



**In the High Court of Justice  
Queen's Bench Division  
Administrative Court**

CO Ref: CO/5212/2007

HO Ref:

AIT Ref:

**In the matter of an application for reconsideration under  
s.103A of the Nationality, Immigration and Asylum Act 2002**

MD IMRAN AHMED versus AIT

**NOTIFICATION of the Judge's decision (CPR 54.33)**

Following consideration of the documents lodged by the Applicant

Order by the Honourable Mr Justice Underhill

**IT IS ORDERED** that the Tribunal reconsider its decision on the appeal

**Reasons:** I will extend time for the reasons given in Part B.

I direct reconsideration because I am concerned about the terms of the IND's Guidance Notes as set out at (s) in the Applicant's initial Grounds for Reconsideration. If these are accurately reproduced, and reflect the totality of the guidance given, (as to which I am not in a position to form a view) it seems to me arguable that the Applicant was entitled to form the impression that all that he was required to show was that he had been "economically active" during the first twelve months; in which case the imposition of a requirement that he had achieved 75 points was inconsistent with what he had been led to believe. The Immigration Judge deals with this part of the case briefly at para. 24 of the Decision by pointing out that the Applicant knew that his application would be re-assessed at the end of a year and saying that she does not consider that he had any legitimate expectation that the rules could not change in the intervening period. I am not sure that that is an adequate answer. The Applicant did indeed know that the position would be reviewed at the end of the year, but his case would be that the Guidance Notes gave him a clear indication of the criteria that would be used at that time, which were different from those which were in fact used. The Senior Immigration Judge does not address the merits of the point but says that the challenge does not fall within the terms of s. 84 (1) of the 2002 Act. Again, I am not sure that that is right: see the discussion in paras. 18.49-51 of Macdonald on Immigration Law and in particular the reference, albeit short and somewhat oblique, to legitimate expectation at n. 8 to para. 18.50. There may be numerous obstacles to a case put on this basis, but I am not in a position on an application of this kind to attempt fairly to decide the point: I say only that there may be an error of law.

**And it is ordered that there be no order as to costs.**

Signed

Nawaz W. Iqbal

Dated

5/11/07

**Note for Applicant: This decision is final. No appeal lies from it CPR 54.33(7).**  
(\*delete as appropriate)