



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

Appeal Number: IA/21705/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 28 July 2016**

**Promulgated and Sent
On: 29 July 2016**

Before

UPPER TRIBUNAL JUDGE STOREY

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

Mr MD AI AMIN

Respondent

Representation

For the appellant: Mr N Bramble, Home Office Presenting Officer

For the respondent: Ms C Hulse, Counsel, instructed by East London Law Chambers Presenting Officer

DECISION AND REASONS

1. The Secretary of State (SSHD) has been granted permission to challenge the decision of First-tier Tribunal Judge Gibbs who on 13 January 2016 allowed the appeal of the respondent (hereafter the claimant) against a decision by the SSHD dated 3 June 2015 refusing to grant him leave to remain as a Tier 4(General) student and a decision to remove him under s.47 of the IAN Act 2006. The SSHD's ground was that in allowing the appeal

the FtT judge had erred in concluding that the claimant had never received a letter sent by the SSHD on 26 March 2015 giving him 60 days to find a college with a valid licence. It was submitted that the judge overlooked that the fact that the HOPO referred to the recorded delivery number contained in the HO file and computer records.

2. It is unnecessary to go into further detail because Mr Bramble properly conceded that the SSHD's grounds could not be maintained because the recorded delivery letter was sent to the claimant's old address whereas on 21 July 2014 in his application form for Tier 4 (General) leave the claimant had given his new address and indeed his legal representatives had also gone on record before the 26 March 2015 asking that they be sent copies of any letters. Hence, the FtT judge was plainly right to conclude that the claimant had not received the letter of 26 March 2015 informing him his leave was being curtailed and that he had 60 days to find a college other than Opal (which having earlier had "highly trusted" status lost its licence in early 2015).

3. For the above reasons I conclude that the FtT judge did not err in law and the judge's decision to allow the claimant's appeal must stand.

Signed

Date: 28 July 2016

A handwritten signature in black ink that reads "H H Storey". The signature is written in a cursive style with a large, looped 'y' at the end.

Dr H H Storey
Judge of the Upper Tribunal