



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

Appeal Number: DA/00138/2014

THE IMMIGRATION ACTS

**Heard at Glasgow
on 10 February 2015**

**Determination issued
On 11 February 2015**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MOHIT GOGNA

Respondent

Representation:

For the Appellant: Mrs M O'Brien, Senior Home Office Presenting Officer

For the Respondent: Mr S F Winter, Advocate, instructed by Maguire, Solicitors

DETERMINATION AND REASONS

1. The parties are referred to in the rest of this determination as they were in the First-tier Tribunal.
2. The respondent appeals against a determination by a panel comprising First-tier Tribunal Judge J C Grant-Hutchison and Dr C J Winstanley, allowing the appellant's appeal against deportation to India.
3. The grounds are directed against the finding in terms of paragraph 399A(a) of the Immigration Rules that the appellant had "no ties" with

India. Mrs O'Brien submitted that the panel misconstrued that test and strayed into deciding the case on the relative strength of ties with the UK and with India, which was irrelevant.

4. On a strict and literal interpretation of the term "no ties" the respondent would have a point. However, the authority to apply was *Ogundimu* [2013] UKUT 00060, which the panel cited at paragraph 40. In light of that case the issue whether the appellant had no ties with India required "a rounded assessment of the facts". That is the exercise in which the panel engaged, reaching a conclusion open to it for the reasons given.
5. The Rules have been amended since this case was decided, and the current test would be whether there were very significant obstacles to the appellant's integration in India. He succeeded on a finely balanced issue in these proceedings. He should not take that to mean that deportation may not be a possibility in the future, if he continues his criminal offending.
6. The determination of the First-tier Tribunal **shall stand**.
7. No anonymity direction has been requested or made.

A handwritten signature in black ink that reads "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

12 February 2015
Upper Tribunal Judge Macleman