



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

Appeal Numbers: IA/01721/2014  
IA/01922/2014  
IA/01923/2014  
IA/01924/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 15<sup>th</sup> September 2014**

**Determination**

**Promulgated**

**On 16<sup>th</sup> September 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON**

**Between**

**JUSTIN MOHANLAL PARERA  
PAULOMI JUSTIN PARERA  
CARRON PARERA  
AARNAV JUSTIN PARERA  
(NO Anonymity Direction Made)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms D Qureshi instructed by Malik Law Chambers  
For the Respondent: Mr S Whitwell, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellants are citizens of India and appeal against the decision of the respondent dated 16<sup>th</sup> December 2013 to refuse them leave to remain in the United Kingdom on under Paragraph 276ADE, compassionate grounds

outside the Immigration Rules, and on Article 8 grounds under the European Convention.

2. The first appellant arrived in the UK on a student visa on 26<sup>th</sup> September 2010 and the remaining appellants (his wife and children) arrived as dependents on 10<sup>th</sup> October 2010.
3. First-tier Tribunal Judge Prior dismissed the appellants' appeals in a determination promulgated on 30<sup>th</sup> May 2014.
4. Application for permission to appeal was made by the appellants stating the First Tier Tribunal Judge had erred in law. The decision could not be justified as necessary in the interests of a democratic society with a legitimate aim and proportionality was not adequately considered. The decision of the Secretary of State was not in accordance with the law. The appellants had been in the UK lawfully and cumulative factors should be considered such as the family members. This was a case falling outside the new rules. The Judge should have given independent consideration to the factors in the case and should have applied fairness. Also the decision was insufficiently reasoned.
5. Designated Judge of the First-tier Tribunal Zucker granted permission to appeal but it would appear this was an error because notwithstanding the grant in the title of the permission, the body of the permission rejected that there was an arguable error of law. I conclude this because the judge stated

*'The grounds which run to 26 paragraphs, with numerous sub-paragraphs, take issue with the Judge's approach to the issue of human rights and in particular that the Judge failed to have any or any sufficient regard to the wider application of Article 8 ECHR having regard to the guidance in a number of cited cases.*

*Though the grounds amount to something of an essay on the approach that should be taken by the Tribunal in relation to Article 8 ECHR claims generally, what the grounds do not adequately address is the fact that the Judge found the Appellant's evidence unreliable; see paragraph 13. The reasons for so finding by the Judge are adequately reasoned and in those circumstances the Judge was entitled to take the approach that was taken and find that there was no sufficient reason to look outside the rules.*

***The grounds point to no arguable material error of law'.***

6. I was invited to set this decision aside further to Rule 60 of the Asylum and Immigration Tribunal Procedure Rules 2005. This however applies to the First Tier Tribunal. Part 7 of the Tribunal Procedure (Upper Tribunal) Rules 2008 with reference to setting aside refers to decisions of the Upper Tribunal.

7. I have proceeded to consider whether there was an error of law. The judge recorded at [12] that the first appellant had been an educational consultant in India and therefore had the skills to set up a business there which would assist the family in reintegrating in India.
8. The judge made an assessment of the evidence and was clear in his making of an adverse finding of credibility against the first and second appellant. He found that the first appellant was 'thoroughly discredited' and, for example, noted that the first appellant's claim to be unable to practise his religion in India, was undermined by the lack of reference to him in a letter from the Pastor at St Joseph's and St Edmund's Catholic Church.
9. The judge also recorded that the appellants had family ties in India and had made no meaningful attempt to rely on sub paragraph 276 ADE(1)(vi) of the Rules.
10. Although brief the judge gave his reasons for dismissing the appeal. He had recorded the brief time in which the appellants had been in the UK and that they had exaggerated their integration by way of business in the UK. He clearly [14] did not accept the appellants would endure severe hardship on their return and at [15] asserted that the first three appellants could speak or understand Gujurati, the state from whence they came.
11. The determination of Judge Prior concluded after consideration of the elements of the appeal that there were no good grounds for consideration of the appellants' application outside the Rules and he dismissed the appeal on all grounds.
12. **Patel v SSHD UKSC 72** confirms that Article 8 is not a general dispensing power and considerations such as education do not by themselves provide grounds of appeal under Article 8 and this can be extended to running a business. As indicated by the Judge the first appellant has always known that his leave was limited and he can resume business activities in India. The Immigration Rules incorporate a consideration of the best interests of the child.
13. Judge Zucker in fact found no arguable error of law in the determination and nor do I.
14. I find that there was no error of law in the determination of First Tier Tribunal Judge Prior and the determination shall stand.

Signed  
2014

Date 15<sup>th</sup> September

Deputy Upper Tribunal Judge Rimington