



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

Appeal Number: IA050902015

THE IMMIGRATION ACTS

**Heard at Field House
On 15 June 2016**

**Decision & Reasons
Promulgated
On 17 June 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAFFER

Between

**ANIL RAJARAM CHAVAN
(NO ANONYMITY ORDER MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Chohan of Counsel

For the Respondent: Ms Brocklesby-Weller a Home Office Presenting Officer

DECISION AND REASONS

Background

1. The Respondent cancelled the Appellant's grant of leave to remain on 3 February 2015. His appeal against this was dismissed by First-tier Tribunal Judge Woolley ("the Judge") following a hearing on 25 November 2015.

2. The brevity of this decision is due to the concession made by Ms Brocklesby-Weller following consideration of a document produced by the Appellant that at all times he had a relevant English language certificate issued through ESOL and that accordingly the concerns expressed in relation to a different certificate were (in her words) “a red herring”. She conceded that there was a material error of law and the decision of the First-tier Tribunal could not stand and she had no submissions to make in relation to whether the substantive appeal itself should be allowed once it was reheard.

The grant of permission

3. First-tier Tribunal Judge Holmes granted permission to appeal (17 May 2016) on the grounds that it is arguable that there was indeed this second language certificate which had been wrongly overlooked, and also as the wrong approach had been applied by the Respondent in light of SM & Qadir (ETS) [2016] UKUT 229.

Discussion

4. It is unnecessary for me to deal with SM & Qadir given the Respondent’s concession that there was a material error of law with regards to their failure to consider the second language certificate.
5. I am therefore satisfied that the Judge made a material error of law. I set aside the decision.
6. Having heard from both representatives I agreed with them both that it was appropriate to rehear the matter as I had all the relevant evidence available to me, and delay was in no one’s interest.
7. For the reasons I have already given above, it is plain the Appellant had an English language certificate that was valid and accordingly there was no basis for the Respondent to cancel his leave.

Decision:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I allow the Appellant’s appeal against the decision of the Judge following the hearing on 23 November 2015 and set aside the decision of the First-tier Tribunal.

I allow the Appellant’s substantive appeal against the Respondent’s decision of 3 February 2015.

Signed:
Deputy Upper Tribunal Judge Saffer
16 June 2016