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Date : 10 May 2007

Fax on - 9/7 to 15/7

## THE IMMIGRATION ACTS

Appeal No: VA/50020/2006  
Appellant: Mr, Waseem, Khaliq  
Respondent: Visa Officer

HO Ref:  
Port Ref:  
FCNumber: 1252107  
Reps Ref:

### 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 Representative: Waseem Younus,  
Copy issued to Home Office: Presenting Officers Unit, Bennett House, ST1 2QB



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

AIT BH-TP

Asylum and Immigration Tribunal

Appeal Number: VA/50020/2006

**THE IMMIGRATION ACTS**

Heard at: Stoke (Bennett House)  
On: 26 April 2007  
Prepared: 8 May 2007

Determination Promulgated  
10 MAY 2007  
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Before:

IMMIGRATION JUDGE BOLGER

Between

MR WASEEM KHALIQ

**Appellant**

and

VISA OFFICER, ISLAMABAD

**Respondent**

**Representation:**

For the Appellant: None  
For the Respondent: Mr J Cartwright, Presenting Officer

**DETERMINATION AND REASONS**

1. The hearing of this appeal was listed for 10.00 a.m. By 3.55 p.m., there had been no appearance by any representative or sponsor on behalf of the Appellant. No explanation had been received. I decided to proceed.
2. The Appellant, Mr Waseem Khaliq, appeals against the decision of the Respondent, dated 23 October 2006, to refuse him entry clearance to the United Kingdom as a family visitor for three weeks.

The Appellant's application was considered solely on the documents submitted, without an interview.

3. For the reasons he set out at length in his Notice of Refusal, the Respondent rejected the Appellant's application having regard to paragraph 41(i), (ii), (iii), (vi) and (vii). In essence, because the Respondent was not satisfied as to the Appellant's personal and economic circumstances in Pakistan, he doubted the genuineness of the Appellant's intentions.
4. In this appeal, the burden of proof is upon the Appellant and the standard of proof is that of the balance of probabilities. The time to be looked at is the date of the decision, considering only the circumstances appertaining at that time. However, evidence after the decision but related to matters appertaining at the time of the decision may be considered.
5. The declared object of the Appellant's visit was, as appears from his application form, to attend the graduation ceremony of his elder brother, Mr Naeem Khaliq, which was due to take place on 21 November 2006. That that was the case is confirmed by a letter of 8 September 2006 to the Respondent from the Markfield Institute of Higher Education. The degree was to be awarded by Loughborough University, which validates the Markfield Institute. Although the Respondent's Notice of Refusal refers to a three week visit, the Appellant, in his application, in fact referred to "two or three weeks."
6. Mr Cartwright, for the Respondent, addressed me briefly. With his usual fairness, he made the point that as the graduation ceremony had taken place in November, one could understand why the sponsor (the Appellant's brother) had not attended. Indeed, presumably, the sponsor had returned to Pakistan. Otherwise, Mr Cartwright relied on the Respondent's Notice of Refusal.

7. I should say immediately that I can think of nothing more natural than that the Appellant should wish to attend his brother's graduation ceremony or that his brother should wish him to do so (which it is clear that he does from what is also said in the letter from the Markfield Institute to which I have referred). The Respondent does not dispute the relationship between the Appellant and Mr Naeem Khaliq, who is his elder brother, in fact.
8. I should also say immediately that I place little weight on the point which the Respondent raises in his refusal notice, to the effect that the Appellant appears to have no dependent relatives in Pakistan, no employment and no income or assets and has not yet established himself in Pakistan. In the first place, the Appellant, in his application form, claims to be in business and submitted documents with his application relating to that self employment and the income he claimed to derive from it. It is true that, elsewhere in his refusal notice, the Respondent takes issue with the Appellant's claim in this respect and the evidence submitted by him, matters with which I shall deal in due course, but it is a large leap from that to the flat assertion which the Respondent makes as to the Appellant's financial circumstances. With respect to what the Respondent says about the Appellant's having yet to establish himself in Pakistan, it is, of course, well settled that the mere fact that an applicant is young (which the Appellant is, having been born in 1982) and has yet to establish himself is not, in itself, sufficient to ground refusal of an application.
9. The Respondent also says that there is no evidence to show that the Appellant has a family in Pakistan, as claimed. In fact, the form FV1 attached to the application, requires applicants to set out in detail their close relatives in Pakistan. The Appellant has done that, listing his father, his mother, three brothers and two sisters. If the Respondent is claiming that this is false information, he should say why he believes that. Neither the application form nor the FV1 require an applicant to produce further evidence relating to relatives

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in Pakistan. In fact, however, with his Notice of Appeal, the Appellant lodged a Family Certificate issued by the Government of Pakistan in Form "B" with a certified translation. This document lists the members of the Appellant's family and corroborates what the Appellant said in his declaration in connection with his application. The Respondent has not challenged that.

2). In the event, therefore, the real issue in this appeal resolves itself into the doubts which the Respondent expressed about the Appellant's financial circumstances in Pakistan, which led the Respondent to doubt, in turn, the genuineness of the Appellant's application, in the light of the requirements of paragraph 41 of the Immigration Rules.

There is one point which the Respondent raises with which I can deal straight away. The Respondent says that he does not find the Appellant's claimed income to be credible, having regard to the average income in Pakistan. This is an entirely specious argument. It is an argument from an average, but an average is simply that and conceals variations.

As I have said, in his application form, the Appellant stated that he was a self-employed businessman, the name of his firm being "Noor Hyat Fabrics" and that his monthly income was approximately 90,000 rupees.

The Respondent challenged the Appellant's claimed income and also cast doubt on a bank statement which the Appellant produced, in the sense that, the Respondent said, the balance on the account had dramatically increased shortly before the Appellant's application and the Respondent regarded the deposits into the account as inconsistent with the previous transaction history of the account and the Appellant's declared monthly income.

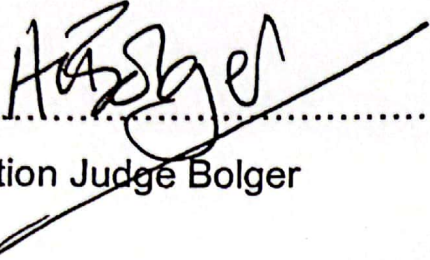
14. I have no doubt, on the basis of the copious documentary evidence before me and the careful detail relating to the Appellant's business set out in the grounds of appeal, that the Appellant is in business, as he claims – a garments business – particularly ladies' garments.
15. Indeed, the Respondent does not appear to dispute the actual existence of the business, but rather the Appellant's claimed income from it. Despite what I have said earlier, I have sympathy with the Respondent here because, as I have indicated, the Appellant's application form gives an approximate monthly income of 90,000 rupees which is, indeed, a large amount.
16. However, the grounds of appeal deal with this point by explaining that the Appellant had the form filled in by an agent sitting outside the "Gerry's Fedex" office, who put down the Appellant's annual income as a monthly amount. The grounds of appeal say that in fact the Appellant's annual income is 90,000 rupees and that is corroborated by an income tax return lodged with the appeal. The lodging of the tax return in fact answers another point raised by the Respondent in his Notice of Refusal. The return is in fact for the tax year 2006 and, in fact, gives an income of 105,000 rupees but, obviously, the income of a business may fluctuate up or down and I do not attach any material significance to this point.
17. Looking at the evidence as a whole, I find what the Appellant says in his grounds of appeal as to his income and the error made by the agent filling in the form, to be persuasive. I am satisfied that what the Appellant says in the grounds of appeal is correct.
18. I also am satisfied by what the Appellant says in his grounds of appeal that the income which the Appellant derives from his business, of approximately 9,000 rupees per month, is sufficient for the Appellant living in a "joint family set-up".

19. As to the matter of the bank statement, again I find persuasive what is said in the grounds of appeal as to the Appellant's from time to time receiving urgent large orders and income which the Appellant also may receive from time to time, such as commission from arranging property deals. The grounds of appeal state candidly that such deals are not recorded in Pakistan but bring in "very good money" and property prices are rising in Pakistan. These matters often cause sudden large deposits. By the same token, the grounds of appeal point out that, as a businessman, the Appellant sometimes needs cash urgently and that causes large withdrawals. Again, I find that to be perfectly plausible, in the context of the Appellant's business activities. The grounds of appeal also refer to a loan which the Appellant had made to his uncle, for the purpose of purchasing a property for investment purposes. This loan was returned to the Appellant after the property had been sold at a profit and was repaid on 23 February 2006, as appears from the bank statement and there is also an affidavit from the Appellant's uncle as to this matter. Given the careful detail with which these matters are set out in the grounds of appeal and considering the bank statement, I do find that the Appellant has dealt well and convincingly with the Respondent's objections relating to the Appellant's finances.
20. I observe that the Respondent has not submitted any review of the Appellant's application, following receipt of the grounds of appeal or any Explanatory Statement.
21. In the circumstances, for the reasons I have given, I find that the Appellant has discharged the burden of proof upon him and that what was intended was an entirely natural family visit with the object of attending the graduation ceremony of the Appellant's elder brother, from which the Appellant would duly have returned. I will, therefore, allow this appeal.

**DECISION**

22. I allow the appeal.

Signed .....

A handwritten signature in black ink, appearing to read 'Bolger', is written over a dotted line. A long, diagonal stroke is drawn across the signature from the bottom left to the top right.

Immigration Judge Bolger

Dated 8 May 2007