



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/22885/ 2013

THE IMMIGRATION ACTS

Heard at Field House
On 18th February 2014

Determination Promulgated
On 19th February 2014

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

MRS HARDEEP KAUR

and

Appellant

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr McNicholas (instructed by M-R Solicitors)

For the Respondent: Mr G Jack (Senior Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant appeals to the Upper Tribunal against a decision of the First-tier Tribunal (Judge Page) by which, in a determination promulgated on 23rd December 2013, he dismissed her appeal against the Secretary of State's decision to refuse to issue her with a residence card as the family member of an EEA national.
2. It was the Appellant's case that she, an Indian citizen, is married to and in a relationship with a Czech national, Roman Pospisil.

3. The Respondent, upon receipt of the application made enquiries and found a visit visa application submitted in India in November 2005 by a person with the Appellant's name and date of birth and containing her photograph along with her husband, Mr Dalvinder Singh as a joint applicant. That application was refused because the Sponsor declaration was found to be false after checks were made.
4. The Secretary of State also caused immigration officers to visit the Appellant's address in the UK. The person who answered the door confirmed that the Appellant resided there although she was out at the time. He confirmed that she lived with an Indian male called Dalvinder Singh, and that no European male lived there. A second occupant at the premises also gave the same information to the immigration officers. The person that those two people named as the person with whom the Appellant lived had the same name as appeared on the visa application form from 2005.
5. The Judge heard oral evidence from the Appellant, her Czech "husband" and witnesses said to be persons living at her address and one of whom who said that he was the one who answered the door to the immigration officers.
6. The evidence put forward by the Secretary of State and that put forward by the Appellant was in total conflict. The Judge considered the evidence and concluded he preferred the evidence of the Secretary of State.
7. In the grounds seeking permission to appeal it is suggested that the Judge placed too much weight on the Respondent's evidence and too little on that of the Appellant. Weight is a matter for the judge. The Judge explained why he found the Appellant's evidence to be wholly unreliable. That was a finding he was entitled to make.
8. The grounds also suggest that the Judge made contradictory findings because he found at paragraph 23 that the Appellant was in a valid marriage with an EEA national husband. That is mis-stating the Judge's findings. The Judge did not find that the Appellant was in a valid marriage with an EEA national. He found that she had undergone a ceremony of marriage but it was not valid because she was not free to marry.
9. The Judge made no error of law in the determination and indeed on the basis of the evidence that the Judge had before him it would have been surprising if he had reached any other conclusion.
10. The appeal to the Upper Tribunal is dismissed.

Signed

Date 18th February 2014

Upper Tribunal Judge Martin