 21 October 2015**

**Determination Promulgated  
On 4 November 2015**

**Before**

**UPPER TRIBUNAL JUDGE PLIMMER**

**Between**

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

Appellant

**and**

**ARTYK BASAROV**

Respondent

**Representation:**

For the Appellant: Mr Clarke, Senior Home Office Presenting Officer

For the Respondent: Ms Ahmad, Counsel

**DECISION ON JURISDICTION**

1. The appellant ('the SSHD') has appealed against a decision of First-tier Tribunal Judge Chamberlain dated 22 May 2015 in which he allowed the respondent's appeal under the Immigration Rules.
2. In succinct grounds of appeal the SSHD argued that the First-tier Tribunal had no jurisdiction to hear the appeal. After hearing from Mr Clarke, Ms Ahmad conceded that the First-tier Tribunal had no jurisdiction, and neither does the Upper Tribunal. Ms Ahmad was

entirely correct to make this submission. As the matter has been conceded I provide a summary of my reasons for agreeing with the parties that the First-tier Tribunal had no jurisdiction.

3. The SSHD made a decision dated 27 October 2014 to remove the respondent on the basis that he was guilty of deception in seeking leave to remain in the United Kingdom (UK) and as such he could only appeal after he had left the UK. That this is correct is clear from sections 82(g) and 92 of the Nationality, Immigration and Asylum Act 2002. Ms Ahmad accepted that human rights submissions were not made prior to the removal decision and as such section 92(4) of the 2002 Act did not avail the respondent – see R (on the application of Nirula) v SSHD [2012] EWCA Civ 1436 at [17 to 25].
4. The acceptance that the First-tier Tribunal had no jurisdiction to decide this appeal because the respondent did not have an in-country right of appeal is sufficient to dispose of these proceedings. The First-tier Tribunal did not have jurisdiction.

Signed:

Ms M. Plimmer  
Judge of the Upper Tribunal

Date:  
21 October 2015