

Federal Court



Cour fédérale

Date: 20161021

Docket: IMM-4879-15

Citation: 2016 FC 1180

Ottawa, Ontario, October 21, 2016

PRESENT: The Honourable Madam Justice McDonald

BETWEEN:

RAJIB DEB

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is a judicial review application of a decision of an Officer at Citizenship and Immigration, High Commission of Canada (CIC) in Singapore, dated September 17, 2015 denying the Applicant's application for a temporary resident visa (TVR).

[2] Mr. Deb is a citizen of Bangladesh and has made a number of unsuccessful attempts to obtain a TRV to Canada.

[3] In the TVR refusal at issue here, Mr. Deb completed the required forms and provided information about his finances, property, family, and businesses in Bangladesh. He also provided a solemn declaration from his brother. His legal counsel provided submissions to the Canadian High Commission in Singapore. The stated purpose of the visa was to visit his brother and sister in Calgary, Alberta.

[4] Notwithstanding this information, the Officer was not satisfied that the Applicant would leave Canada at the end of his stay and the TVR application was denied. For the reasons that follow, I conclude that the Officer's decision is reasonable and, this judicial review is dismissed.

I. Issue and Standard of Review

[5] The only issue is whether the Officer's decision to deny the TVR is reasonable.

[6] The parties agree that the applicable standard of review in this case is reasonableness: *Zhou v Canada (Citizenship and Immigration)*, 2013 FC 465 at para 8 [*Zhou*].

[7] In reviewing the decision, this Court considers whether the decision is justified, transparent, and intelligible, and if it falls within the range of possible outcomes defensible in respect of the facts and the law: *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47.

II. Analysis

[8] Mr. Deb alleges the Officer's decision is unreasonable on a number of fronts.

[9] Firstly, he relies upon *Li v Canada (Citizenship and Immigration)*, 2008 FC 1284 at para 30 [*Li*] and *Huang v Canada (Citizenship and Immigration)*, 2009 FC 135 at paras 11-12 [*Huang*], and submits that, like in these cases, the Officer here failed to consider the fact that his immediate family, namely his wife, child and parents reside in Bangladesh.

[10] However, the Officer expressly refers to the Applicant's family members in Canada and in Bangladesh. The Officer notes that his wife and child are in Bangladesh and that his siblings are in Canada. The Officer was concerned with the Applicant's prior failure to disclose his sister in Canada. While the Applicant submitted that was an inadvertent omission, the Officer found it unlikely that an applicant would inadvertently fail to declare a sibling.

[11] The Officer was also concerned by the Applicant's failure to properly identify his parent's status in Canada. The Applicant indicated that his parents periodically visit Canada on a TRV. However, the Officer determined that the Applicant's parents were issued a super visa, which grants them the right to visit Canada anytime.

[12] I am satisfied that the Officer reasonably considered Mr. Deb's family circumstances.

[13] The Applicant also argues that the Officer failed to take into account the documentary evidence he submitted in respect of his property ownership and business assets in Bangladesh. The Applicant relies on the cases of *Thomas v Canada (Citizenship and Immigration)*, 2009 FC 1038 at paras 13-14 and *Asong Alem v Canada (Citizenship and Immigration)*, 2010 FC 148 at para 16 in support of this submission.

[14] The Officer's notes indicate that this information was considered and shows that the Officer was concerned about a discrepancy in this information. In the submissions, it states that Mr. Deb owns and manages three companies. However, only two companies were disclosed in the application. Given this discrepancy, the Officers finding that this information was lacking is reasonable.

[15] The Applicant also submits the Officer failed to consider his previous travel history, and maintains that the additional passport pages were submitted to the CIC. The onus was on the Applicant to submit the required information to the CIC. The affidavit evidence of the Officer indicates that the passport information was not before the decision-maker. It is therefore not appropriate to consider on this Application.

[16] Finally, the Applicant argues that the Officer should not have relied on previous refusals of his TRV applications as the sole basis to deny the application. However, a review of the Officers' notes demonstrates that the Officer based his refusal on a number of considerations and not solely on the previous TRV refusals.

[17] The Court owes deference to the Officer's conclusion on whether a visa applicant is likely to leave Canada at the end of his authorized stay. Here the conclusion that the Applicant would not leave Canada falls within the range of possible outcomes. The decision is therefore reasonable.

[18] This application for judicial review is therefore dismissed.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. The application for judicial review of the Visa Officer's decision is dismissed.
2. No serious question of general certification is certified.

"Ann Marie McDonald"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4879-15

STYLE OF CAUSE: RAJIB DEB v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: CALGARY, ALBERTA

DATE OF HEARING: AUGUST 18, 2016

JUDGMENT AND REASONS: MCDONALD J.

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