



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

Appeal Number: IA/43284/2013

THE IMMIGRATION ACTS

Heard at Field House

Decision and Reasons

On 16th July 2015

**Promulgated
On 23rd July 2015**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MR MOHAMMAD SHAFAYET HOSSAIN
ANONYMITY DIRECTION NOT MADE**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondents

Representation:

For the Appellant: The Appellant in person

For the Respondents: Miss A Holmes (Senior Home Office Presenting Officer)

DETERMINATION AND REASONS

1. This is an appeal to the Upper Tribunal, with permission, by the Appellant with regard to a decision of the First-tier Tribunal (Judge Scott-Baker) promulgated on 6th January 2015 by which she dismissed the Appellant's appeal against the Secretary of State's decision to refuse him leave to remain in the UK as a Tier 4 (General) Student Migrant and to remove him to Bangladesh.
2. The grounds on which permission to appeal was granted by a First-tier Tribunal Judge argue that the Judge erred in failing to take into account evidence that was before her.

3. It is unfortunate that, having paid for an oral hearing the Appellant did not attend the hearing before the First-tier Tribunal and asked that it be decided on the papers. Had he attended he could have referred the Judge to the relevant evidence.
4. Nevertheless it is apparent that the Judge had before her the Appellant's bundle because she refers to it. However she states that there was no bank evidence submitted by the Appellant since the document verification report. That was not the case. There was a bank statement contained in the bundle that was not taken into account. As the Secretary of State has not had the opportunity to check the document and the fact that the Appellant wished to adduce further evidence that had not been seen before by the Secretary of State and thus its veracity not checked, the appropriate way forward is to set aside the First-tier Tribunal's decision as containing a material error of law in not taking into account evidence that was before it and remitting it to the First-tier Tribunal for a full rehearing on all matters.
5. The documents were copied and provided to the Home Office Presenting Officer so that they can be checked.
6. The appeal to the Upper Tribunal is allowed to the extent that it is remitted to the First-tier Tribunal for rehearing.

Signed

Date 22nd July 2015

Upper Tribunal Judge Martin