



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

Appeal Number: IA/52843/2013

THE IMMIGRATION ACTS

Heard at Field House

On 20th August 2014

Determination

Promulgated

On 2nd September 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE BAIRD

Between

**MR OSMAN GONI
(NO ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr Melvin, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is an appeal by Osman Goni, a citizen of Bangladesh born 1st May 1982. He appeals against the determination of First-tier Tribunal Judge

Seelhoff issued on 10th June 2014 dismissing under the Immigration Rules and on human rights grounds his appeal against the decision of the Respondent made on 26th November 2013 to refuse to vary his leave to remain and to remove him by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006.

2. On 27th June 2014 First-tier Tribunal Judge Simpson granted permission to appeal. She noted that the grounds seeking permission submitted that the Judge had made an error of fact in that the Appellant's CAS was withdrawn while his application was pending with the Home Office so he had no passport with which to attempt to obtain a transfer to another educational institution and could not take advantage of the 60 day grace period. It is further submitted that the Judge ought to have applied the principle of common law fairness as set out in **Thakur (PBS decision - common law fairness) Bangladesh [2011] UKUT 151, Patel (revocation of Sponsor licence - fairness) India [2011] UKUT 211** and **Naved (student - fairness - notice of points) Pakistan [2012] UKUT 14**. She concluded that it is arguable that the Judge had made an error of fact.
3. Mr Goni did not appear before Judge Seelhoff. His appeal was determined on the papers. He did not appear at the hearing before me. Representatives of the Appellant submitted written submissions to the Tribunal on 24th July 2014 advising that they had been instructed to submit these by the Appellant who would not be attending the hearing.
4. There is a Rule 24 response from the Respondent to the grant of permission in which it is submitted that the Grounds of Appeal suggest that Judge Seelhoff clearly failed to understand the Appellant's circumstances i.e. that the Respondent had retained his passport, but particularly given that the appeal was dealt with on the papers, it is not clear whether the Judge had been provided with that information and in any event the grounds do not address the finding of the Judge that the sponsorship was withdrawn before the college lost its licence.
5. Judge Seelhoff relied on **Patel**. He noted that the evidence showed that the Appellant's personal certificate of sponsorship was withdrawn before the college lost its licence which would normally indicate that the withdrawal of the certificate was related to the Appellant's own conduct. He said there was no evidence before him of any attempt by the Appellant to study since the college withdrew his CAS or of any attempt to enrol in another college. In his statement the Appellant appeared to acknowledge that he had not studied at all since the start of 2013 and gave no evidence of new colleges he had approached.
6. At the hearing before me Mr Melvin said that the Appellant had indeed been given 60 days to find a new college. Efforts had been made by the Home Office to serve a Notice of Curtailment of leave on the Appellant but it had been returned from the address they had on record marked "Gone away". The Appellant had attempted no communication at all with the

Home Office. He did not give them his new address. His visa was revoked. He asked me to take into account that the Appellant chose not to appear at the hearing.

Decision

Having considered the determination, the grounds of application and the Section 24 response I find that the grounds disclose no material error of law and that the determination of the First-tier Tribunal shall therefore stand.

No anonymity order is made.

Signed

Date: 1st September 2014

N A Baird
Deputy Upper Tribunal Judge Baird