



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/06221/2013

THE IMMIGRATION ACTS

Heard at Field House, London
On 7th August 2013

Determination Promulgated
On 20th August 2013
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Before

UPPER TRIBUNAL JUDGE ROBERTS

Between

MR SYED EMAD AHMED
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Noor of Noor Law Associates
For the Respondent: Ms Ong, Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is the appeal of Syed Emad Ahmed against the determination of First-tier Tribunal Devittie promulgated on 17th June 2013 following a hearing at Taylor House on 31st May 2013.

2. In his determination, the Judge dismissed the Appellant's appeal against the Respondent's decision to refuse his application for further leave to remain in the UK as the spouse of a woman settled here. One of the main reasons why the Respondent refused the application was because the Respondent had noted that the Appellant was granted leave to enter and remain in the United Kingdom until 21st December 2014 but on 6th October 2011 the Respondent curtailed that leave.
3. Permission to appeal against the First-tier Tribunal's decision was granted by First-tier Tribunal Judge Osborne and thus the matter comes before me to establish whether Judge Devittie's determination contains an error of law requiring the decision to be remade.

Submissions

4. At the hearing before me Ms Ong asked to address me first. She handed me the Tribunal decision **Syed (Curtailment of leave - notice) [2013] UKUT 00144 IAC**. Ms Ong conceded that following a reading of **Syed**, it was clear that the First-tier Tribunal Judge's determination contained an error of law; albeit not one referred to in the grounds seeking permission.
5. Her submissions ran thus. The original grounds of appeal stated that one of the Appellant's contention was that he had never been served with notice IS151A and thus he was not aware of the curtailment of his leave until he received the refusal notice in the present appeal.
6. That point had never been adequately dealt with by the First-tier Tribunal Judge. In addition looking at the case of **Syed**, it is apparent that the Respondent has no real foundation for stating that the Appellant's leave is properly curtailed. That being so, the whole basis of the refusal notice needs to be reassessed and looked at again.
7. Ms Ong asked therefore that the whole matter be remitted to the Secretary of State for a proper assessment of the facts and for a fresh decision to be made.
8. Mr Noor on behalf of the Appellant accepted Ms Ong's reasoning and indicated that he was content that matters should be returned to the Secretary of State for a review and fresh decision.
9. I am satisfied that Ms Ong's submissions present the appropriate course in this Appellant's appeal. The Appellant's spouse has recently given birth to a child and in these circumstances it is urged that the Respondent make a fresh decision sooner rather than later.

DECISION

10. The matter of Syed Emad Ahmed's appeal against the decision of the Respondent to refuse him leave to remain in the United Kingdom, be remitted to the Respondent for the Respondent to review and make a fresh decision.

No anonymity direction is made.

Signature

Judge of the Upper Tribunal

Dated