



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/03979/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 22 October 2013

Determination Promulgated  
On 24 October 2013

Before

UPPER TRIBUNAL JUDGE ESHUN

Between

MR JINALKUMAR RAMBHAI PATEL

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Miss M Atcha  
For the Respondent: Ms A Holmes, HOPO

**DETERMINATION AND REASONS**

1. The appellant is a citizen of India, born on 15 October 1989. He appeals the decision of First-tier Tribunal Judge Zahed dismissing his appeal against the respondent's refusal to grant him further leave to remain in the United Kingdom as a Tier 4

(General) Migrant. The respondent made the decision on 17 January 2013 and on the same date made a decision to remove the appellant by way of directions under section 47 of the Immigration Asylum and Nationality Act 2006.

2. In a decision dated 13 September 2013, Upper Tribunal Judge Coker stated that there was no merit in the application for permission to appeal the judge's decision regarding the variation appeal: the appellant accepted he had received the letter requiring him to find an alternative college within 60 days but failed to do so. He did not meet the requirements of the Immigration Rules. His explanation was not accepted by the First-tier Tribunal Judge and his grounds seeking permission are a mere disagreement with a decision that was reasonably open to the judge.
3. Insofar as the appeal against removal pursuant to s47 was concerned, Upper Tribunal Judge Coker found that the judge did not engage with the lawfulness of that decision. The decision to remove the appeal under s47 was clearly unlawful and permission was granted to this limited extent only.
4. The Upper Tribunal Judge issued directions requiring a response from the respondent under Rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008 within 14 days of the receipt of her decision; and requesting a copy of the response to be sent to the appellant. She added that in the event the respondent does not file a response or filed a response accepting there was an error of law in the terms as set out, it was the intention of the Tribunal to set aside the First-tier Tribunal decision insofar as s47 is concerned and remake the decision by allowing the appeal in so far as the decision to remove was unlawful.
5. On 24 September 2013 the respondent submitted a rule 24 response indicating that the respondent did not oppose the appellant's s47 application for permission to appeal and invited the Tribunal to allow the appeal to that extent and remit it to the Secretary of State for reconsideration.
6. At the hearing today, Ms Holmes drew my attention to paragraph 6 of the determination where the First-tier Tribunal Judge recorded that the HOPO below at the outset of the hearing withdrew the s47 decision and therefore he did not need to deal with it.
7. There was no objection by Miss Atcha. In the circumstances I find there was no error of law in the First-tier Tribunal Judge's decision. His decision dismissing the appellant's appeal shall stand.

Signed  
Upper Tribunal Judge Eshun

Date