



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/24263/2013

THE IMMIGRATION ACTS

Heard at Field House
On 4 February 2014

Determination Promulgated
On 20 February 2014

Before

UPPER TRIBUNAL JUDGE MOULDEN

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

MISS RIDDHI MOHAN VAGHERA

Respondent

Representation:

For the Appellant: Ms A Everett, a Senior Home Office Presenting Officer
For the Respondent: The respondent did not attend and was not represented

NOTICE OF ABANDONMENT

1. The appellant is the Secretary of State for the Home Department. I will refer to her as the Secretary of State. The respondent is a citizen of India who was born on 10 December 1985. I will refer to her as the claimant. The Secretary of State has been granted permission to appeal the determination of First-tier Tribunal Judge N M K Lawrence who allowed the claimant's appeal against the Secretary of State's decision of 6 June 2013 to refuse to grant her further leave to remain in the UK as a Tier 1

(Entrepreneur) Migrant under the points-based system and for a biometric residence permit.

2. The claimant appealed and the judge heard her appeal on 22 November 2013. Both parties were represented and the claimant attended and gave oral evidence. The judge allowed the appeal under the Immigration Rules.
3. The Secretary of State applied for permission to appeal to the Upper Tribunal which was granted. The Secretary of State's grounds of appeal argue that the judge erred in law in concluding that the evidence from DCB Bank was adequate and acceptable in the light of the precise wording of the relevant section of the Immigration Rules. The statement by the judge that the DCB letter could not have indicated whether the funds were available for the claimant was inadequately reasoned and it was not clear on what basis the judge believed that the defects in the letter from Mr Patel had been remedied.
4. Subsequent to the grant of permission to appeal and prior to the hearing before me there have been two letters, one from the claimant and the other from her representatives dated respectively 23 and 24 January 2014. In her letter the claimant states that she wishes to abandon her appeal and that she has contacted UKBA "for withdrawal and return of documents". The representatives state that the claimant does not wish to pursue her appeal and is asking for her documents to be returned so that she can return to India. Both requests were denied and the appellant and her representatives were informed that they should attend the hearing.
5. At the hearing before me neither the claimant nor her representatives attended and there has been no further communication.
6. At my request Ms Everett checked the Home Office records and reported back with the following information. There is a note on the Home Office computer dated 25 January 2014 which states that the claimant's case has been referred to the travel desk. The subject attended EHRC (which I am told refers to Eaton House Reporting Centre) today with a return flight ticket booked to India for 3 February 2014 departing London Heathrow at 10.05am.
7. I treat this as sufficiently reliable information to indicate that the appellant has left the United Kingdom. Paragraph 17A of the Tribunal Procedure (Upper Tribunal) Rules 2008 applies. In this case the claimant's appeal was brought under Section 82(1) of the Nationality, Immigration and Asylum Act 2002. Section 104(4A) of the same Act provides that such an appeal brought by a person whilst he/she is in the United Kingdom shall be treated as abandoned if the claimant leaves the United Kingdom. I find that the claimant has left the United Kingdom and in the circumstances the appeal must be treated as abandoned and notice of this must be given to the parties.

8. Whilst in his determination the judge allowed the claimant's appeal that is not the final determination of the Tribunal. The Secretary of State's appeal against that decision has not been determined because the claimant's appeal must be treated as abandoned. In the circumstances it does not mean that there was a final determination in her favour.

.....

Signed

Date

February 2014

Upper Tribunal Judge Moulden