



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

Appeal Number: IA/30358/2013

THE IMMIGRATION ACTS

Heard at Field House

On 19 June 2014

Determination

Promulgated

On 14 July 2014

Before

**LORD MATTHEWS, SITTING AS AN UPPER TRIBUNAL JUDGE
DEPUTY UPPER TRIBUNAL JUDGE J M HOLMES**

Between

MR SYED WASEEM SYED

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Syed-Ali, a Legal Representative

For the Respondent: Mr P Deller, a Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is an appeal by an Indian national who came to this country with leave to study and who subsequently gained leave to remain as a post-study work migrant. Ultimately he made an application on 17 June 2013 for leave to remain as a Tier 1 (Entrepreneur) Migrant under the points-based system. That application was refused on 5 July 2013 and in the course of the decision-making process consequent to it the Respondent went on to make a Section 47 removal decision.

2. The Appellant duly appealed to the First-tier Tribunal and his appeal was heard by Judge Zahed on 27 February 2014 and dismissed in a determination promulgated on 3 April 2014 on both failure to meet the Immigration Rules and Article 8 grounds.
3. The Appellant was not represented by Mr Syed-Ali at that hearing but by an earlier representative, Mr Chohan. Mr Chohan made a concession to the Tribunal which is recorded at paragraph 7 of the determination, and that concession was in terms that the documents submitted with the application did not meet the requirements of the Immigration Rules as they were at the date of the application and at the date of decision because they failed to include one of the specified documents under paragraph 41-SD of Appendix A. That concession must stand today because Mr Syed-Ali fairly accepts ultimately that it was correctly made. The documents specified in that paragraph do not exist and never existed.
4. In those circumstances the arguments made in the application for permission to appeal in relation to the evidential flexibility policy or paragraph 245AA of the Immigration Rules fall away as does any complaint about whether the lawyers' letters that were submitted with the application were properly and fairly read or mistakenly misunderstood.
5. In those circumstances, although reference is made in the Grounds of Appeal that were before the First-tier Judge to Article 8 it is clear that the Article 8 appeal was properly dealt with by him. In paragraph 11 of the determination he records that the reference to Article 8 in the Grounds of Appeal is a single line, unparticularised and that he heard no submissions from Mr Chohan upon it.
6. Although the Appellant arrived as a student and had been in the UK at the date of the hearing for some four and a half years he had always been here on a temporary basis. There was no suggestion that he had acquired or created any family life in the UK for the purposes of Article 8 and it was not suggested that he could succeed under paragraph 276ADE in relation to any private life.
7. There appears to have been scant evidence as to what the private life of the Appellant actually consisted of and there is no error in our judgment as to the way in which the Immigration Judge dealt with the evidence of the Appellant's "private life", and thus the Article 8 appeal, in paragraph 12 of the determination. That being so, notwithstanding the grant of permission which failed to identify any arguable error of law, there is in our judgment no arguable error of law in this determination, and as a result we confirm the decision of the First-tier Tribunal and dismiss this appeal.

Signed

Date

Deputy Upper Tribunal Judge J M Holmes