



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

Appeal Number: IA/27810/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 31 July 2017**

**Decision & Reasons Promulgated  
On 3 August 2017**

**Before**

**DR H H STOREY  
JUDGE OF THE UPPER TRIBUNAL**

**Between**

**MISS EKTA KAMLESHBHAI PATEL  
(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. The appellant, a citizen of India, has permission to challenge the decision of First-tier Tribunal Judge Bartlett sent on 26 July 2016 discussing her appeal against a decision made by the respondent on 20 July 2015 refusing her application for leave to remain.
2. No one appeared for or on behalf of the appellant but a fax was sent by her solicitors on 28 July 2017 stating that the appellant would not be

represented and was unable to represent herself. They requested that the case be dealt with on the papers. Having considered the circumstances I decided to proceed to hear the appeal in the absence of one of the parties. I heard brief submissions from Mr Duffy.

3. The appellant's ground is a singular one. She contends that the judge acted unfairly since despite the appellant sending a bundle of documents including a witness statement, the judge in her decision stated at paragraph 4 that "she did not submit a witness statement or a bundle of documents in support of her appeal".
4. I am not persuaded that the appellant has suffered procedural unfairness. The appellant notified the Tribunal on 11 July that she did not want an oral hearing. She did not at this time submit any appellant's bundle. In the event the judge did not deal with the appellant's case until the date it had originally been fixed for oral hearing, 12 July 2016, and the appellant's bundle was not forwarded to the Tribunal until the day before, 11 July. Production of her bundle was thus not in accordance with FtT directions for the submission of further evidence or submissions. Not only can the judge not be blamed for determining the appeal without reference to a late-submitted bundle, but I cannot discern any unfairness in the process.
5. If I had found procedural unfairness I would have found an error of law regardless of the materiality of the evidence on which the appellant sought to rely. For completeness, however, I shall briefly consider the appellant's ground as regards whether the contents of the appellant's bundle could have had any material impact on the judge's decision. In my judgment, their contents do not advance the appellant's case. Her appeal was made on human rights grounds and to succeed she would have had to show that the decision amounted to a disproportionate interference in her Article 8 rights. However, the judge's decision addressed the appellant's Article 8 circumstance both within and outside the Immigration Rules. The grounds wholly fail to identify any error in that assessment. To the extent that the appellant's bundle raised an issue concerning the fairness of the respondent's earlier decision to curtail her leave to remain as a student, the appellant has provided no evidence to show that she ever received such a letter or that her leave was curtailed. The appellant contends in her witness statement that the respondent wrongly failed to send her a letter giving her 60 days in which to find a new educational provider. The problem with that contention is that it was a matter for her to apply for further leave to remain as a student with the permitted period of her leave. The only application she made within that period was for leave to remain on the basis of family and private life on Form FLR(O). In such circumstances there was no obligation on the respondent to consider extending her leave to remain as a student.
6. For the above reasons:

The FtT Judge did not err in law and his decision to dismiss the appellant's appeal is upheld.

No anonymity direction is made.

Signed

Date: 2 August 2017

A handwritten signature in black ink that reads "H H Storey". The letters are cursive and connected, with a long tail on the final 'y'.

Dr H H Storey  
Judge of the Upper Tribunal