



IAC-PE-SW-V1

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

Appeal Number: IA/29684/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 10th August 2015**

**Determination Promulgated
On 17th August 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

**MR DARSHITKUMAR SHAILESHKUMAR PATEL
(NO ANONYMITY DIRECTION MADE)**

Appellant

And

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr Kannangara, Counsel

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

DECISION AND REASONS

1. The appellant, Mr Darshitkumar Shaileskumar Patel date of birth 6th May 1986, is a citizen of India. Having considered all the circumstances and no application having been made for such I do not make an anonymity direction.
2. This is an appeal by the Appellant against the determination of First-tier Tribunal Judge George promulgated on 1st April 2015, whereby the judge dismissed the Appellant's appeal against the decisions of the Respondent dated 10th July 2014. The decisions by the Respondent were to refuse the

Appellant further leave to remain in the UK as a student and to remove the Appellant from the UK to India.

3. By decision made on the 11 June 2015 leave to appeal to the Upper Tribunal was granted. Thus the matter appears before me to determine in the first instance whether or not there is an error of law in the original determination.
4. The Appellant had entered the UK in 2nd July 2009 as a student. His leave as a student had been extended at various times until 28th March 2014. In March 2014 the Appellant had made application for further leave supported by a CAS dated 28th March 2014 from the Centre for Teaching Management Ltd [CTM]. The appellant was seeking to commence a new course. It appears that the appellant's previous course had not been completed through no fault of the appellant.
5. For reasons that are not apparent the CAS was withdrawn by CTM on the 29th May 2014. CTM continues to have a licence as a sponsor, so it was unrelated to the status of the college. There being no valid CAS, the respondent on the 10th July 2014 made a decision refusing the appellant's decision.
6. I note, although its significance is unclear, that on the CAS computer print out there is reference to the "latest acceptance date" as being the 25th April 2014. It would be speculation on my part as to what that means. However no evidence had been submitted by the appellant of any correspondence between him and the sponsoring college. There was no evidence before the judge
7. The CAS having been withdrawn post the application the appellant's representative is seeking to argue that the appellant should have been given 60 days in which to find an alternative sponsor/college.
8. There being no reason given for withdrawing the CAS, the appellant's representative argued that there was a duty on the respondent to establish the reason for the withdrawal of the CAS. In arguing that there was such a duty, the appellant's representative argued the duty was on the respondent because in the CAS print out there is a section below the CAS details headed "Sponsor Note", which the representative argued was where the sponsoring college "had to" fill in the reasons for withdrawing the CAS. It was argued that it was incumbent upon the respondent to check the reason for the CAS being withdrawn.
9. Further to that the representative was arguing that the respondent in the guidance relating to Tier 4 (General) Student Migrant indicates that decisions would be made within 60 days. The respondent had not followed the guidance in making the decision in the present case. If the respondent had followed the guidance the CAS would still have been valid at the time a decision should have been made.

10. The appellant seeks to rely upon the cases of Patel (Revocation of Sponsor's licence) [2011] UKUT 00211 and Patel (Tier 4 -no "60 day extension") India [2011] UKUT 187 [Patel B] to support the claim that the appellant should have been granted an extension of 60 days to enable him to find a new sponsor. The judge had failed to apply the case law and the appeal should be allowed to the extent that he should be given 60 days in which to find a new sponsor.
11. For the respondent it was argued that there was no responsibility on the respondent to check the reason for the withdrawal of the CAS and that as the appellant could not show the reason for the CAS being withdrawn, the Judge was entitled to make the decision he did. There was no duty or obligation on the respondent. The judge had therefore been entitled to make the findings that he did. The appellant had failed to establish any reason for the withdrawal of the CAS. The judge was entitled in line with the cases of Kaur v SSHD [2015] EWCA Civ 13 and Rahman v SSHD [2014] EWCA Civ 11 to find that there was no obligation on the respondent to establish the reason for withdrawal and to find that the appellant did not meet the requirements of the rules.
12. From reading Patel B it is clear that the decision centres on the Policy Document of the respondent relating to where a sponsoring college loses its licence and the circumstances in which that policy can be relied upon. From reading paragraph 15 the policy in question was specifically related to situations in which the sponsoring college lost its licence. That is not applicable in the present circumstances.
13. The cases otherwise cited clearly deal with the limits of the policy. There was no obligation on the respondent to enquire or establish the reason that the CAS was withdrawn. That was a matter for the appellant to prove. Here it was not as a result of the college losing its licence that the CAS was withdrawn. It was for the appellant to show the reasons for the CAS being cancelled. There is no obligation or duty respondent to check what the reasons for withdrawal are. There was no obligation on the respondent to give 60 days to enable an applicant to find an alternative college nor any policy where a CAS had been withdrawn by the sponsoring college that an applicant would be given 60 days to find an alternative sponsor.
14. In the circumstances the judge has properly considered the case law and was entitled to make the decision that he did. There was no error of law in the decision and the decision to dismiss this on all grounds stands.

Decision

15. I find that there is no arguable error of law in the determination and the decision to dismiss this on all grounds stands.

Signed

Date

Deputy Upper Tribunal Judge McClure