Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: IA/01599/2013

THE IMMIGRATION ACTS

Heard at Field House	**Determination Promulgated**
On 1 July 2014	**On 31st July 2014**

Before

UPPER TRIBUNAL JUDGE JORDAN

Between

MRS MANPREET KAUR SANDHU

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Z Awan
For the Respondent: Mr T Wilding

DETERMINATION AND REASONS

1. The appellant Mrs Manpreet Kaur Sandhu is one of two appellants, the other being her husband, whose appeal was heard before First-tier Tribunal Judge Hembrough on 22 April 2013. His determination was promulgated on 26 April 2013. In the determination in relation to the appellant with whom I am concerned the judge dismissed the appeal.

2. The broad circumstances are these. On 10 May 2011 Tier 4 (General) Student Migrant leave was granted to the appellant or her husband as valid until 12 July 2014. A letter was prepared on 27 March 2012 written to the appellant curtailing her leave to 26 May 2012. That was a period two months, hence on the balance of probabilities that letter was not served. The reason why the curtailment decision was made was that the sponsor's licence was revoked on 7 July 2011.

3. Although the appellant stated that she was not aware of that revocation at the time it is apparent that she stated in a witness statement that sometime in September 2011 she returned to Union College and found that the building was closed. In her oral evidence she said that this was in October 2011 although she gave evidence that she was not sure at the time whether this was a permanent state of affairs. By January 2012 at the very latest she was aware that Union College had been permanently closed down. Accordingly these events have now taken place at least two and a half years ago. In that time, however, no steps have been taken by the appellant to obtain further education at an alternative education provider.

4. On 9 January 2013 it is accepted that the letter of 27 March 2012 was communicated. That was a finding that was made by Judge Hembrough, and so as from that date the applicant knew of the curtailment decision. At the same time removal directions were served.

5. It is common ground now that the removal directions were served in circumstances which were not in accordance with the law. The reason for that was that they were served at a time when the appellant had existing leave. That is something which is now accepted by the Secretary of State. It follows from that that the appeal has to be allowed to the extent that the decision was not in accordance with the law. That was the basis upon which the grounds of appeal were mounted before the Upper Tribunal and it is a challenge to the Section 10 decision. I am satisfied that that challenge has been made out and accordingly it was not open to the Secretary of State to issue removal directions on that occasion. In those circumstances that is an end of the appeal which is the appeal before the Upper Tribunal this morning.

6. There are arguments that were advanced by the appellant that the decision under challenge is also the decision to curtail leave and that was an immigration decision in itself which falls within paragraph 82(2)(d) being a refusal to vary a person's leave to enter or remain in the United Kingdom. I am not satisfied that that is a matter which is before the Upper Tribunal. The appeal that is before me is a challenge to the Section 10 decision.

7. The effect of the application is, according to the appellant, to extend the applicant's leave to a period when the appeal based upon the Section 82(2)(d) decision extends beyond 12 July 2014 when her current leave expires, thereby giving her yet further leave to remain whilst the appeal

process continues. I am not satisfied that that is a gloss that can properly be put on the matters which are before me. I confine myself to a decision in relation to Section 10 and I am satisfied that the appeal succeeds to the extent that that Section 10 decision was a decision which was not in accordance with the law.

8. At the conclusion of my judgment it has been drawn to my attention that it was not Section 82(2)(d) that was referred to but was Section 82(2)(e). That was not the way the argument was advanced before me but for the reasons that I have already given I am not satisfied that there is an immigration decision falling within Section 82(2)(e) which is before the Upper Tribunal in this decision.

Signed Date

Upper Tribunal Judge Jordan