



UPPER TRIBUNAL
(IMMIGRATION AND ASYLUM CHAMBER)

APPEAL NUMBER: IA/04313/2014

THE IMMIGRATION ACTS

Heard at: Field House
On: 20 April 2015

Decision and Reasons Promulgated on
11 June 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE MAILER

Between

MR VIMAL ALAGIRI

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr R Saravanan, Solicitor (AccuLegal Solicitors)

For the Respondent: Ms A Holmes, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a national of India, born on 25 May 1986. His appeal against the decision of the respondent dated 9 January 2014 refusing his application for leave to remain in the UK as a Tier 4 (General) Student Migrant was dismissed by First-tier Tribunal Judge Scobbie in a determination promulgated on 1 October 2014.
2. The Judge found that for the purpose of the maintenance requirements under the relevant rule, an educational loan must come from the country's national government rather than a financial institution. Nor did the relevant letter produced by the

appellant contain the information required [19]. He accordingly dismissed the appellant's appeal under the Rules.

3. The appellant in his grounds for permission contended that it had never been the respondent's case that the letter did not contain the information required. On 17 November 2014, the appellant was given permission to appeal to the Upper Tribunal.
4. Mr Saravanan relied on his written submissions which he adopted at the hearing.
5. It is common ground that the appellant came to the UK following an entry clearance granted to him as a Tier 4 Student valid to 29 October 2013.
6. His application for further leave to remain as a student was refused on 9 January 2014. He was not awarded any points under the maintenance requirements (Appendix C). That was on the basis that he had provided a letter from the Catholic Syrian Bank confirming that he had been granted a loan in excess of £10,000. That letter was not accepted by the respondent as the loan being provided was from a financial institution.
7. Mr Saravanan referred to the applicable rules in Appendix C. It states at paragraph 1B(d) that if the applicant is applying as a Tier 4 Migrant, an original loan letter must be produced from a financial institution regulated for the purpose of student loans by either the Financial Conduct Authority (FCA), and the Prudential Regulation Authority (PRA), or in the case of overseas accounts, the official regulatory body for the country or institution is in and where the money is held, which is dated no more than six months before the date of the application showing the requisite information set out.
8. It is not disputed that the relevant information was shown. The letter was dated no more than six months before the date of the application. It also showed the applicant's name, the date of the letter, the financial institution's name and logo, and that the money is available as a loan.
9. It is provided at sub-paragraph (5) that for applications for entry clearance, the loan funds are or will be available to the applicant before he travels to the UK, unless the loan is an academic or student loan from the applicant's country's national government and will be released to the applicant on arrival in the UK. As submitted by Ms Holmes that ensures that the money will be available for the student on arrival.
10. It is further provided (sub-paragraph 6) that there must be no conditions placed upon the release of the loan funds. Finally, sub-paragraph 7 requires that the loan is provided by the national government, the state or regional government or a government sponsored student loan company, or is part of that academic or educational loans scheme.
11. The respondent contended that the appellant failed to satisfy the latter requirement – sub-paragraph 7 – as the loan was provided by way of a letter from the Catholic

Syrian Bank, and is accordingly not provided by the national government, state or regional government, or a government sponsored loan company, or is part of an academic or educational loan schemes.

12. Mr Saravanan submitted that the conditions referred to in sub-paragraph 5 only apply to an entry clearance application and are not applicable to an in country application for leave to remain, as in the appellant's case. There can be loans from other sources. The only condition is that it should be from an educational loan scheme. Mr Savaranan submitted that the loan can be from financial institutions regulated for the purpose of student loans by the official regulatory body of India, namely, the Reserve Bank of India.
13. Ms Holmes accepted that the loan sanction letter from the Catholic Syrian Bank Ltd set out the relevant details in the letter as required by sub paragraph (d).
14. Ms Holmes relied on her written submissions. She set out part (d) of Appendix C. She submitted that having sought advice on the wording of this paragraph, it is only sub paragraph 5 that applies specifically to entry clearance "because we want to know the funds are available before the student is here." Consequently, there is no difference in treatment.
15. She submitted therefore that the appellant in this case needs to demonstrate that with the exception of sub paragraph 5, he fulfils all the requirements.
16. I allowed the parties the opportunity to ascertain whether the bank was regulated as required by the Rules. Both have eventually responded.

Assessment

17. I find that this appellant applied for further leave to remain as a Tier 4 student prior to the expiry of his leave. He applied from within the UK. He is thus required to provide an original loan letter from a financial institution regulated for the purpose of student loans by the official regulatory body for the country the institution is in.
18. There must be no conditions placed upon the release of the loan funds other than his making a successful application as a Tier 4 Migrant and finally that the loan is provided by the national government, the state or regional government, or a government sponsored student loan company, or is part of an academic or educational loans scheme.
19. It is thus necessary for this appellant to provide the necessary letter from a financial institution regulated for the purpose of student loans, in this case, by the official regulatory body for India.
20. The loan letter that he produced was from the Catholic Syrian Bank. Ms Holmes accepted that that bank relates to an overseas account. She accepted that the bank is regulated by the official regulatory body for India. The bank is approved by the Home Office.

21. In his written submissions dated 5 May 2015 Mr Saravanan produced the consolidated statute, namely, the Reserve Bank of India Act 1934 as amended up to 7 January 2013.
22. It is evident from the legislation that the Reserve Bank of India is the official regulatory body regulating and controlling banks in India. The Reserve Bank of India derived its powers under the Reserve Bank of India Act 1934. The banks in India are also controlled by the Banking Regulations Act 1949, a copy of which has been provided. The latter Act consolidates and amends the law relating to banking and extends to the whole of India.
23. The schedule to the Reserve Bank of India Act has a list of Indian banks classified as such and regulated by the Reserve Bank. The Catholic Syrian Bank which provided the loan letter to the appellants is identified in the schedule.
24. The Banking Regulation Act 1949 enables and empowers the Reserve Bank of India to issue notification, directions, circulations and the like, having effective supervision and control of the scheduled banks.
25. The Reserve Bank of India derives powers and directions to supervise educational loan schemes and has issued circulars.
26. Mr Saravanan has also produced a document headed "Educational Loans Scheme" dated April 2001. The finance minister in a meeting with the Chief Executives of the public sector banks highlighted the role of commercial banks in facilitating the pursuit of higher education by poor, but meritorious students. In pursuance thereof, the Indian Banks' Association - IBA - constituted a study group under the chairmanship of one of the banks to examine the issue in detail. Based on the recommendation of the study group a comprehensive model educational loan scheme was prepared by the Indian banks' association for adoption by all banks. The scheme aims at providing financial support from the banking system to deserving and meritorious students for pursuing higher education in India and abroad.
27. The government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) considered and decided to adopt the Model Scheme prepared by IBA for implementation subject to various modifications. A copy of the model scheme prepared by IBA for implementation by banks was forwarded so that its benefits are available to students from this academic session.
28. I have had regard to the legislation as well as the applicable educational loans scheme. The model scheme is subject to various modifications and regulates conditions relating to minimum qualifying marks, the margin that may be insisted upon for loans up to Rs.4 lakh. No security may be insisted upon for loans up to Rs.4 lakh. Subject to those modifications, the model scheme for implementation by the banks were submitted so that its benefits would become available to students from the earliest academic session.

29. Appendix P to the Immigration Rules lists the names of the Indian banks whose statements can be accepted and the Catholic Syrian Bank is on the list.
30. From the documentation produced I am accordingly satisfied that the appellant has provided evidence from the official regulatory body for India that the Catholic Syrian Bank was regulated for the purpose of student loans by the official regulatory body of India.
31. Ms Holmes has subsequently accepted that the bank is regulated for the purpose of the Rules.

Notice of Decision

32. The First-tier Tribunal Judge made an error of law and the decision is set aside.
33. I substitute a fresh decision allowing the appeal.

Signed
Deputy Upper Tribunal Judge Mailer

Dated: 4 June 2015