



**Upper Tribunal  
(Immigration and Asylum Chamber)  
IA/04312/2014**

**Appeal Number:**

**IA/04330/2014**

**THE IMMIGRATION ACTS**

**Heard at Field House  
Determination promulgated  
on 21 January 2015  
January 2015**

**on 30**

**Before**

**DEPUTY JUDGE OF THE UPPER TRIBUNAL DIGNEY**

**Between**

**VISHNUBHAT PUNJABHAI PATEL (Mr)  
MALTIBAHEN VISHNUBHA PATEL (MRS)**

Appellants

and

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the respondent: Ms Everett, Home Office Presenting Officer  
For the appellants: Mr Hussein

**DECISION AND REASONS**

1. On 31 July 2012, the first appellant, a citizen of India, applied to remain as a Tier 4 (General) Student Migrant, and that application was refused on 26 November 2013. His wife made a parallel application as his dependent wife which was also refused. An appeal against the decisions was heard on 23 September 2014 and the appeal was dismissed.
2. Permission to appeal was sought. The case turned on whether the first applicant has actually received a number of letters, which, if he had, would have alerted him to the fact that that he had sixty days to find a new sponsor. The judge concluded that he had received them. The grounds of appeal argue that the judge was wrong to reach this conclusion. The grant of permission contains the following:
  2. The grounds are long, poorly drafted, repetitive and in parts unintelligible but they include a claim that the judge erred in law by failing to give adequate reasons for his findings that the first appellant had received letters from the respondent giving him 60 days in which to find an alternative sponsor.
  3. Given that the judge in the section of his determination headed "My findings of Fact" made no findings with reference to the first appellant's assertion identified by him at para 20 of his determination that the first appellant had not received the "60 day letters", it is arguable that the judge's failure to make findings upon this key issue amounts to an error of law. It is also arguable that the judge's failure to give any reasons for his finding in para 24 of the determination that he did not find not credible that the first appellant had not received the "60 day letters" constituted a further error of law.
3. The first thing to say is that it is wrong to state that the judge made no finding as to whether the letters had been received; in paragraph 24 he clearly does. He explains why he reaches that conclusion and it is not difficult to follow why he reached the conclusion that he did. There is one point that must be dealt with. Mr Hussein argues that only two letters were sent. The position is that, although there were three letters, two of the letters from the Home Office bore the same date. It follows that it may be that only two letters were sent, in the sense that two envelopes were used and two letters were sent in the same envelope. The judge was nonetheless entitled to conclude that it was not credible that two letters from the same sender went astray when there was no evidence of postal problems. We all have experience of letters going astray and the judge was entitled to conclude that it was not more likely than not that they had gone astray here when it is said that at least two letters had not been received. Mr Hussein produced evidence that suggested that about 0.7% of letters go astray. He was not entitled to produce such evidence but it supports the proposition that the judge was entitled to reach the conclusion he did. The judge also gives reasons to explain why the appellant may have taken no steps when he received the letter.

4. I agree with the judge who granted permission that the remainder of the grounds identify nothing that could be considered an error of law, arguable or otherwise.
5. The judge reached conclusions that were open to him on the evidence and his reasoning contained no error of law. It follows that the original decision shall stand.

**The appeal is accordingly dismissed**

Designated Judge Digney  
Judge of the Upper Tribunal  
23 January 2015