



IAC-AH-CO-V1

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

Appeal Number: IA/27980/2014

**THE IMMIGRATION ACTS**

**Heard at City Centre Tower Decision & Reasons Promulgated  
Birmingham  
On 27<sup>th</sup> October 2015 On 28<sup>th</sup> January 2016**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE RENTON**

**Between**

**SIDDHARTH MOHAN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No appearance

For the Respondent: Mr N Smart, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. The Appellant is a male citizen of India born on 26<sup>th</sup> April 1987. He first arrived in the UK on 22<sup>nd</sup> January 2011 when he was granted leave to enter as a student until 30<sup>th</sup> September 2012. Thereafter the Appellant was granted successive periods of leave to remain until 13<sup>th</sup> April 2014. On 15<sup>th</sup> March 2014 the Appellant applied for further leave to remain as a Tier 4 (General) Student Migrant. That application was refused for the reasons

given in a Notice of Decision dated 17<sup>th</sup> June 2014. The Appellant appealed, and his appeal was heard by Judge of the First-tier Tribunal Ennals (the Judge) sitting at Stoke-on-Trent on 13<sup>th</sup> October 2014. He decided to dismiss the appeal under the Immigration Rules for the reasons given in his Decision of that date. The Appellant sought leave to appeal that Decision, and on 4<sup>th</sup> December 2014 such permission was granted.

### **Error of Law**

2. I must first decide if the Decision of the Judge contained an error on a point of law so that it should be set aside.
3. The application for leave to remain was refused by the Respondent because the Appellant had failed to score sufficient points under Appendix A (Attributes) and Appendix C (Maintenance (Funds)) and therefore the Appellant failed to meet the requirements of paragraph 245ZX(c) and (d) of HC 395. This was because the Appellant had submitted a Confirmation of Acceptance for Studies (CAS) issued by Midlands Business Management College, but that institution did not appear on the Tier 4 Sponsor Register checked on 17<sup>th</sup> June 2014.
4. At the hearing before the Judge, there was no appearance by or on behalf of the Appellant. The Judge was satisfied that the Appellant had been properly notified of the hearing in accordance with the provisions of the Asylum and Immigration Tribunal (Procedure) Rules 2005, and proceeded to hear the appeal. On the evidence before him, he decided to dismiss the appeal for the reasons given in the Notice of Decision.
5. At the hearing before me, there was yet again no appearance by or on behalf of the Appellant. There was no explanation for his absence. I was satisfied that the Appellant had been notified of the hearing properly in accordance with the provisions of the Tribunal Procedure (Upper Tribunal) Rules 2008 and I proceeded to hear the appeal. Mr Smart made a brief submission to me.
6. I find no material error of law in the Decision of the Judge so that it should be set aside. The sole ground of application upon which leave was granted was that the Appellant's appeal had been decided in his absence and he had been denied the opportunity of presenting his case. The Appellant claimed in the grounds that he had received no notification of the hearing.
7. I am satisfied that the Judge heard and decided the appeal in the absence of the Appellant properly and in a way which did not entail an error of law. There was no explanation for the absence of the Appellant before the Judge, and he checked that the Appellant had been properly notified of the hearing in accordance with the appropriate Procedure Rules. In any event, any error of law as argued by the Appellant would have been immaterial. The submission of a valid CAS at the time the application for leave to remain was made was essential to the success of the application, and

there was no evidence before the Judge that the Midland Business Management College was an institution appearing on the Tier 4 Sponsor Register. Therefore the Judge had had no alternative but to dismiss the appeal.

**Decision**

The making of the Decision of the First-tier Tribunal did not involve the making of an error on a point of law. It is not set aside. The appeal to the Upper Tribunal is dismissed.

**Anonymity**

The First-tier Tribunal did not make an order for anonymity and I find no reason to do so.

Signed

Date

Deputy Upper Tribunal Judge Renton