



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Numbers: IA/18050/2014  
IA/18059/2014  
IA/18180/2014  
IA/18074/2014

**THE IMMIGRATION ACTS**

Heard at Field House  
On: 28 May 2015

Decision and Reasons Promulgated  
On: 3 June 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE CHANA

Between

MRS RANJIT KAUR  
MR PRITPAL DHILLION  
MR GURPREET SINGH DILLON  
MR SAHILPREET SINGH DHILLON  
(Anonymity directions not made).

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Barrister instructed by Lewis Kennedy Solicitors  
For the Respondent: Mr S Witwell, Senior Presenting Officer

**DETERMINATION AND REASONS**

1. The appellants are citizens of India born on 11 December 1979, 15 February 1980, 20 June 2003 and 10 August 2005. They are a family. The appellant's appeal against the decision of the respondent refusing the appellants leave to remain as a Tier 4 General Student and her dependents. As it was accepted at the hearing of the First-tier Tribunal that the appeals of the second, third and fourth appellant's

rests or falls with that of the first appellant, I will also consider the first appellant's appeal, and refer to her as "the appellant".

2. Permission to appeal was given by first-tier Tribunal Judge Foudy on 26 March 2015 stating that it is arguable that an error of law occurred because the bundle of documents submitted by the appellant's representatives in December 2014 failed to find their way to the appeal file, hence the Judge was unaware of this evidence. It was stated that this is more an error of law on the part of the Tribunal administration rather than the Judge.

### **First-tier Tribunal's Findings**

3. The first-tier Tribunal Judge stated the following in the determination, which I summarise. The appellant applied for leave to remain under the points based system and the appellant was awarded 30 points in respect of CAS. She was not however, awarded any points in respect of maintenance/ funds. The appellant has not demonstrated that she has in her possession £5600 for 28 consecutive days prior to her application to meet the requirements of the Tier 4 General Student maintenance requirements.
4. The appellants were not present at the hearing of the appeal neither were they represented. They have also not provided the Tribunal with additional grounds of appeal and also and most importantly a bundle of documents with represents their evidence in respect of the appeal.

### **Grounds of Appeal**

5. The decision of the Judge mentioned that the appellant was not present at the hearing of appeal and nor were they represented. The appellant faxed the additional witness statement and "most importantly a bundle of documents which represents their evidence in respect of the appeal." The appellant "faxed the additional grounds, witness statement and proof of postage of bank statement before the date of decision of the Home Office to the Tribunal by fax on 11 December 2014 and unfortunately these documents were not considered by the IJ. The appellant herewith enclosing the entire bundle along with the fax call report"

### **The hearing.**

6. At the hearing I heard submissions from both parties. For the appellant the appellant's representative said he does not have the bundle of documents because the solicitor did not keep a copy. He said that he has proof that documents were faxed to the Tribunal which included the appellant's bank statements to demonstrate that she had the requisite funds in her bank account to meet the maintenance requirements of the Immigration Rules.

## **Is there a material error of law in the determination of the First-tier Tribunal?**

7. The First-tier Tribunal Judge dismissed the appellant's appeal and found that the appellants cannot succeed under the Immigration Rules as there is no evidence of funds in the appellant's account of £5600 held for 28 consecutive days prior to her application which meets the maintenance requirements for further leave to remain as a student under the points based system.
8. The Judge in his determination stated that appellants were not present at the hearing of the appeal and nor were they represented. He stated that the appellants have not provided the Tribunal with additional grounds of appeal and also and "most importantly a bundle of documents with the appellant claims represents their evidence in respect of the appeal". The Judge was therefore aware that there was a bundle of documents that the appellant claimed she had provided but there were not before him. As the appellant were not at the hearing, they could not be asked about these documents.
9. The appellant provided a fax receipt from his solicitors which she says demonstrates that some papers were sent to the respondent on 11 December 2014. This fax receipt however does not demonstrate what documents were faxed to the respondent. The appellant claims that they were bank statements which would have satisfied the maintenance requirement. At the hearing however I was informed that these bank statements are not available and a copy of the bank statements have not been kept by the solicitors.
10. I cannot accept that the bank statements could not have been provided if they had been genuinely sent to the Tribunal. At the hearing as there was no explanation for why duplicates of the bank statements were not obtained from the appellant's Bank. There was also no statement from the Solicitors that they sent the appellant's bank statements and did not retain a copy for their file. The fax receipt only demonstrates that some papers were faxed but this does not of itself demonstrate that they were bank statements which would have satisfied the maintenance requirements of the Immigration Rules.
11. The Judge was entitled to find on the evidence before him that the appellant does not meet the requirements of the Immigration Rules for further leave to remain with her dependents in the United Kingdom. This is an attempt by the appellant to claim that she satisfied the requirements of the Immigration Rules by merely providing a fax receipt without providing the documents themselves and without explanation.
12. There was no submissions made to me that these documents would be available at a further hearing, in the event that I was to find an error of law. The appellant is represented therefore her representatives must have known that production of the claimed bank statements with the requisite funds would have strengthened the appellant's claim that the solicitors sent bank statements to the Tribunal. The bank statements were not on the Court file and also not in the Home Office file and as it happens they were also not available at the hearing before me.

13. The Judge did not fall into material error by not considering documents which were not before him because the appellant has not demonstrated that bank statements were sent by fax. There was no credible evidence before me upon which I can conclude that the bank statement had been sent to the Tribunal which the Judge failed to consider.

14. I therefore uphold the determination of First-tier Tribunal Judge as not being erroneous in law.

### **DECISION**

The appellant's appeal is dismissed

Signed by

Mrs S Chana  
A Deputy Judge of the Upper Tribunal

Dated this 1<sup>st</sup> Day of June 2015