

Federal Court



Cour fédérale

Date: 20161021

Docket: IMM-1735-16

Citation: 2016 FC 1185

Vancouver, British Columbia, October 21, 2016

PRESENT: The Honourable Madam Justice Mactavish

BETWEEN:

**SUKHDEEP KAUR CHHINA
GUNVEER SINGH CHHINA**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

UPON MOTION for judgment dated October 5, 2016, brought by the respondent in writing pursuant to the provisions of Rule 369(1) of the *Federal Courts Rules*;

AND UPON THE PARTIES AGREEING that the visa officer's decision in this case was based upon findings that were made without regard to the evidence before her, with the result that the applicants' application for judicial review should be granted, and their visa applications should be remitted to a different visa officer for redetermination;

AND UPON NOTING that the respondent acknowledges that as the applicants' original visa applications are being sent back for redetermination, there should be no new fees associated with their visa applications;

AND UPON NOTING that costs are only awarded in immigration matters where the Court is satisfied that there are "special reasons" for such an order, and that the threshold for establishing the existence of "special reasons" is high: *Ibrahim v. Canada (Citizenship and Immigration)*, 2007 FC 1342, at para. 8, 68 Imm. L.R. (3d) 43;

AND UPON CONCLUDING that the applicants have not established the existence of special reasons that would justify an award of costs in their favour in relation to this proceeding;

AND UPON THIS COURT CONCLUDING that the proper time in which to seek an award of costs in relation to a possible future proceeding would be in the context of that proceeding;

AND UPON THE PARTIES agreeing that the proper respondent in this case is the Minister of Citizenship and Immigration;

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted, without costs;
2. The visa officer's decision dated March 3, 2016, refusing the applicants' applications for temporary resident visas is set aside;
3. The applicants' applications for temporary resident visas are referred back to a different visa officer for redetermination, with such redetermination to commence within 30 days of the date of this Order;
4. The style of cause is amended to substitute the Minister of Citizenship and Immigration for the Minister of Immigration, Refugees and Citizenship as the respondent in this matter.

"Anne L. Mactavish"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1735-16

STYLE OF CAUSE: SUKHDEEP KAUR CHHINA, GUNVEER SINGH
CHHINA v THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

**MOTION IN WRITING CONSIDERED AT VANCOUVER, BRITISH COLUMBIA
PURSUANT TO RULE 369 OF THE *FEDERAL COURTS RULES***

JUDGMENT AND REASONS: MACTAVISH J.

DATED: OCTOBER 21, 2016

WRITTEN REPRESENTATIONS BY:

Harry Virk FOR THE APPLICANTS

Timothy E. Fairgrieve FOR THE RESPONDENT

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