



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

Appeal Number: IA/33342/2013

THE IMMIGRATION ACTS

Heard at Field House

On 28th April 2014

Determination

Promulgated

On 30th May 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE RIMINGTON

Between

**SUMAN BANDA
(NO Anonymity Direction Made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr V Onipede instructed by Morgan Hall Solicitors

For the Respondent: Mr T Wilding, Home Office Presenting Officer

DETERMINATION AND REASONS

The Appellant

1. The appellant is a citizen of India born on 5th June 1986 and he appealed against a decision dated 22nd July 2013 to refuse to vary his leave in the UK and to remove him from the UK by way of directions under Section 47 (Removal: person with statutorily extended leave) of the Immigration,

Asylum and Nationality Act 2006. His application was made on 2nd May 2012, his leave having been previously curtailed on 26th May 2012.

2. His appeal was heard and dismissed under the Immigration Rules and on human rights grounds by Judge Kaler on 23rd December 2013.

Application for Permission to Appeal

3. An application for permission to appeal was made on the basis that the appellant lodged his application prior to the introduction of Appendix FM and yet the respondent applied the 'new rules' in force after 9th July 2012. Further the judge failed to take into account the circumstances that led to the revocation of the appellant's college licence and its impact on the appellant.
4. The application was refused by First Tier Tribunal Judge Kelly but was renewed to the Upper Tribunal.
5. Permission to appeal was then granted by Upper Tribunal Judge Chalkley but in relation to the Section 47 issue alone. The application regarding the Article 8 issue was dismissed.

The Hearing

6. At the hearing before me Mr Wilding submitted that Judge Kaler had in error recorded the decision as having been made in July 2012 rather than July 2013. This had caused confusion but otherwise the decision contained no error of law.
7. Mr Onipede submitted that the merits of the case with respect to Article 8 should be revisited.

Conclusions and Findings

8. I declined to revisit the issue of Article 8. The application for permission to appeal with regards to human rights has been the subject to consideration by two previous judges, one from the First Tier Tribunal and one from the Upper Tribunal. Both refused the application and nothing was submitted before me to cause me to depart from their decisions.
9. Section 51 of The Crime and Courts Act 2013 came into force on 8th May 2013 by virtue of Statutory Instrument 2013 No. 1042. Section 51(3) in effect confirms that where the Secretary of State gives written notice of a pre-removal decision to the person affected, the Secretary of State may, in a document containing that notice, in a documents enclosed in the same envelope as that document, otherwise on the occasion when that notice is given to the person or at any time after that occasion but before an appeal against the pre-removal decision is brought, also give the person written notice that they may be removed from the UK under this section. The Section 47 decision was therefore in accordance with the law.

10. I therefore find there is no error of law in the determination of Judge Kaler and the determination shall stand.

Signed

Date 29th May 2014

Deputy Upper Tribunal Judge Rimington