



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

Appeal Number: IA/15181/2013

THE IMMIGRATION ACTS

Prepared at Field House on the Papers

On 29 November 2013

Determination

Promulgated

On 16 December 2013

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Before

UPPER TRIBUNAL JUDGE CRAIG

Between

GOPAL PANT

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS

1. The appellant, a national of Nepal who was born on 10 November 1984, has appealed against a decision of First-tier Tribunal Judge Davies, who had dismissed his appeal against a combined decision of the respondent refusing to vary his leave to remain on human rights grounds and also to remove him by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006.

2. On 4 November 2013 I refused permission to appeal against the substantive decision but gave the appellant permission to appeal limited to an appeal against the removal decision. At the same time, in a Notice of Provisional Decision, I indicated that it was the provisional view of the Tribunal that the appellant's appeal against the removal decision should be allowed without a hearing, to the extent that the decision to issue removal directions, being made simultaneously with the substantive decision, was not in accordance with the law.
3. However, I stated further that before giving a formal determination to this effect, I would consider any representations as to why I should not do so, so long as these were filed with the Tribunal by no later than seven days after the Notice of Provisional Decision had been sent to the parties.
4. Following service on the parties of my decision granting limited permission to appeal and of my Notice of Provisional Decision, a response was received from the respondent, dated 20 November 2013, expressing agreement with the Tribunal's provisional view. No further representations have been received from or on behalf of the appellant.
5. Accordingly, I now make the decision which I indicated I intended to make.

Decision

I set aside the decision of the First-tier Tribunal as containing a material error of law and substitute the following decision:

The appellant's appeal against the respondent's substantive decision, refusing to vary his leave to remain, is dismissed.

The appellant's appeal against the respondent's simultaneous decision to issue removal directions under Section 47 of the Immigration, Asylum and Nationality Act 2006 is allowed to the limited extent that this decision was not in accordance with the law.

Signed:

Date: 10 December 2013

Upper Tribunal Judge Craig