



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/ 28709/ 2015**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 6 July 2017**

**Decision & Reasons
Promulgated
On 13 July 2017**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

**PABITRA GHIMIRE
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

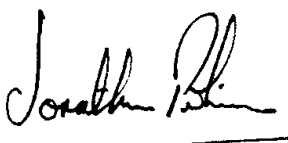
For the Respondent: Ms Z Ahmed, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant had not attended when I called the case on at 11.20. The papers show that she was given proper notice at her address. I have no reason to think she does not know about the hearing and, in the circumstances, I decided that it was right to continue in her absence.
2. This is an appeal brought with the permission of the First-tier Tribunal against the decision of First-tier Tribunal Judge Bartlett in a decision promulgated on 27 November 2016 dismissing the appellant's appeal against the decision of the respondent refusing her leave to remain as a student.
3. The application that led to the appeal was made in May 2012 and there has been intervention by way of judicial review. It is probably for this reason that the appellant was told that her rights of appeal were those available before the changes in the Rules and entitled her to appeal on the basis that the decision was not in accordance with the Rules. I do not have to decide if that was correct. That has been done and no-one has challenged it.

4. The First-tier Tribunal dealt with the case on the papers at the appellant's request.
5. The difficulty the appellant faces is that the Rules required her to have a Confirmation of Acceptance for Studies and she did not have one. This is common ground. She did not have one because the college had lost its status. It is well-understood that in those circumstances a person disadvantaged by reason of the college's failings, unless she had misbehaved would be entitled to a period to make a fresh application and the period is normally 60 days. That was granted in this case, so there is no "fairness" challenge.
6. As far as I can see the task before the judge was a simple one. It was to decide if the appellant satisfied the requirements of the Rules and on her own admission she did not. It seems to me that the decision to dismiss the appeal was inevitable.
7. There is a slight gloss on this. The appellant appeared to want a little extra time and she says that one of the reasons for wanting extra time is that she wanted to take another test of her command of the English language. I do not doubt why she wanted to do that. She had raised the point with the respondent and the respondent had said in the refusal that it was not necessary.
8. The appellant did not attend before me and is not able to explain her plans further.
9. I can see nothing wrong in the judge's approach or conclusions. The judge had identified the issues and reached a rational and, I suspect, the only possible conclusion on the evidence before her.
10. In the circumstances I find no error of law and I dismiss the appeal.

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Dated 12 July 2017