



IAC-FH-AR-V1

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

Appeal Number: IA/46681/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 18 March 2016**

**Decision & Reasons Promulgated  
On 6 May 2016**

**Before**

**UPPER TRIBUNAL JUDGE ESHUN**

**Between**

**GURBIR KAUR  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: No appearance by or on behalf of the appellant

For the Respondent: Mr D Clarke, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant failed to attend the hearing. There was no explanation for her non attendance. As I was satisfied that she had been duly served with the Notice of Appeal at her address on the Court's file, I proceeded with the hearing in her absence.
2. The appellant is a citizen of India, born on 14 February 1991. On 19 November 2014 the respondent refused to vary her leave to remain in the UK as a Tier 1 (General) Student Migrant under paragraph 245ZX(c) of the Immigration Rules as amended. The respondent also made a decision to

remove the appellant from the United Kingdom by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006.

3. The appellant's appeal against the respondent's decision came before First-tier Tribunal Judge Howard on 25 June 2015. The appellant did not attend the hearing citing illness. The judge noted that there was no doctor's certificate supporting this contention. In an email dated 25 June 2015 the appellant sought an adjournment. In the absence of evidence to support her contention that she was ill, the judge was satisfied that it was in the interests of justice to proceed with the hearing.
4. The judge made the finding that the appellant submitted her application on 23 August 2014 and at that time she had no CAS. The position remained the same as at the date of hearing. The appellant had not submitted any evidence of having ever had a CAS to support her application for leave as a Tier 4 (General) Student Migrant. Similarly, she had submitted no evidence to substantiate a family or private life in the UK even though she cited Article 8 in her grounds of appeal.
5. The judge was not satisfied that the appellant could meet the requirements of paragraph 245ZX and dismissed the appellant's appeal.
6. Permission was granted to the appellant to appeal the judge's decision to proceed with the hearing in the absence of supporting evidence to support the appellant's contention that she was ill. An email was received on the day of the hearing and in the circumstances related by the appellant, it was unlikely that medical evidence would have been available on the morning of 25 June 2015.
7. In her grounds of appeal the appellant had said that she did not produce any medical certificate or evidence because she had not attended the doctor's. She had food poisoning and was making constant trips to the toilet and stayed at home. By the evening she was better and did not go and see a doctor.
8. I find that even if the appellant had a good reason to support her absence from the hearing, the judge's failure to adjourn the hearing does not materially affect his decision. The appellant has not challenged the finding that she had not submitted a CAS to support her application for leave as a Tier 4 (General) Student Migrant. Indeed there was no such evidence before the judge or before me.

### **Notice of Decision**

9. Consequently the judge's decision dismissing the appellant's appeal shall stand.

Signed

Date: 29 March 2016

Upper Tribunal Judge Eshun