



IAC-FH-CK-V1

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

Appeal Numbers: IA/46787/2014  
IA/46794/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 12 November 2015  
Oral determination given following  
hearing**

**Decision & Reasons Promulgated  
On 26 January 2016**

**Before**

**THE HONOURABLE LORD TURNBULL  
(SITTING AS A JUDGE OF THE UPPER TRIBUNAL)  
UPPER TRIBUNAL JUDGE CRAIG**

**Between**

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

Appellant

**and**

**MRS MARY ROSHMEY FRANCIS ASSISSI - FIRST RESPONDENT  
MR ARACAKAL THOMAS FRANCIS ASSISSI - SECOND RESPONDENT  
(ANONYMITY DIRECTION NOT MADE)**

Respondents

**Representation:**

For the Appellant: Mr E Tufan, Home Office Presenting Officer

For the Respondents: Mr A Kannangara, Counsel instructed by Legend Solicitors

**DETERMINATION AND REASONS**

1. This is the Secretary of State's appeal against a decision of First-tier Tribunal Judge Bird, who had allowed the appeals of Mrs and Mr Assissi against the Secretary of State's decision refusing to vary their leave to

remain in the United Kingdom as students and also to remove them by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006. For ease of convenience throughout this determination I shall refer to the Secretary of State, who was the original respondent, as “the Secretary of State” and to Mr and Mrs Assissi, who were the original appellants, as “the claimants”.

2. The facts can be summarised relatively briefly. Mrs Assissi, the first claimant, arrived in the UK on 21 February 2013 as a Tier 4 (General) Student with limited leave to remain until 30 September 2014. Her husband, who is the second claimant, arrived slightly later and was granted leave to remain as a dependent partner of the first claimant, also until 30 September 2014. Both claimants applied for further leave to remain but their applications were refused and the reasons for this decision are set out in the Secretary of State’s letter of 30 October 2014.
3. The claimants appealed against this decision and their joint appeal was heard before First-tier Tribunal Judge Bird sitting at Taylor House on 22 June 2015. The claimants were represented at that hearing but there was no appearance on behalf of the Secretary of State although the judge was in possession of the file which contained the documents which had been adduced on behalf of the Secretary of State. As already noted, in a Decision and Reasons promulgated on 29 June 2015 the judge allowed the claimants’ appeal and the Secretary of State now appeals against that decision, permission to appeal having been granted by First-tier Tribunal Judge Juliet Grant-Hutchison on 17 September 2015.
4. The issue is a very narrow one. It is not disputed that the first claimant is a genuine student. However, what is said on behalf of the Secretary of State is that she is not entitled to be awarded any points for maintenance (funds) because she has not satisfied the requirements set out within Appendix C of the Rules which are set out at Appendix C, 1B(d) and provide as follows:

“(d) If the applicant is applying as a Tier 4 Migrant, an original loan letter from a financial institution **regulated for the purpose of student loans** [my emphasis] by either the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) or, in the case of overseas accounts, the official regulatory body for the country the institution is in and where the money is held, which is dated no more than six months before the date of the application and clearly shows:

- (1) the applicant’s name,
- (2) the date of the letter,
- (3) the financial institution’s name and logo,
- (4) the money available as a loan,
- (5) for applications for entry clearance, that the loan funds are or will be available to the applicant before he travels to the

UK, unless the loan is an academic or student loan from the applicant's country's national government and will be released to the applicant on arrival in the UK,

- (6) there are no conditions placed upon the release of the loan funds to the applicant, other than him making a successful application as a Tier 4 Migrant, and
- (7) the loan is provided by the national government, the state or regional government or a government-sponsored student loan company or is part of an academic or educational loans scheme."

5. In support of her application the first claimant had submitted a letter from the Catholic Syrian Bank, which is an institution which is accepted by the Secretary of State for other purposes as being properly regulated by the Reserve Bank of India dated 3 September 2014 which states as follows:

**"LOAN SANCTION LETTER**

With reference to your application dated 01/09/2014, we are pleased to inform you that a loan of Rs.15,00,000/- (rupees 15 lakhs only) has been sanctioned to you for pursuing your overseas education on the following terms and conditions.

Nature of loan: loan for educational purposes

Amount sanctioned: Rs15,00,000/- (rupees 15 lakhs only)

Loan account number: [this is given]

Purpose: to pursue your higher education in the United Kingdom

Rate of interest: 11% p.a

Security offered: security as per bank's approved Norms

Formalities remain: all the bank formalities are fulfilled ...".

6. However, the Secretary of State determined that this letter did not satisfy the criteria set out in the Rules "because the Catholic Syrian Bank is not a financial institution regulated for the purpose of student loans". No other reason was given for the refusal of permission, it being said merely that "it has therefore been decided that you have not met the requirements as specified within the Immigration Rules and no points have been awarded for maintenance (funds)".
7. As already noted above, in Appendix P to the Immigration Rules where the list of financial institutions whose financial statements are accepted by the Secretary of State (within Table 1) in India the Catholic Syrian Bank is included and it is not suggested on behalf of the Secretary of State that this bank is not generally one whose financial statements are not acceptable. The issue is whether or not it satisfies the criteria of being regulated "for the purpose of student loans". The Rule requires at (d) that "in the case of an overseas account" it must be so regulated by the official

regulatory body for the country the institution is in and where the money is held”.

8. As noted, it is accepted that the bank is regulated for general purposes by the appropriate regulatory body for India which is the Reserve Bank of India but the suggestion is that there has to be a specific Regulation for the purpose of student loans. Before us on behalf of the Secretary of State it is said that the requirements of the rules are not satisfied because the claimants did not meet the criteria set out within (d)(7) although this is not specified in terms within the refusal letter, or indeed within the grounds themselves.
9. In her decision Judge Bird noted that it was “not clear where the [Secretary of State] obtained the information that the Catholic Syrian Bank was not an institution regulated to provide student loans” (at paragraph 12). She accordingly was satisfied that in the absence of a positive case to this effect put by the Secretary of State the institution was so regulated because the claimants had established that that bank was an institution which was regulated by the Reserve Bank of India. In our judgment Judge Bird was entitled so to find. It is clear and not in dispute that the bank is regulated for general purposes and this must include, because there is no evidence to suggest that it does not include, making loans to people who want to study and the wording requires merely that the financial institution is regulated for the purpose of student loans.
10. In the absence of any prohibition upon this bank making student loans the natural inference that must follow from the fact that it is regulated is that one of the purposes for which such loans are entitled to be made is student loans. Indeed it would be quite remarkable if a bank which is regulated by the Reserve Bank of India and recognised as being such should otherwise be prepared to make loans to students which are specifically stated as being for the purpose of pursuing “your higher education in the United Kingdom”.
11. Accordingly we then have to consider whether or not there can be any merit in the Secretary of State’s submission advanced now before us that the criterion set out within (d)(7) is not satisfied. The criterion which has already been set out above is that the loan must be “provided by the national government, the state or regional government or a government-sponsored loan company **or is part of an academic or educational loans scheme** [my emphasis]”.
12. In our judgment, clearly the relevant part of this requirement is those words which have been set out above in bold because it is in the alternative, so if the loan which is being given by the bank which we have already found to be authorised for among other purposes the purpose of the student loans can be said to be “part of an academic or educational loan scheme” this criterion would be satisfied. In our judgment, in order to make any kind of sense of these Rules at all the only sensible meaning of “an academic or educational loans scheme” must be that this is the

purpose of the loans which are being made because if a bank is prepared to make loans for the purpose of advancing academic or educational progress of a potential student that must be regarded as part of their academic or educational loans scheme. If this were not so it would follow that no loan from a bank for the purpose of education would be acceptable unless it was part of some formal "scheme" of which no information was placed before either Judge Bird or this Tribunal.


13. In these circumstances we find that Judge Bird was not only entitled to reach the conclusions she did which was that there was no basis upon which she could find that the requirements had not been satisfied but that upon the facts as put before her her decision was the right one. Accordingly this appeal by the Secretary of State must be dismissed and Judge Bird's decision affirmed.

**Notice of Decision**

**There being no error of law in Judge Bird's decision the Secretary of State's appeal is dismissed and Judge Bird's decision is affirmed.**

No anonymity direction is made.

Signed:

A handwritten signature in black ink that reads "Ken Craig". The signature is written in a cursive style and is centered on the page.

Upper Tribunal Judge Craig

Date: 20 January 2016