



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

Appeal Number: IA/47668/2013

THE IMMIGRATION ACTS

Heard at Manchester

**On 2nd May, 2014
Signed 2nd May, 2014**

**Determination
Promulgated
On 7th May, 2014**

Before

Upper Tribunal Judge Richard Chalkley,

Between

DON THISARA IROSHANA PADMAPERUMA

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the appellant: Mr. A B Frayl of counsel instructed by
Mohammed & CO, Solicitors.

For the respondent: Mr Dinwycz a Home Office Presenting Officer

DETERMINATION AND REASONS

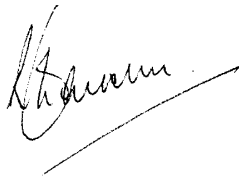
1. The appellant is male, a citizen of Sri Lanka and was born on 23rd September, 1990.
2. The appellant appealed against the decision to the Secretary of State for the Home Department in refusing his application as a Tier 4 (General) Student Migrant to the First Tier Tribunal.

His appeal was heard by First Tier Tribunal Judge Lea, who in a determination dated 23rd January, 2014 dismissed his appeal.

3. Mr Dinwycz, the Home Office Presenting Officer advised me that the Home Office file was missing. I gave him a copy of the Upper Tribunal's papers and counsel kindly gave him a copy of her bundle. I adjourned to enable him to examine them.
5. On resuming the hearing, the Home Office Presenting Officer told me that as a result of evidence he has seen and was content to accept, he was minded to allow the appellant's application.
6. I am satisfied that Mr Dinwycz correct to agree that the respondent was entitled to have his appeal allowed given that he was satisfied with the evidence. I indicated that I would prepare this short determination recording the agreement between the parties and allowing the respondent's appeal.
6. Having carefully read the determination of the First-tier Tribunal and the grounds of application, I am satisfied that the determination of Immigration Judge Lea does contain an error on a point of law in that she wrongly found herself constrained by Section 19 of the Borders Act 2007 into considering evidence that the appellant's course fees has been paid prior to the date of his application to the Secretary of State for the Home Department. The making of the previous decision involved the making of an error on a point of law. I set aside the previous decision. My decision is that **the appellant's appeal be allowed.**

Decision

This appeal is allowed.

A handwritten signature in black ink, appearing to read 'Chalkley', with a long horizontal stroke extending to the right.

Senior Immigration Judge Chalkley