

Federal Court



Cour fédérale

**Date: 20160122**

**Docket: IMM-3149-15**

**Citation: 2016 FC 81**

**Vancouver, British Columbia, January 22, 2016**

**PRESENT: The Honourable Mr. Justice Shore**

**BETWEEN:**

**JASWINDER KAUR NAHAL**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, a permanent resident of Canada, is before this Court due to an Immigration Appeal Division [IAD] decision which dismissed the Applicant's appeal of a visa officer's denial of a sponsorship application for her spouse whose residence is in India.

[2] Further to having read all the documents; and, having heard counsel of both parties, the Court has determined on the basis of significant lacunae in the evidence, implausibilities and a

chronology of evidence in responses to questions by the Applicant and the said spouse, that the marriage relationship does lack credibility, as was determined by the IAD on the basis of the inherent logic of the IAD decision which is determined to be reasonable by this Court.

[3] As per *Dunsmuir v New Brunswick*, 2008 SCC 9 at par 48, in this case, the genuineness of the marriage is reviewable on the basis of reasonableness of the IAD decision, as per the manner in which reasonableness is explained in the Supreme Court decision as to abiding in its explanations that are justifiable, transparent and intelligible.

[4] The Applicant and the sponsor on the basis of oral responses and submitted evidence had the onus to prove on a balance of probabilities that the *bona fide* nature of the marriage as per subsection 4(1) of the *Immigration and Refugee Protection Regulations* [IRPR]. They did not.

[5] The test for a bad faith marriage is disjunctive.

[6] As per subsection 4(1) of the IRPR states:

**Bad faith**

**4** (1) For the purposes of these Regulations, a foreign national shall not be considered a spouse, a common-law partner or a conjugal partner of a person if the marriage, common-law partnership or conjugal partnership

(a) was entered into primarily for the purpose of acquiring any status or privilege under

**Mauvaise foi**

**4** (1) Pour l'application du présent règlement, l'étranger n'est pas considéré comme étant l'époux, le conjoint de fait ou le partenaire conjugal d'une personne si le mariage ou la relation des conjoints de fait ou des partenaires conjugaux, selon le cas :

a) visait principalement l'acquisition d'un statut ou d'un privilège sous le régime

the Act; or  
(b) is not genuine.

de la Loi;  
b) n'est pas authentique.

[7] A marriage primarily for immigration purposes was thus refused by an Immigration officer pursuant to subsection 4(1) of the IRPR.

[8] The lack of credibility on the part of both the Applicant and her spouse led to the application of the same subsection by the IAD in appeal, as did that of the visa officer's decision.

[9] It must be recalled that it was for the IAD to determine the weight given to the evidence as per *Froment v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1002 at para 20.

[10] The common chronology of events as per the history of the couple's relationship, their shared encounters and communications were adequately analyzed by the IAD.

[11] The case cannot be reargued before the Federal Court. The IAD (as the visa officer previously) did not have to specify each piece of evidence, separately, in demonstration of its findings. The judgment of the Supreme Court in *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, sets out guidance in this regard at para 16:

Reasons may not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis.

[12] The Court, therefore, concludes on the basis of its reading of the entire file and hearing the parties' submissions that the Applicant's application is dismissed.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application for judicial review be dismissed.

There is no serious question of general importance to be certified.

"Michel M.J. Shore"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-3149-15

**STYLE OF CAUSE:** JASWINDER KAUR NAHAL v MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** JANUARY 21, 2016

**JUDGMENT AND REASONS:** SHORE J.

**DATED:** JANUARY 22, 2016

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