



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/33523/2013

THE IMMIGRATION ACTS

Heard at Bradford
On 17th March 2014

Determination Promulgated
On 28th March 2014

Before

UPPER TRIBUNAL JUDGE D E TAYLOR
UPPER TRIBUNAL JUDGE CLIVE LANE

Between

SONY GOUD BOYAPALLY

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance
For the Respondent: Mr Diwnycz

DETERMINATION AND REASONS

1. This is the Appellant's appeal against the decision made on the papers by Judge of the First-tier Tribunal Deavin on 2nd January 2014.

Background

2. The Appellant is a citizen of India born on 7th August 1986. She came to the UK on 23rd January 2011 to study for a Masters degree at Sheffield Hallam University, intending in due course to apply for a Tier 1 (Post-Study Work) Migrant visa. However this scheme had closed by the time she had finished her degree. On 20th June 2013, she made an in time application for leave to remain in the UK outside the Immigration Rules by submitting a form FLR(O) on the grounds that her removal would violate the Appellant's rights under Article 8 of the ECHR. Her application was refused on 22nd July 2013.
3. The Appellant appealed against the refusal and elected to have her case dealt with on the papers without an oral hearing. Judge Deavin concluded that she could not meet the requirements of the Rules with respect to the enjoyment of private life in the UK. She had family to return to in India, where she had spent 24 years before coming here to study, and he concluded that the appeal should be dismissed.
4. The Appellant sought permission to appeal on the grounds that the judge had failed to apply the correct test as set out in the case of Razgar. Permission was granted for that reason by Judge Wellesley-Cole on 29th January 2014.
5. There was no appearance by the Appellant at the hearing.
6. Mr Diwnycz submitted that there was no error of law in the decision and relied on the case of Gulshan [2013] UKUT 640 for the proposition that, after applying the requirements of the Rules, only if there may be arguably good grounds for granting leave to remain outside them is it necessary for Article 8 purposes to go on to consider whether there are compelling circumstances not sufficiently recognised under them.

Findings and Conclusions

7. There is no legal error in this determination. The judge, in these circumstances, was not obliged to go through the formality of deciding whether each of the Razgar tests were met since on any view this was not an application which could possibly have succeeded. The Appellant came to the UK for a temporary purpose, put forward no evidence to establish her claim to enjoy a private life here and never sought to argue that she had lost her ties with her country of nationality. The fact that the particular scheme, which she hoped would allow her to work here, had closed by the time she had completed her degree, is not a basis for establishing that the UK would be in breach of its obligations under the ECHR by removing her.

Decision

The appeal is dismissed.

Signed
Upper Tribunal Judge Taylor

Date