



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

HU/18589/2019 (V)

THE IMMIGRATION ACTS

Heard by *Skype for Business*
On 25 November 2020

Decision & Reasons Promulgated
On 3 December 2020

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

PREMNATH PALANISAMY

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr Turner, instructed by Greater London Solicitors Ltd
For the Respondent: Mr Diwyncz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Sri Lanka, born on 17 July 1990. He appeals against the decision of FtT Judge Evans, promulgated on 25 February 2020. Judge Evans found that the appellant had not used deception in obtaining his English language certificate, but dismissed his appeal.
2. The grounds of appeal to the UT arise from a consent order in prior proceedings between the parties in the Court of Appeal, which said that if the appellant succeeded in the FtT on the issue of deception, the respondent would “take reasonable steps to put him into the position [he] would have been as of 7 September 2015 ... had the allegation not been made”.
3. FtT Judge Bulpitt, granting permission, was of the view that while Judge Evans had not been addressed by reference to the consent order and to case law as he might have been, there was arguable error in not allowing

the appeal so that the appellant could be given a reasonable opportunity of securing further leave to remain, having been found not to have cheated.

4. I conducted the hearing today from George House, Edinburgh. Representatives attended remotely. The technology enabled an effective hearing.
5. Having heard submissions, I was satisfied that the point speaks for itself, and is an error of law, such that the decision cannot stand.
6. Having heard submissions also on remaking, I find it to be a disproportionate interference with the appellant's private life rights that he was deprived of the benefit of the respondent's undertaking in terms of the consent order.
7. It is to be expected that this decision will be followed by a grant of leave sufficient to satisfy that undertaking.
8. The appeal, as originally brought to the FtT, is allowed on human rights grounds.
9. No anonymity direction has been requested or made.



25 November 2020
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent.
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.

6. The date when the decision is “sent’ is that appearing on the covering letter or covering email.