



Qazi Law Associates
#3 Block 14-E Najam Arcade
F-8 Markey Ayub Market
Islamabad 44000
PAKISTAN

Date : 1 July 2008



THE IMMIGRATION ACTS

Appeal No: OA/14535/2008
Appellant: Ms, Faiza, Adnan
Respondent: Entry Clearance Officer

HO Ref:
Port Ref:
FCNumber: 1425953
Reps Ref: SWV/AL140237/ISB/
1425953

To the Appellant and Respondent

Enclosed is the Tribunal's determination of the above appeal.

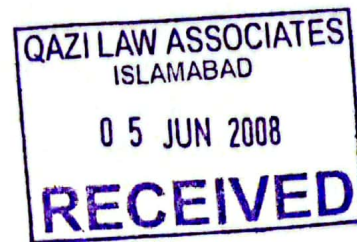
Either party may apply to the appropriate court (*the High Court or, where the Appeal was decided in Scotland, the Court of Session*) for a review of the Tribunal's decision on the ground of an error of law.

Any application must be made in accordance with the relevant Rules of Court and must be made within 5 days of receipt (or deemed receipt) of this determination, except where the Appellant is outside the United Kingdom, in which case any application by the Appellant must be made within 28 days of receipt (or deemed receipt) of this determination.

All applications must be sent to:

Secretary to the Asylum and Immigration Tribunal:

Arnhem House Review Applications, Arnhem Support Centre (Tribunal), P O Box 6987, Leicester, LE1 6ZX.
Fax: 0116 249 4214



Clerk to the Tribunal

Copy issued to Appellant: Ms, Faiza, Adnan,
Copy issued to Home Office: Presenting Officers Unit, Angel Square, EC1V 1SX



ALL CORRESPONDENCE SHOULD BE SENT TO THE ADDRESS AT THE TOP OF THIS NOTICE QUOTING THE APPEAL NUMBER AND ANY HEARING DATE

THE IMMIGRATION ACTS

Determined On the Papers at Taylor House
On 23 June 2008
Prepared 24 June 2008

Determination Promulgated

.....01 JUL 2008.....

Before

IMMIGRATION JUDGE VAUDIN d'IMECOURT

Between

MS FAIZA ADNAN

Appellant

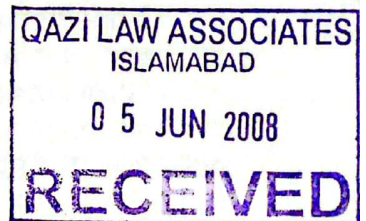
and

ENTRY CLEARANCE OFFICER - ISLAMABAD

Respondent

Representation:

For the Appellant: None
For the Respondent: None



DETERMINATION AND REASONS

The Appeal

1. The appellant, a citizen of Pakistan, whose stated date of birth is 1 October 1987 and is female, appeals under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 against the decision of the Entry Clearance Officer (ECO) made at the British High Commission in Islamabad, on 25 November 2007 to refuse her application for entry clearance as a student dependant dated 12 November 2007, in order to enable her to enter the United Kingdom as the spouse of Adnan Khurshid, a student in the United Kingdom, under paragraph 76(1); and 320(21) of Rule HC 395 (amended) namely, on the basis that the ECO was not satisfied on the balance of probabilities that the appellant is married to the sponsor as claimed; and on the basis

that whether or not to the holder's knowledge the submission of a false document had been sent in support of the application.

Interview

2. The appellant was not interviewed by the ECO who decided her application on the documents before him.
3. In support of her application the appellant has provided a copy of her VAF application form, signed by her, dated 12 November 2007; a letter dated 28 November 2007 from Sultan Zhahur Akhtar, in which he states that he is pleased to issue the certificate to Adnan Khurshid (the appellant's sponsor) and in which he states that the latter got married to the appellant on 7 January 2007 and that the nikah ceremony was duly solemnised in front of witnesses; a document from the Ibrahim Colour Lab and Photo Studio dated 6 December 2007 in which they state that they confirm that they have "captured the wedding ceremony of Adnan Khurshid (the appellant's sponsor)".

The ECO's Reasons for Refusal

4. The ECO's reasons for refusal are set out in the notice of immigration decision, dated 15 November 2007. The ECO looking at the evidence before him in the round, noted that the appellant relied, as evidence of her marriage to the sponsor, upon photographs that she had sent of her marriage, which he found were clearly digitally re-mastered to present an image of her in the presence of her sponsor. The ECO found that the fact that she relied upon such documentation persuaded him that she had never been photographed in the presence of her sponsor. As he found that the activity of photographing the bride and groom at a wedding in Pakistan was fundamental to the ceremony he was not satisfied on the balance of probabilities that she and her sponsor had conducted a valid marriage. He therefore refused her application.

Grounds of Appeal

5. By notice of appeal, date stamped as received on 13 December 2007, to which were attached the appellant's grounds of appeal, including a document headed "List of Documents" in which, inter alia, the appellant states that the Entry Clearance Officer erred in law by failing to consider evidence properly or at all and that his objections are baseless and in which he states that she has supplied a certified true copy in Urdu and English of her marriage certificate to the sponsor dated 7 January 2007 as well as a letter from the nikah/marriage reader confirming the registration of the marriage in Nikah Register the appellant takes issue with the ECO's findings and appeals the above decision.

The Hearing

6. The appeal in this case was determined by the Tribunal on the papers.

The Burden and Standard of Proof

7. It is for the appellant to satisfy the Tribunal on the balance of probabilities that she qualifies under the provisions of paragraph 76 of Rule HC 395 (amended) in order to succeed in her appeal.

Findings of Fact and Reasons

8. I find that the appellant is a Pakistani national who was born on 1 October 1987. She applies to come to the United Kingdom as the spouse of a student. Her application was refused by the ECO solely on the basis that the photographs which had been produced by her of her marriage were considered to have been digitally re-mastered by the ECO. There is no evidence before me that the photographs were submitted to an expert and indeed, there is no evidence before me of the photograph at all since it has not been sent with the papers. The appellant has appealed and in her grounds of appeal she discloses, inter alia, that she has sent to the ECO together with her VAF application form, a certified true copy in Urdu and English of her marriage certificate to the sponsor on 7 January 2007; a letter from the nikah/marriage reader and Registrar; six wedding photographs of her wedding function; a DVD of her wedding function; and a letter from a family friend who attended the marriage. I note that the ECO has reviewed the decision upon receipt of the grounds of appeal but has decided that he was not persuaded to reverse his decision. The ECO does not take issue with the appellant's claim that she has sent a certified true copy of her marriage certificate as well as the other documents mentioned in her grounds of appeal. Those documents are not before me in the file, but given the fact that the ECO has not challenged the fact that these documents were before him at the time of decision and that they were genuine but had only decided to refuse the application on the basis that he found that the photographs had been digitally re-mastered and were "a fundamental to the ceremony" without any further explanation, and given that the appellant has produced evidence from the photographer who states that the photographs were genuine, I was satisfied on the balance of probabilities that the appellant was married to her sponsor as claimed. This being the only issue raised by the ECO, I was satisfied on the balance of probabilities that the appellant did satisfy the provisions of paragraph 76 of Rule HC 395 and that her appeal should therefore succeed.

Decision

9. Appeal allowed.



Signed

Date 24 June 2008

Immigration Judge Vaudin d'Imécourt