



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

Appeal Number: IA/52908/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 28th November 2014**

**Determination Promulgated
On 18th December 2014**

Before

DEPUTY UPPER TRIBUNAL JUDGE M A HALL

Between

**SANDHYA KRISHNANKUTTY
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Sreevalsalan of Legend Solicitors

For the Respondent: Mr J Parkinson, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

Introduction and Background

1. The Appellant appeals against a determination of Judge of the First-tier Tribunal Buckwell promulgated on 11th September 2014.

2. The Appellant is a female Indian citizen born 23rd April 1991 who on 4th October 2013 applied for further leave to remain in the United Kingdom as a Tier 4 (General) Student Migrant.
3. The application was refused on 3rd December 2013 with reference to paragraph 245ZX(d) of the Immigration Rules. The Respondent did not award the ten points claimed by the Appellant in relation to maintenance on the basis that the Appellant had not proved that she was in possession of £7,200 for a consecutive 28 day period.
4. This was because, as evidence of funds, the Appellant had provided a letter from Catholic Syrian Bank dated 4th October 2013, confirming that she had been given a loan of 750,000 rupees, equivalent to £7,489.56. The Respondent decided that this was not satisfactory evidence of funds with reference to paragraph 1B(d)(7) of Appendix C of the Immigration Rules which provides;

“(7) the loan is provided by the national government, the state or regional government or a government sponsored student loan company or is part of an academic or educational loans scheme.”
5. The Respondent explained that;

“As your loan is through a bank and not through a government controlled loan scheme and we have no proof that the loan is government sanctioned, we cannot consider the loan to be proof of funds.”
6. The Appellant’s appeal was heard by Judge Buckwell (the judge) on 14th August 2014. The only issue before the judge was whether the proposed loan was part of an academic or educational loans scheme. The judge found there was no evidence to show that the proposed loan was anything other than a free-standing loan to a customer or client. There was no evidence to show that the loan was part of an academic or educational loans scheme. The appeal was therefore dismissed.
7. The Appellant applied for permission to appeal to the Upper Tribunal contending that the judge had erred in law and that the letter from the bank dated 4th October 2013 had specifically referred to the loan being a “loan for educational purpose”. It was contended that this satisfied the requirements of paragraph 1B(d)(7) of Appendix C.
8. Permission to appeal was granted by Judge of the First-tier Tribunal Levin, and the Tribunal issued directions that there should be a hearing before the Upper Tribunal to decide whether the First-tier Tribunal determination should be set aside.

The Appellant’s Submissions

9. Mr Sreevalsalan relied upon the grounds contained within the application for permission to appeal, contending that the letter from the bank clarified that the loan was for an educational purpose which sufficed to satisfy the Immigration Rules, and pointed out that the Respondent’s guidance did not define the meaning of “an academic or educational loans scheme.”

The Respondent's Submissions

10. Mr Parkinson agreed he could find no definition of "an academic or educational loan scheme" but relied upon a Rule 24 response dated 12th November 2014 in contending that the judge had not erred in law. I was asked to find that there was no evidence that the loan was part of a scheme, and therefore the judge did not err in making that finding, and the appeal must fail.
11. At the conclusion of oral submissions I reserved my decision.

My Conclusions and Reasons

12. The judge did not err in law in dismissing the appeal. I could find no definition of an academic or educational loans scheme in any of the guidance provided by the Respondent in relation to Tier 4 applications. Both representatives confirmed that they too had been unable to find any definition.
13. The judge did not entirely agree with the reasons for refusal given by the Respondent which seemed to indicate the loan had to be government sanctioned. The judge analysed the letter from the Catholic Syrian Bank and noted that the letter referred to a loan application for "education purpose" but was correct to find that no evidence had been provided that this loan was part of "an academic or educational loans scheme."
14. The judge was entitled to conclude that there was no evidence to show that the proposed loan was anything other than a free-standing loan to a customer or client for an educational purpose, and to conclude that the evidence contained no reference whatsoever to the bank operating an academic or educational loans scheme. The burden of proof when proving such a scheme exists rests on the Appellant, and the judge was entitled to find that the burden had not been discharged, and gave adequate reasons for his finding.

Decision

The determination of the First-tier Tribunal does not include an error of law.

I do not set aside the decision, which stands. The appeal is dismissed.

Anonymity

No order for anonymity was made by the First-tier Tribunal. There has been no request for anonymity and the Upper Tribunal makes no anonymity order.

Signed

Date 4th December 2014

Deputy Upper Tribunal Judge M A Hall

FEE AWARD

The appeal is dismissed. There is no fee award.

Signed

Date 4th December 2014

Deputy Upper Tribunal Judge M A Hall