



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/53367/2013

THE IMMIGRATION ACTS

Heard at Field House
On 22 May 2014

Determination Promulgated
On 07 July 2014

Before

UPPER TRIBUNAL JUDGE ESHUN

Between

MRS ANJU ABY

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr. R Griffith-Anteson
For the Respondent: Mr. P Nath, HOPO

DETERMINATION AND REASONS

1. The Secretary of State appeals with permission against the decision of First-tier Tribunal Judge Sweet allowing the appeal of the appellant against the respondent's refusal of her application for leave to remain in the United Kingdom as a Tier 4

(General) Student Migrant pursuant to paragraph 245ZX of the Immigration Rules 395, as amended.

2. The respondent's reasons for refusal set out in the letter of 4 December 2013. The appellant was required to show evidence of £2,500 maintenance for 28 days from 29 September 2013 to 26 October 2013. However, the bank statements submitted by her demonstrated possession of no more than £1,987.19 at any point during that period. In addition the State Bank of Travancore bank statement dated 20 September 2013 was more than one month prior to the application of 5 November 2013.
3. At the hearing before the First-tier Judge on 5 March 2014, the appellant's representative produced a letter from State Bank of Travancore dated 14 February 2014 which confirmed that the appellant has continued to have the equivalent balance of £3,679 in that account and argued that the appellant therefore met the necessary financial requirements of the Immigration Rules.
4. The First-tier Judge accepted his submission and allowed the appellant's appeal.
5. Mr. Nath relied on the grounds submitted on behalf of the respondent.
6. I find that the First-tier Judge erred in law in considering the bank certificate dated 14 February 2014. Her consideration of the post-decision evidence was in breach of Section 85A(4) of the Nationality, Immigration and Asylum Act 2002, which requires her to consider only evidence adduced by the appellant *"in support of, and at the time of making, the application to which the immigration decision related"*.
7. The First-tier Judge's decision cannot stand.
8. I remake the decision and dismiss the appellant's appeal.

Signed
Upper Tribunal Judge Eshun

Date: 22 May 2014