

Federal Court



Cour fédérale

Date: 20221214

Docket: IMM-57-22

Citation: 2022 FC 1735

Ottawa, Ontario, December 14, 2022

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

SIMRAN SAHI

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Simran Sahi, seeks judicial review of a decision of an immigration officer (the “Officer”) of Immigration, Refugees and Citizenship Canada (“IRCC”) dated December 19, 2021, refusing her study permit application pursuant to subsection 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (“IRPR”).

[2] The Officer was not satisfied that the Applicant's proposed studies are reasonable given her prior education at a higher level and her previous work experience, raising doubts about her intended purpose for coming to Canada.

[3] The Applicant submits that the Officer erroneously disregarded her evidence and explanation indicating the purpose of her proposed study, resulting in a decision that lacks the requisite degree of justification and is therefore unreasonable.

[4] For the reasons that follow, I find the Officer's decision to refuse the study permit application is unreasonable. I therefore grant this application for judicial review.

II. Facts

A. *The Applicant*

[5] The Applicant is a 34-year-old citizen of India. She is single and has no dependents. Her mother resides in India and her father is deceased.

[6] In 2016, the Applicant completed a bachelor's degree, majoring in economics, from Symbiosis College of Arts and Commerce in Pune, India. Upon her graduation, she began working as a Finance Manager with Radiant Guard Services Private Ltd., from June 9, 2009 to August 14, 2018. On August 17, 2018, the Applicant joined Blazeclan Technologies Private Ltd. ("BTP"), where she is currently employed as a Senior Finance Executive. In 2019, the Applicant

also completed a master's degree in business administration through distance learning, while working at BTP.

[7] Shortly after completing her master's degree, the Applicant was promoted from her role at BTP. She claims that her new position requires coordinating and executing financial transactions, and involves activities such as revenue reporting, taxation, and other finance-related duties.

[8] The Applicant claims that in an attempt to enhance her skills in the finance field, she decided to pursue a Post-Baccalaureate Diploma in Finance at Thompson Rivers University ("TRU") in Kamloops, British Columbia. In the Statement of Purpose included in her study permit application, the Applicant explains that she had always intended to pursue post-graduate education, but family commitments only allowed her to complete her master's degree remotely. She claims that she missed the in-class experience and chose the Post-Baccalaureate Diploma at TRU as a way to enhance her skills in the finance field, after years of work experience and education in the same area.

[9] The Applicant's study permit was refused in a decision dated December 19, 2021.

B. *Decision Under Review*

[10] The Officer's decision is largely contained in their Global Case Management System ("GCMS") notes, which form part of the reasons for the decision.

[11] The GCMS notes state:

All information before me, including client's previous employment and educational history, has been reviewed.

Client is applying for a study permit to attend a Post Baccalaureate Diploma in Finance at Thompson Rivers University. PA holds a master of business administration obtained in 2019, has been working as finance manager from 2001/06 to 2018/08, as a SR finance executive from 2018/08 to 2021/10.

Considering applicant's extensive education and previous work experience in the same field, I am not satisfied that applicant would not have already achieved the benefits of this program. It is not evident why applicant would study this program at such great expense considering applicant already possesses a higher level of qualification. I am not satisfied that this is a reasonable progression of studies, which raises concerns regarding applicant's intended purpose in Canada. Not satisfied on balance that applicant is a genuine student who would respect terms of authorized stay. Application refused.

[12] In the accompanying letter to the Applicant dated December 19, 2021, the Officer stated that the study permit application was refused because the Officer was not satisfied that she would leave Canada at the end of her study, as required under subsection 216(1) of *IRPR*.

III. Issue and Standard of Review

[13] This application for judicial review raises the sole issue of whether the Officer's refusal of the study permit application is reasonable.

[14] I agree with the parties that the appropriate standard of review is reasonableness, as established in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65

(“*Vavilov*”). In *Vavilov*, the Supreme Court stated that the standard of review analysis begins with a presumption of reasonableness (at para 16). This is also consistent with this Court’s jurisprudence reviewing decisions on study permit applications: *Nia v Canada (Citizenship and Immigration)*, 2022 FC 1648 at para 17; *Noulengbe v Canada (Citizenship and Immigration)*, 2021 FC 1116 at para 7; *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 11; *Kavughu-Mission v Canada (Citizenship and Immigration)*, 2018 FC 597 at para 8.

[15] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[16] While one hallmark of reasonableness is justification, which may involve reviewing the adequacy of reasons given for a decision (*Vavilov* at paras 79-81), the reasonableness of a decision should also be considered in light of its institutional context (*Vavilov* at paras 91, 103). Immigration officers consider a high volume of applications, which inevitably limits the possibility for extensive reasons in every instance. That being said, the decision must still exhibit the hallmarks of reasonableness when reviewed as a whole, in light of the evidentiary record, with particular attention to a rational chain of analysis (*Vavilov* at paras 99, 137, 313).

IV. Analysis

[17] The Applicant submits that the Officer's reasoning for refusing her study permit application exhibits a failure to account for central evidence. For instance, the Officer states that the proposed program of study is not reasonable given the Applicant's academic and employment history. However, her evidence shows that she has over 14 years of experience as a finance professional, and is now hoping to pursue a program in finance to enhance her skills in the field. The Applicant submits that the Officer's determination is incongruous with the evidence, and fails to provide reasons for concluding that the proposed program of study does not align with the Applicant's history. The Applicant contends that the overall decision therefore lacks the requisite degree of justification, rendering the decision unreasonable.

[18] The Applicant further submits that the Officer made an erroneous finding by stating that the proposed program of study would be a "great expense," despite the Applicant's explanation that international study provides "clear potential employment benefits" and an "opportunity to improve English language skills." When reviewed as a whole, the Applicant submits that the Officer's reasons are boilerplate and do not exhibit that the Applicant's particular circumstances were adequately considered.

[19] The Applicant relies on this Court's decision in *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 ("*Patel*"), which she submits is dispositive of the present review. In *Patel*, an Indian citizen who had academic experience in business, was briefly employed as an accountant, and sought to pursue a one-year business program in Canada (at para 2). The

applicant's study permit application included extensive explanations regarding the purpose of this program and the benefits he would accrue upon its completion, when returned to India (*Patel* at para 3). On judicial review, my colleague Justice Diner found that the officer's refusal of the study permit application was unreasonable, stating at paragraphs 14 and 15:

[14] The Officer doubted that it was reasonable for Mr. Patel to enroll in the program at VIU, citing (i) the questionable employment benefits, (ii) the availability of lower-cost options for similar study in India, (iii) his academic and employment history, and (iv) his personal circumstances. From this, the Officer concluded that Mr. Patel would not be a *bona fide* student in Canada and would not leave Canada at the end of his study permit stay, in non-compliance with paragraph 216(1)(b) of the Regulations.

[15] In my view, these four reasons, whether considered alone or together, do not provide a reasonable basis or justification for the Officer's conclusion. I appreciate that the context of a visa office, with immense pressures to produce a large volume of decisions every day, do not allow for extensive reasons. The brevity of the Decision, however, is not what makes this Decision unreasonable. Rather, it is its lack of responsiveness to the evidence. [...]

[20] Justice Diner went on to state that "there are clear potential employment benefits to international study, including in this case, the opportunity to improve English language skills," and the officer "did not offer a rational line of analysis or explanation that could reasonably lead from the evidence to the conclusion that Mr. Patel would not be a *bona fide* student and would not leave Canada at the end of the study permit period" (*Patel* at paras 18, 22, citing *Vavilov* at para 102). The Applicant in the case at hand submits that the same reasoning employed by Justice Diner in *Patel* applies here, which supports the finding that the Officer's refusal of her study permit is unreasonable.

[21] The Respondent maintains that the Officer's decision to refuse the study permit application is reasonable, and submits that the essence of the Applicant's submissions request this Court to reweigh the evidence that was before the Officer, which is not this Court's role on reasonableness review. The Respondent contends that the Applicant has failed to point to a reviewable error committed by the Officer in assessing the evidence, and the Officer is entitled to determine whether the Applicant has met her onus to provide sufficient evidence to show that she is a *bona fide* student. The Respondent submits that the Officer's reasons transparently exhibit that valid factors were weighed in arriving at the conclusion and, ultimately, the cost of the program and the pursuit of a Post-Baccalaureate program despite a previous degree at a higher level do not sufficiently show that the Applicant is a *bona fide* student, particularly when weighed against the stated benefits of international study. The Respondent submits that the "mere invocation of the supposed benefits of international study" is insufficient to undermine the reasonableness of the decision.

[22] I do not find that the Officer's reasons exhibit an adequate consideration of the Applicant's evidence. I agree with the Applicant's contention that the Officer's reasons appear boilerplate in nature. I further agree that an applicant's completion of previous degrees at a higher level is not a sufficient basis to find that the pursued program of study is not reasonable.

[23] In the recent decision in *Monteza v Canada (Citizenship and Immigration)*, 2022 FC 530 ("*Monteza*"), a visa officer denied an applicant's study permit application on the basis that she had previously completed a degree at a higher level than the one she sought to pursue in Canada (at para 11). On review, my colleague Justice Furlanetto found that "this statement runs contrary

to the nature of the Program and the Applicant's submissions on her study plan," and the officer failed to account for the applicant's objective to "study in the same area and to update her skills and 'deepen' her understanding and knowledge in her chosen field of study" (*Monteza* at paras 13-14). This Court found that it is a logical progression for the applicant to want to pursue further studies in the same field (*Monteza* at para 14, citing *Patel*).

[24] Similarly, in *Patel*, this Court reviewed an officer's refusal of a study permit application, which was denied on the grounds that the applicant provided insufficient evidence to satisfy that the program of study was reasonable in light of his educational history and future career progression. As quoted above, Justice Diner found that the unreasonableness of the officer's refusal of the study permit application was not in its brevity, but its "lack of responsiveness to the evidence" (*Patel* at para 15). This Court specifically assessed the officer's several grounds for refusal, which are analogous to the Applicant's case, namely the high cost, considered in light of the educational and work history (*Patel* at para 14). Justice Diner found that the applicant's "academic and employment history is in the field of business" and there is therefore "nothing inherently unreasonable about pursuing further studies in his field" (*Patel* at para 20), resulting in a decision that "did not offer a rational line of analysis" (*Patel* at para 22).

[25] The same reasoning can be applied to the Applicant's case. There is nothing unreasonable about the Applicant choosing to pursue this program of study. Her evidence cogently explained that she only had the option to complete her master's degree through distance studies, and would like to experience further education in her field in-person, while gaining other skills garnered through international study. On its face, the evidence shows an undoubtable

connection between her experience and study in finance, and her pursuit of further studies in the field. In line with the aforementioned jurisprudence, I also do not find that the cost of international study or the previous degree at a higher level weighs against the reasonableness of the Applicant's pursuit. This line of reasoning reveals a decision that is not based on an adequate consideration of the Applicant's record and, rather, grounds its determination on irrelevant considerations, rendering the decision as a whole unreasonable.

V. Conclusion

[26] The Officer's refusal of the Applicant's study permit application is unreasonable because it does not reveal a rational line of analysis that is justified on the basis of the evidence. This application for judicial review is therefore granted. No questions for certification were raised, and I agree that none arise.

JUDGMENT in IMM-57-22

THIS COURT’S JUDGMENT is that:

1. The Application for judicial review is granted. The decision under review is set aside and the matter is remitted for redetermination by a different decision-maker.
2. There is no question to certify.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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