



IAC-FH-CK-V1

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

Appeal Number: IA/35518/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 5th October 2015**

**Decision & Reasons Promulgated
On 12th October 2015**

Before

UPPER TRIBUNAL JUDGE BLUM

Between

**MR JATINBHAI RAMANBHAI PAREKH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Bellara, counsel, instructed on a direct access basis
For the Respondent: Mr Duffy, Senior Home Office Presenting Officer

DECISION AND REASONS

Background

1. This is an appeal against the decision of Judge of the First-tier Tribunal K W Brown, who, in a determination promulgated on 15th May 2015, dismissed the appellant's appeal against a decision by the Secretary of State to refuse to grant him further leave to remain as a Tier 4 Migrant.
2. The appellant is a citizen of India. His date of birth is 28th December 1981. He was initially granted permission to enter the United Kingdom as a Tier 4 Student in 2009. Further leave was granted, the last period being until

24th June 2014. On 19th June 2014 the appellant made an in time application to extend his leave to remain as a student of the Newcastle Academy of Business and Technology.

3. There is a letter in the bundle from the academy dated 17th June 2014. It provides a CAS number and indicates that the CAS, which stands for Confirmation of Acceptance for Studies, was assigned on 17th June 2014. The appellant made his application on 19th June 2014.
4. The decision refusing his application notes that the CAS had been withdrawn. The printed CAS details that are contained within the documents before me indicate that, as of 4th August 2014, the appellant's CAS status was 'withdrawn'. The same printed CAS details indicated that the sponsor's licence was fully active. This indicates to me that, when the CAS details were checked, presumably on 28th August 2014 when the decision was made, the Newcastle Academy of Business and Technology still had an active sponsorship licence.
5. The appellant did not attend the hearing before the First-tier Tribunal. The judge considered the document before her and noted that the CAS had not been found to be valid and dismissed the appeal on that basis. The judge stated that there was no evidence of any valid human rights claim made before her and so any appeal on human rights grounds failed as well.

The appeal to the Upper Tribunal

6. The appellant, aggrieved with the decision, sought permission to appeal to the Upper Tribunal. Permission was granted by First-tier Tribunal Judge Osborne on 31st July 2015. Judge Osborne proceeded on the basis that after the appellant's application was made the licence of the college was revoked and the college closed down. In his grounds the appellant claimed that the respondent should have contacted him before making her decision and granted him 60 days to find another college.
7. This approach would have been consistent with the Upper Tribunal case of **Patel (revocation of sponsor licence - fairness) India [2011] UKUT 00211 (IAC)**. In that case an applicant had applied for further leave to remain on the basis of a valid CAS issued by a college that, at the time of the application, had a valid licence. At no stage was Mr Patel's CAS withdrawn. Unbeknownst to Mr Patel his college's licence was revoked. The Secretary of State did not communicate this occurrence to Mr Patel and made a decision refusing his application on the basis that, as his college's licence was revoked, he could not meet the requirements of the Immigration Rules.
8. The Upper Tribunal held that this was fundamentally unfair in circumstances where Mr Patel had no knowledge or involvement in the revocation of his college's sponsorship licence. Fairness required the Secretary of State to give him a period of time to find an alternative educational institution at which to study.

Discussion

9. Mr Bellara invited me to find that the striking feature of the decision in the instant appeal was that the CAS was withdrawn. No reasons had been given for the Academy's withdrawal of the CAS. Mr Bellara suggested that there was very likely to have been a period of time during which the academy was being investigated and the CAS may have been withdrawn on this basis. I find this submission to be wholly speculative. There are number of possible reasons why the CAS was withdrawn, we simply do not know.
10. In the present case the Academy withdrew the licence. There has been no unfair conduct on the part of the Secretary of State in the manner identified in **Patel**. At the date that the decision was made it appears that the appellant's Academy was still functioning and the printed CAS details indicate that it still had its licence. There was no reason given for the withdrawal of the CAS by the Academy, but there was no provision or requirement for any reasons to be given. I am not satisfied that the Secretary of State acted in an unfair manner in noting that the CAS was withdrawn and in refusing the application. Given the nature of the points-based system the Secretary of State had no choice but to refuse the application once there was no valid CAS.
11. I note in the grounds that the appellant has made reference to Article 8 and the private life he may have established. Mr Bellara did not make any particular submissions in relation to Article 8 and he was entirely right to do so. There is nothing that was before the First-tier Tribunal, and certainly nothing before me, indicating that the appellant had established any kind of private life that would be capable of resisting the decision to remove him.
12. In these circumstances I am entirely satisfied that there has been no error of law by the First-tier Tribunal.

Notice of Decision

The appeal is dismissed

No anonymity direction is made.



Signed

08 October 2015

Date

Upper Tribunal Judge Blum

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

Upper Tribunal Judge Blum