



IAC-CH-AP-V1

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

Appeal Number: IA/39113/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 1st September 2015**

**Decision & Reasons Promulgated
On 17th September 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE

Between

**MR SRIDHAR THIRUVALI KUTTIYAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No representative

For the Respondent: Mr Paul Duffy, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is an Indian national born on 2nd May 1989. He was granted permission to appeal a decision of the First-tier Tribunal promulgated on 19th February 2015 dismissing his appeal against the Secretary of State's refusal to grant him leave to remain as a Tier 4 (General) Student Migrant. His complaint is that the First-tier Tribunal failed to make any decision on his Grounds of Appeal relating to human rights.
2. The Appellant wrote to the court advising that he was unable to attend and inviting a determination in his absence.

3. Mr Duffy addressed me briefly to the point that the Appellant's Grounds of Appeal in respect of Article 8 amounted to no more than a bald assertion, it was a moot point as to whether or not that was a ground which required determination by the judge in light of the absence of particularisation and the Appellant's failure to adduce any written or oral evidence. If I were minded to find that the judge should have nonetheless determined the Article 8 ground the evidence was such that only a dismissal of the ground could follow and in that event he invited me to remake the decision to dismiss the appeal on the Article 8 ground.

My Consideration and Findings

4. The Appellant has not made any application to adduce any additional evidence to that before the First-tier Tribunal. His Ground of Appeal at paragraph 12 states:
 - “12. It is also submitted that the Secretary of State has not given due consideration to the appellant's right under Article 8 of the ECHR.
 13. It is submitted that the appellant has private life in the United Kingdom.
 14. Appellant is an International student present in the United Kingdom.
 15. He has already paid his course fee.
 16. The interference of the respondent is not according to law, not necessary in a democratic society, public safety, or for the economic well-being of the country or for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”
5. The decision of the First-tier Tribunal accurately records that the Appellant failed to attend the oral hearing that he had requested. He provided no explanation for his absence. He failed to submit any evidence to support his grounds.
6. The judge found that the Appellant had failed to submit the documentary evidence required to support his Tier 4 application and dismissed the appeal under the Immigration Rules.
7. Strictly speaking the judge is required to make a decision in respect of every Ground of Appeal. He did not make a decision in respect of the Appellant's Article 8 Grounds of Appeal. In those circumstances, I set aside the decision of the First-tier Tribunal to the extent, and only to the extent, that the Article 8 ground has not been determined, and I remake the decision in respect of the Article 8 ground dismissing the Appellant's appeal.

Decision

- 8. The decision of the First-tier Tribunal reveals no error of law in respect of the dismissal of the Appellant’s appeal on Immigration Rules grounds and to that extent it stands.
- 9. The decision of the First-tier Tribunal in respect of Article 8 is deficient for failing to formally record a decision and I remake that part of the decision and dismiss the Appellant’s appeal on human rights grounds.

Signed

Date

Deputy Upper Tribunal Judge Davidge

**TO THE RESPONDENT
FEE AWARD**

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

Deputy Upper Tribunal Judge Davidge