Federal Court  Cour fédérale

Date: 20160916

Docket: T-1799-15

Citation: 2016 FC 1051

[ENGLISH TRANSLATION]

Toronto, Ontario, September 16, 2016

PRESENT: The Honourable Mr. Justice Bell

BETWEEN:

MOKHTAR TAYEB ALI
FATIHA REZIGUI
RACHID TAYEB ALI
KHADIJA TAYEB ALI

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for a writ of *mandamus* under section 18.1 of the *Federal Courts Act*, RSC, 1985, c. F-7 [the Act] to require the Minister of Citizenship and Immigration [the Minister] to cancel the instruction to suspend the applicants' cases and to immediately process

their citizenship applications. For the reasons that follow, I find that the application must be dismissed.

[2] The applicants are asking this Court to grant a writ of *mandamus* for three specific reasons. I intend to list these reasons and then address and separately analyze the facts and case law for each reason.

II. Issues in dispute

[3] Essentially, the applicants claim that they are entitled to a writ of *mandamus* because the Minister: (i) has not processed their citizenship application within an appropriate timeframe, such that there was an abuse of process; (ii) did not provide an answer as required by Rule 9 of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22 [the Rules]; and, (iii) suspended their citizenship application process under circumstances that do not permit it.

III. Relevant facts and analysis

A. *Was the delay inappropriate?*

[4] The principal applicant, Mokhtar Tayeb Ali [Mr. Tayeb Ali], as well as his wife, Fatiha Rezigui [Ms. Rezigui] and their three children, Abdel-Kader Tayeb Ali [Abdel-Kader], Rachid Tayeb Ali [Rachid] and Khadija Tayeb Ali [Khadija], are citizens of Algeria. In 2001, they arrived in Canada and made a claim for refugee protection. They were granted refugee status in 2003. The applicants all acquired permanent resident status in 2006. Four years later,

they submitted their citizenship application, including Abdel-Kader, recognizing their presence in Canada since obtaining their permanent residency in 2006. Their citizenship application was received by the Minister on April 20, 2010, then referred to the Processing Centre in Sydney. On account of criminality, Abdel-Kader asked to have his application withdrawn on November 17, 2011. A Citizenship and Immigration Canada [CIC] officer closed his file on January 4, 2012.

[5] Between February 2012 and February 2015, there were several delays in order to carry out a fingerprint check for one of the family members for a search in the National Criminal Records Repository. On February 8, 2012, the Minister sent a letter requesting the fingerprints in question. On February 24, 2012, the family member consented to disclosing the results of the fingerprint check to CIC for a criminal record check. On March 7, 2012, the fingerprints were sent to the Royal Canadian Mounted Police [RCMP]. Unfortunately, none of the applicants provided the RCMP with consent to disclosure for a criminal record check. Because it did not receive the results of the fingerprint check from the RCMP, CIC sent a second letter on September 26, 2014. It should be noted that during the period from February 8, 2012, to September 16, 2014, it was the applicants' responsibility and not that of CIC to ensure that all of the legal requirements relating to the citizenship applications were met. On September 26, 2014, and then on October 22, 2014, CIC sent a second letter and a third letter again, asking that the fingerprints be provided. On December 12, 2014, CIC received the results of the search in the National Criminal Records Repository held by the RCMP, and on February 13, 2015, CIC requested more information in order to determine the impact of the family member's criminal record on his citizenship application. On March 25, 2015, a CIC officer carried out a check in the

Global Case Management System [GCMS] with the intention of summoning the applicants to an interview the next day. The CIC officer noted that the security clearances from the Canadian Security Intelligence Service had expired. The applicants renewed those clearances on May 7, 2015. The officer also noted that the immigration clearances were valid until July 9, 2015, and those of the Royal Canadian Mounted Police relating to crime were valid until January 13, 2016. On March 26, 2015, Mr. Tayeb Ali and his wife, Ms. Rezigui, met with a citizenship officer for an interview and to take the knowledge examination. Because Ms. Rezigui is illiterate, only Mr. Tayeb Ali took the examination. The case was then put on hold for a special review.

[6] The applicants claim that they are victims of an abuse of the procedures due to the delays incurred in processing their case. They cite *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44, [2000] 2 SCR 307, at paragraph 119 [*Blencoe*] and *Stanizai v. Canada (Minister of Citizenship and Immigration)*, 2014 FC 74, [2014] FCJ No. [*Stanizai*] to support their claims. They allege that, on the basis of established case law, a three-year timeframe is sufficient to process a citizenship application. The applicants are responsible for the delays incurred. A family member had to withdraw his citizenship application due to criminality. Another family member was unable to provide fingerprints in a reasonable timeframe and only after the Minister's office sent three letters. That other family member also had a criminal record requiring further investigation on the part of CIC. The evidence shows that CIC proceeded with the case almost immediately after receiving all of the required information. Therefore, the facts in this case differ significantly from those found in *Blencoe* and *Stanizai*.

[7] I do not share the opinion of the applicants that a writ of *mandamus* should be granted based on this reason.

B. Is the Minister obliged to respond under Rule 9 of the Rules?

[8] Subrules 9(1) and (2) of the Rules read as follows:

Obtaining Tribunal's Decision and Reasons	**Production de la décision du tribunal administratif et des motifs y afférents**
9 (1) Where an application for leave sets out that the applicant has not received the written reasons of the tribunal, the Registry shall forthwith send the tribunal a written request in Form IR-3 as set out in the schedule.	**9 (1)** Dans le cas où le demandeur indique dans sa demande d'autorisation qu'il n'a pas reçu les motifs écrits du tribunal administratif, le greffe envoie immédiatement à ce dernier une demande écrite à cet effet selon la formule IR-3 figurant à l'annexe.
(2) Upon receipt of a request under subrule (1) a tribunal shall, without delay,	**(2)** Dès réception de la demande prévue au paragraphe (1), le tribunal administratif envoie :
(a) send a copy of the decision or order, and written reasons therefor, duly certified by an appropriate officer to be correct, to each of the parties, and two copies to the Registry; or	***a)*** à chacune des parties une copie du dispositif et des motifs écrits de la décision, de l'ordonnance ou de la mesure, certifiée conforme par un fonctionnaire compétent, et au greffe deux copies de ces documents;
(b) if no reasons were given for the decision or order in respect of which the application is made, or reasons were given but not recorded, send an appropriate written notice to all the parties and the Registry.	***b)*** si aucun motif n'a été donné à l'appui de la décision, de l'ordonnance ou de la mesure visée par la demande, ou si des motifs ont été donnés sans être enregistrés, un avis écrit portant cette précision à toutes

les parties et au greffe.

[9] The applicants asked the Federal Court's office of the registry for information on the decision regarding their citizenship application. They wanted to be informed as to why a decision regarding their citizenship application had not yet been made. On November 17, 2015, a letter from a citizenship officer was forwarded to the applicants with the following response:

> Please note that no decision has yet been made regarding the applicants' citizenship application. Thus, there are no reasons for a decision.

[10] The applicants feel that answer is [TRANSLATION] "arbitrary" and "infringes on the principle of procedural fairness." They allege that such an infringement justifies the granting of a writ of *mandamus*, requiring the Minister to immediately proceed with processing their citizenship application. The Minister claims that he is not obligated to respond to such a request given that there is no decision. I agree with the Minister's submissions. Moreover, even if the Minister was required to respond under Rule 9, the only possible remedy would be to grant a writ of *mandamus* requiring the Minister to provide the reasons supporting his decision not to proceed, rather than a writ of *mandamus* to proceed with processing their citizenship application.

B. *Could the Minister suspend the processing of the citizenship application under the circumstances?*

[11] On March 25, 2015, the day before the applicants were summoned for an examination and interview, the citizenship officer, carrying out the checks in the GCMS, found a note in the file dated October 16, 2014, written by the Canada Border Services Agency [CBSA] that stated

"Cessation - Pending Review Action." The citizenship officer noted on the form CIT0065 that the case was under review for cessation/cancellation of refugee status.

[12] During the interview with the citizenship officer on March 26, 2015, the applicants' passports were checked. Those passports showed trips to Algeria, and the citizenship officer asked them questions about that. The stamps appearing on the passports showed the following trips to Algeria:

(1) Mr. Tayeb Ali, in 2008 and in 2015, for a total of 387 days;

(2) Ms. Rezigui, in 2009 and in 2014, for a total of 540 days; and

(3) Khadija and Rachid, in 2013 and in 2014, for a total of 472 days.

[13] The applicants also appear to have applied for and obtained Algerian passports that were issued in 2008 and renewed in 2012 in the names of Mr. Tayeb Ali and Ms. Rezigui, and issued in 2011 in the names of Khadija and Rachid.

[14] A Residence Questionnaire was given to Ms. Rezigui due to certain hesitations she apparently had in answering questions about her trips. Her completed Residence Questionnaire was received on April 20, 2015, and the case was apparently put on hold to assess the Questionnaire.

[15] On April 20, 2015, a citizenship officer sent an email to the CBSA asking for an update on the applicants' case. In their response dated April 24, 2015, the CBSA informed the citizenship officer that the applicants' case was under review for an application to cease refugee

protection. The CBSA asked that they not be granted citizenship to allow them to move forward with this application to cease refugee protection. The CBSA's answer reads as follows:

> [TRANSLATION]
>
> The case is currently being reviewed by the hearing and detention section for cessation pursuant to L108. In order to respect CIC's policy on cessation, we ask that you not grant citizenship, otherwise we will not be able to move forward with the examination of this well-founded tip. The case will be urgently assigned to an officer as soon as our resources allow it. You may contact us in six months. . . .

[16] On June 2, 2015, the applicants met with a CBSA officer who asked them some questions about their trips to Algeria. It appears that Mr. Tayeb Ali answered that they had had to travel to Algeria to visit his father and Ms. Rezigui's father, both of whom were ill.

[17] On June 18, 2015, the Minister filed an application to cease refugee protection for the applicants under section 108 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 [IRPA]. The Minister's reason for that application was that the applicants had once again and voluntarily sought protection from Algeria, their country of nationality that they had left and due to which they had requested asylum in Canada, and because the applicants had voluntarily returned to reside in Algeria. This application to cease refugee protection is still being processed on the date of the hearing before this Court. I note that an application to cease refugee protection, if it were granted by the Immigration and Refugee Board's Refugee Protection Division, could lead to the inadmissibility of the applicants and to the issuing of a removal order. In fact, under paragraph 46(1)(c.1) of the Act, people who lose their refugee status also lose their status as permanent residents, thereby leading to inadmissibility due to cessation of refugee protection under section 40.1 of the Act. Obviously, a person without permanent resident status does not

meet the criterion under paragraph 5(1)(c) of the Act, and therefore cannot be granted Canadian citizenship.

[18] After learning that the Minister had filed an application to cease refugee protection, the applicants, through their counsel, submitted a request for information to the Department on August 11, 2015, asking it to confirm whether their citizenship application was still being processed. That request went unanswered. On October 6, 2015, a second request was sent to the Department, alleging that the case law prohibits suspending the processing of citizenship applications solely because proceedings to cease refugee protection have been initiated, and in the absence of an answer, the applicants would submit a request for a writ of *mandamus*.

[19] On November 17, 2015, a note was entered in the GCMS stating that the processing of the applicants' citizenship application had been suspended. It is unclear when the applicants were informed that the processing of their citizenship application had been suspended.

[20] While the record officially notes the suspension of the file on November 17, 2015, the statutory suspension apparently occurred in April 2015, the date on which the CBSA asked the citizenship officer to suspend the file to make it possible to move forward and file an application to cease refugee protection. It appears that no action had been undertaken since April 2015 apart from the confirmation that new security clearances had been received on May 7, 2015.

[21] Section 13.1 of the *Citizenship Act*, RSC 1985, c. C-29 [the Act] came into effect on August 1, 2014, granting the Minister the power to suspend the processing of a citizenship

application while awaiting information, evidence or the results of an investigation that could have an impact on an applicant's admissibility to citizenship. The fact that an applicant has filed a citizenship application does not prevent the Minister from initiating an application for cessation of refugee protection under section 108 of the IRPA (*Khalifa v. Canada (Minister of Citizenship and Immigration)*, 2016 FC 119, [2016] FCJ No. 99, at paragraph 28). The legislative provisions applicable to citizenship applications and applications to cease refugee protection are reproduced in Appendix A of these reasons.

[22] The only issue remaining at this stage is whether the applicants have established that a writ of *mandamus* should be granted by this Court, requiring the Minister to follow through with the applicants' aforementioned citizenship application. The applicable standard in granting a writ of *mandamus*, as developed by this Court in the decision *Dragan v. Canada (Minister of Citizenship and Immigration)*, 2003 FCT 211, [2003] FCJ No. 260, at paragraph 39, citing the Federal Court of Appeal in *Apotex Inc. v. Canada (Attorney General)*, [1994] 1 FC 742, [1993] FCJ No. 1098 (confirmed by *Apotex Inc v. Canada (Attorney General)*, [1994] 3 SCR 1100), reads as follows:

> (1) There must be a public legal duty to act.
>
> (2) The duty must be owed to the applicant.
>
> (3) There is a clear right to the performance of that duty, in particular:
>
> a) the applicant has satisfied all conditions precedent giving rise to the duty;
>
> (b) there was (i) a prior demand for performance of the duty; (ii) a reasonable time to comply with the demand unless refused outright; and (iii) a subsequent refusal which can be either expressed or implied, e.g. unreasonable delay.

> (4) No other adequate remedy is available to the applicant.
>
> (5) The order sought will be of some practical value or effect.
>
> (6) The Court in the exercise of discretion finds no equitable bar to the relief sought.
>
> (7) On a "balance of convenience" an order in the nature of mandamus should issue.

[23] In terms of the first and second criteria, the Minister maintains that section 13.1 of the Act now grants him the authority to suspend the citizenship application of the applicants in this case. I agree with this contention. The first criterion requires that the applicants be able to show that the Minister is obligated to continue processing the citizenship application, in the sense that putting citizenship applications on hold is not authorized by the Act. I am of the opinion that the applicants did not satisfy this first criterion for the granting of a writ of *mandamus*.

[24] I am aware of the statements by my Federal Court colleagues in the cases *Valverde v. Canada (Minister of Citizenship and Immigration)*, 2015 FC 1111, [2015] FCJ No. 1151 [*Valverde*] and *Godinez Ovalle v. Canada (Minister of Citizenship and Immigration)*, 2015 FC 935, [2015] FCJ No. 927 [*Godinez Ovalle*] whereby the Minister did not have the legal authority to suspend the processing of citizenship applications while awaiting a decision on whether to cease refugee protection. I am, however, of the view that my colleagues' conclusions do not apply to this case. In each of these decisions, the date of suspension preceded the repeal of section 17 of the Act on July 31, 2014. Thus, the issue of whether section 13.1 granted the Minister the legal authority to suspend citizenship applications was not relevant to the analysis. I also note that the comments made regarding section 13.1 in the case *Godinez Ovalle* were expressed in an *obiter dictum*. However, again in an *obiter dictum*, Justice O'Keefe, in the case

Valverde, briefly stated that while such putting on hold was not permitted at that time, section 13.1 now authorizes the suspension of citizenship applications (*Valverde*, cited above at paragraph 66). I agree with the conclusions of my colleagues insofar as the Minister was not legally authorized, under the circumstances and under the former section 17 of the Act, to suspend the citizenship applications while awaiting a decision on a finding of loss of status. I also share the opinion of Justice O'Keefe that section 13.1 now allows the Minister to act thusly. Therefore, to conclude, I will proceed with an analysis of the legislative framework and with an interpretation exercise whose goal is to infer the intent of Parliament in adding section 13.1, the "new" provision. In particular, Ruth Sullivan emphasized the importance of such an exercise:

> […] references to legislative intent are ubiquitous in statutory interpretation and not likely to disappear, however weighty the theoretical objections. This is because statutes are obviously enacted for a reason, and the language in which they are drafted reflects deliberate and careful choices by some combination of peoples who legally speak for the legislature. Given the sovereign authority of the legislature under constitutional law, these choices cannot be ignored. Courts and other interpreters must at least try to understand the meanings and purposes that motivated the legislation in the first place. (Ruth Sullivan, *Statutory Interpretation*, 2nd edition, Irvin Law, 2007, at pages 32-33).

[25] To understand the intent of Parliament and what motivated it to introduce this legislative change, a comparison of the two sections of the Act is essential. The former section 17 and section 13.1 read thusly:

Suspension de la procédure d'examen	**Suspension de la procédure d'examen**
17 S'il estime ne pas avoir tous les renseignements nécessaires pour lui permettre d'établir si le demandeur remplit les conditions prévues par la	**13.1** Le ministre peut suspendre, pendant la période nécessaire, la procédure d'examen d'une demande :

présente loi et ses règlements, le ministre peut suspendre la procédure d'examen de la demande pendant la période nécessaire - qui ne peut dépasser six mois suivant la date de la suspension - pour obtenir les renseignements qui manquent.

[Je souligne.]

a) dans l'attente de renseignements ou d'éléments de preuve ou des résultats d'une enquête, afin d'établir si le demandeur remplit, à l'égard de la demande, les conditions prévues sous le régime de la présente loi, si celui-ci devrait faire l'objet d'une enquête dans le cadre de la *Loi sur l'immigration et la protection des réfugiés* ou d'une mesure de renvoi au titre de cette loi, ou si les articles 20 ou 22 s'appliquent à l'égard de celui-ci;

b) dans le cas d'un demandeur qui est un résident permanent qui a fait l'objet d'une enquête dans le cadre de la *Loi sur l'immigration et la protection des réfugiés*, dans l'attente de la décision sur la question de savoir si une mesure de renvoi devrait être prise contre celui-ci.

[Je souligne.]

[26] In English:

Suspension of processing of application

17 Where a person has made an application under this Act and the Minister is of the opinion that there is insufficient information to ascertain whether that person meets the requirements of this Act and the regulations with respect to the application, the Minister may suspend the

Suspension of processing

13.1 The Minister may suspend the processing of an application for as long as is necessary to receive

(a) any information or evidence or the results of any investigation or inquiry for the purpose of ascertaining whether the applicant meets

processing of the application for the period, not to exceed six months immediately following the day on which the processing is suspended, required by the Minister to obtain the necessary information. [My Emphasis.]	the requirements under this Act relating to the application, whether the applicant should be the subject of an admissibility hearing or a removal order under the *Immigration and Refugee Protection Act* or whether section 20 or 22 applies with respect to the applicant; and ***(b)*** in the case of an applicant who is a permanent resident and who is the subject of an admissibility hearing under the *Immigration and Refugee Protection Act*, the determination as to whether a removal order is to be made against the applicant. [My Emphasis.]

[27] The former section 17 stipulates that the Minister may suspend a citizenship application only for a period not exceeding six months, and only in cases where the Minister finds there is not the information required to establish whether the applicant meet the criteria of the Act. In my opinion, section 13.1 of the Act provides a broader range of circumstances under which the Minister may suspend the processing of citizenship applications.

[28] I am of the opinion that the expression *results of an inquiry* at paragraph 13.1(a) is not insignificant. In fact, the term *inquiry* is used under a wide range of circumstances, whether in the context of a hearing, a proceeding or in the sense of an investigation. In particular, the IRPA uses the word *inquiry* in the sense of a hearing, or of an *admissibility hearing*, see for example section 23, subsection 44(2), and section 45 of the IRPA. Therefore, the definition of inquiry can

be very broad in scope. In English, it can simultaneously mean *investigation* and *inquiry*. At this stage, a brief examination of the dictionary definitions is necessary. While this Court is not tied to these definitions, it can nonetheless appreciate their utility and informative value (*R v. Krymowski*, 2005 SCC 7, [2005] 1 SCR 101).

[29] The *Multi dictionnaire de la langue française*, 2009, defines *enquête* as an [TRANSLATION] "1. administrative or judicial procedure ordered to clarify the facts" or a "2. search for information." *Le Petit Robert de la Langue française*, 2006, defines *enquête*, among other things, as an [TRANSLATION] "investigative measure making it possible for a judge to receive third-party statements in order to provide insight into disputed facts of which they have personal knowledge" and *enquête administrative* as a [TRANSLATION] "procedure through which the administration collects information and checks certain facts before making a decision." *Le Grand Robert de la Langue française*, 1992, provides the following definition: [TRANSLATION] "Procedure intended to allow a party pleading to establish the exactitude of the facts it is alleging through the hearing of witnesses." In English, *Black's Law Dictionary*, 10th edition, defines the term *inquiry* as follows: "A request for information, either procedural or substantive," and the *Shorter Oxford English Dictionary*, 1959, provides the following definition: "action or an act or course of inquiring ... the action of seeking ... truth, knowledge or information concerning something; search, research, investigation, examination" (Taken from *Irvine v. Canada (Restrictive Trade Practices Commission)*, [1987] 1 SCR 181, at paragraph 17).

[30] In my opinion, the word *inquiry* can be used in its usual meaning. Its presence is significant and shows the intent of Parliament to extend the scope of its power of suspension to a

very large number of situations. If Parliament had wanted to limit the scope of the word *enquête*, the provision in English would not have included both *investigation* and *inquiry*.

[31] Moreover, the deliberate choice by Parliament to add section 13.1 to the Act presupposes that it had the intention to grant certain powers previously unavailable to the Minister under the former section 17. This assumption is consistent with the fact that this Court, in the past, has found that, under the scope of the former section 17, the Minister could not indefinitely suspend citizenship applications while awaiting a decision on an application to cease refugee protection. Thus, in *Murad v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 1089, [2013] FCJ No. 1182 [*Murad*], my colleague, Mr. Justice Roy, concluded that the Minister did not have the right to withhold the conferral of citizenship, and that the Minister had not provided reasonable explanation for this lack of diligence. While this Court, in the context of *Murad*, granted a writ of *mandamus*, its decision to exercise its discretion to do so was based on the Minister's lack of statutory power to suspend an application, because under (the former) section 17, the suspension of the processing of an application could not exceed six months. Section 13.1 of the Act does not mention a six-month limit of this type. The expression "suspend, for as long as is necessary," as opposed to "suspend . . ., not to exceed six months immediately following the day on which the processing is suspended" from the former section 17, now allows the Minister to put the processing of a citizenship application on hold for an indefinite period. This deliberate choice by Parliament to do away with the six-month timeframe clearly shows an intention to grant greater authority to the Minister to suspend the proceedings relating to conferring citizenship. In my opinion, this broad authority covers situations similar to those facing the applicants, namely the Minister's authority to suspend a

citizenship application while awaiting the results of an investigation relating to an application for the cessation of refugee protection filed under section 108 of the IRPA.

[32] It is also important to interpret the provision based on the totality of the Act and based on its immediate surroundings. I note that subsection 14(1.1) of the Act is similar to section 13.1 in that it provides for the interruption of the processing of a citizenship application. Subsection 14(1.1) reads as follows:

Interruption of proceedings	**Interruption de la procédure**
14 (1.1) Despite subsection (1), the citizenship judge is not authorized to make a determination until	**14 (1.1)** Malgré le paragraphe (1), le juge de la citoyenneté ne peut statuer sur la demande :
(a) the completion of any investigation or inquiry for the purpose of ascertaining whether the applicant should be the subject of an admissibility hearing or a removal order under the *Immigration and Refugee Protection Act* or whether section 20 or 22 applies to the applicant; and	***a)*** tant que n'est pas terminée l'enquête menée pour établir si le demandeur devrait faire l'objet d'une enquête dans le cadre de la *Loi sur l'immigration et la protection des réfugiés* ou d'une mesure de renvoi au titre de cette loi ou si les articles 20 ou 22 s'appliquent à l'égard de celui-ci;
(b) if the applicant is the subject of an admissibility hearing under the *Immigration and Refugee Protection Act*, a determination as to whether a removal order is to be made against that applicant.	***b)*** lorsque celui-ci fait l'objet d'une enquête dans le cadre de la *Loi sur l'immigration et la protection des réfugiés*, tant qu'il n'a pas été décidé si une mesure de renvoi devrait être prise contre lui.

[33] Subsection 14(1.1) prohibits a citizenship judge from ruling on an application in much more limited cases than those found under section 13.1. Such a limitation on the authority to

interrupt citizenship applications is logical in this context, that is, when the citizenship application is in the final stages of the process. In addition, subsection 14(1.1) constitutes a formal prohibition to render a decision, whereas section 13.1, through its language, (*may*) demonstrates the existence of such discretion. I am of the opinion that, with respect to subsection 14(1.1) and its context, a broader interpretation of section 13.1 is justified.

[34] Contrary to the claims of the applicants, this Court has not previously found that the Minister is never authorized to suspend the processing of citizenship applications while awaiting the conclusion of proceedings to cease refugee protection. This Court had instead found that the Minister was not authorized by the legislation to act in this manner. It seems that Parliament remedied this by passing section 13.1 of the Act, a statutory provision granting very broad power to the Minister to indefinitely suspend a citizenship application under a wide range of circumstances.

IV. Conclusion

[35] Given that the applicants did not meet the first criterion for granting a writ of *mandamus*, and that the criteria listed above are exhaustive, it is unnecessary to proceed with further analysis. I am therefore of the opinion that, under the circumstances, it is not appropriate to issue an order in the nature of *mandamus* requiring the Minister to cancel the instruction to suspend the processing of the applicants' citizenship applications.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review and for the granting of a writ of *mandamus* is dismissed, without costs, and no question of general importance is certified.

"B. Richard Bell"
Judge

APPENDIX A

***Citizenship Act*, RSC, 1985, c C-29**	***Loi sur la citoyenneté*, LRC 1985, ch C-29**
Grant of citizenship	**Attribution de la citoyenneté**
5 (1) The Minister shall grant citizenship to any person who	5. (1) Le ministre attribue la citoyenneté à toute personne qui, à la fois :
(a) makes application for citizenship;	*a)* en fait la demande;
(b) is eighteen years of age or over;	*b)* est âgée d'au moins dix-huit ans;
(c) is a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*, and has, within the four years immediately preceding the date of his or her application, accumulated at least three years of residence in Canada calculated in the following manner:	*c)* est un résident permanent au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés* et a, dans les quatre ans qui ont précédé la date de sa demande, résidé au Canada pendant au moins trois ans en tout, la durée de sa résidence étant calculée de la manière suivante :
(i) for every day during which the person was resident in Canada before his lawful admission to Canada for permanent residence the person shall be deemed to have accumulated one-half of a day of residence, and	(i) un demi-jour pour chaque jour de résidence au Canada avant son admission à titre de résident permanent,
(ii) for every day during which the person was resident in Canada after his lawful admission to Canada for permanent residence the person shall be deemed to have accumulated one day of residence;	(ii) un jour pour chaque jour de résidence au Canada après son admission à titre de résident permanent;

(d) has an adequate knowledge of one of the official languages of Canada;

(e) has an adequate knowledge of Canada and of the responsibilities and privileges of citizenship; and

(f) is not under a removal order and is not the subject of a declaration by the Governor in Council made pursuant to section 20.

d) a une connaissance suffisante de l'une des langues officielles du Canada;

e) a une connaissance suffisante du Canada et des responsabilités et avantages conférés par la citoyenneté;

f) n'est pas sous le coup d'une mesure de renvoi et n'est pas visée par une déclaration du gouverneur en conseil faite en application de l'article 20.

Suspension of processing

13.1 The Minister may suspend the processing of an application for as long as is necessary to receive

(a) any information or evidence or the results of any investigation or inquiry for the purpose of ascertaining whether the applicant meets the requirements under this Act relating to the application, whether the applicant should be the subject of an admissibility hearing or a removal order under the *Immigration and Refugee Protection Act* or whether section 20 or 22 applies with respect to the applicant; and

(b) in the case of an applicant who is a permanent resident and who is the subject of an admissibility hearing under the *Immigration and Refugee Protection Act*, the determination as to whether a

Suspension de la procédure d'examen

13.1 Le ministre peut suspendre, pendant la période nécessaire, la procédure d'examen d'une demande :

a) dans l'attente de renseignements ou d'éléments de preuve ou des résultats d'une enquête, afin d'établir si le demandeur remplit, à l'égard de la demande, les conditions prévues sous le régime de la présente loi, si celui-ci devrait faire l'objet d'une enquête dans le cadre de *la Loi sur l'immigration et la protection des réfugiés* ou d'une mesure de renvoi au titre de cette loi, ou si les articles 20 ou 22 s'appliquent à l'égard de celui-ci;

b) dans le cas d'un demandeur qui est un résident permanent qui a fait l'objet d'une enquête dans le cadre de la *Loi sur l'immigration et la protection des réfugiés*, dans l'attente de la décision sur la question de

removal order is to be made against the applicant.	savoir si une mesure de renvoi devrait être prise contre celui-ci.
***Immigration and Refugee Protection Act,* SC 2001, c 27**	***Loi sur l'Immigration et la protection des réfugiés,* LC 2001, c 27**
Cessation of Refugee Protection	**Perte de l'asile**
Rejection	**Rejet**
108. (1) A claim for refugee protection shall be rejected, and a person is not a Convention refugee or a person in need of protection, in any of the following circumstances:	108. (1) Est rejetée la demande d'asile et le demandeur n'a pas qualité de réfugié ou de personne à protéger dans tel des cas suivants :
(a) the person has voluntarily reavailed themself of the protection of their country of nationality;	*a)* il se réclame de nouveau et volontairement de la protection du pays dont il a la nationalité;
(b) the person has voluntarily reacquired their nationality;	*b)* il recouvre volontairement sa nationalité;
(c) the person has acquired a new nationality and enjoys the protection of the country of that new nationality;	*c)* il acquiert une nouvelle nationalité et jouit de la protection du pays de sa nouvelle nationalité;
(d) the person has voluntarily become re-established in the country that the person left or remained outside of and in respect of which the person claimed refugee protection in Canada; or	*d)* il retourne volontairement s'établir dans le pays qu'il a quitté ou hors duquel il est demeuré et en raison duquel il a demandé l'asile au Canada;
(e) the reasons for which the person sought refugee protection have ceased to exist.	e) les raisons qui lui ont fait demander l'asile n'existent plus.

Cessation of refugee protection	**Perte de l’asile**
(2) On application by the Minister, the Refugee Protection Division may determine that refugee protection referred to in subsection 95(1) has ceased for any of the reasons described in subsection (1).	(2) L’asile visé au paragraphe 95(1) est perdu, à la demande du ministre, sur constat par la Section de protection des réfugiés, de tels des faits mentionnés au paragraphe (1).

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1799-15
STYLE OF CAUSE:	MOKHTAR TAYEB ALI, FATIHA REZIGUI, RACHID TAYEB ALI, KHADIJA TAYEB ALI v MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	MONTRÉAL, QUEBEC
DATE OF HEARING:	JUNE 2, 2016
JUDGEMENT AND REASONS:	BELL J.
DATED:	SEPTEMBER 16, 2016

APPEARANCES:

Mokhtar Tayeb Ali	FOR THE APPLICANT (REPRESENTING HIMSELF)
Pavol Janura	FOR THE RESPONDENT

SOLICITORS OF RECORD:

William F. Pentney Deputy Attorney General of Canada Montréal, Quebec	FOR THE RESPONDENT