



IAC-TH-CP-V1

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

Appeal Number: IA/13736/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 19 August 2015**

**Decision & Reasons Promulgated
On 10 September 2015**

Before

**UPPER TRIBUNAL JUDGE PINKERTON
UPPER TRIBUNAL JUDGE GRAY**

Between

**MR JUBEL AHMED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No representative

For the Respondent: Miss A Brocklesby-Weller, Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Bangladesh who was born on 5 February 1992. He appealed the decision of the respondent to refuse him further leave to remain in the United Kingdom as a Tier 4 (General) Student Migrant. The appeal came before First-tier Tribunal Judge James. By a decision promulgated on 28 October 2014 the judge dismissed the appeal under the Immigration Rules and on human rights grounds. The judge noted that neither the appellant nor the respondent was represented before her and the appeal was determined upon the papers.

2. The appellant sought and was granted permission to appeal the decision to the Upper Tribunal. Before us the appellant was not present, nor was he represented. However, he did lodge a “submission” with accompanying documents which we have taken into account. The respondent filed a Rule 24 response dated 5 June 2015 submitting that the First-tier Tribunal Judge directed herself appropriately.

The Issues

3. The appellant was last granted leave to study business management and marketing at an institution called Radcliffe College. In essence such a grant signified that the appellant was required to follow a particular course with a particular sponsor. However, in applying for further leave at a later date the evidence produced by the appellant was that he had studied for an NQA higher diploma in business administration at another college called London Essex College.
4. The appellant has argued throughout that he was entitled to undertake studies that were supplemental to his studies at Radcliffe College. The problem for the appellant with this argument is that apart from bare assertion he has at no time produced any documents or letters to show that he studied at Radcliffe College at any time let alone that his study at London Essex College was *supplemental* to any study that he might have undertaken at Radcliffe College.
5. It is for the appellant to prove on the balance of probabilities that all the requirements of the Immigration Rules are met. The only proven course that the appellant studied was with London Essex College (a legacy sponsor) and he did not have permission to undertake a course of study there. Had the appellant proved to the requisite standard that his study at London Essex College was supplemental to that of Radcliffe College then the outcome could have been different.
6. As it is and as was set out in the refusal letter and referred to in the judge’s decision the appellant falls foul of s.50 of the Borders, Citizenship and Immigration Act 2009. This section can be summarised as prohibiting a student from study other than at the institution that the Confirmation of Acceptance for Studies Checking Service records as the student’s sponsor. Without unduly labouring the point the appellant has shown only that he studied at an institution other than that for which he was granted leave.
7. His failure to comply with the conditions attached to his leave to remain led to the subsequent refusal of his application made on 13 January 2014. The judge therefore concluded correctly and for the reasons given that the appeal before her did not succeed.

The Human Rights Claim

8. The appellant's human rights claim was wholly unparticularised as the judge finds in paragraph 18 of the decision. On the facts before her it was almost inevitable that the judge would dismiss that claim.
9. It is unclear whether the bundle referred to in the notice of decision to grant permission to appeal was before the First-tier Judge - although the judge does refer to further documents presented for the purpose of appeal. However, there is nothing of any substance contained within that bundle that could possibly have affected the outcome of the judge's decision. The documents produced fail completely to provide any evidence other than assertion that the appellant studied primarily at Radcliffe College. Nothing contained within the submission from the appellant to the Upper Tribunal assists him either.

Notice of Decision

In the circumstances we cannot see that any other outcome was possible than that the appeal to the First-tier Tribunal would fail. Accordingly the decision to dismiss this appeal is upheld.

We do not make an anonymity direction. None has been requested and the circumstances do not appear to warrant the making of one.

Signed

Date

Upper Tribunal Judge Pinkerton