Federal Court Cour fédérale

Date: 20230316

Docket: IMM-4041-22

Citation: 2023 FC 365

Vancouver, British Columbia, March 16, 2023

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

MATIN ANVARI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Matin Anvari is a citizen of Iran. He seeks judicial review of a decision by a visa officer [Officer] to refuse his application for a study permit.

[2] Mr. Anvari was accepted into a two-year program offered by the Institute of Technology Development of Canada [ITD] in Vancouver, British Columbia. He hoped to pursue a diploma in hospitality management.

[3] The Officer was not satisfied that Mr. Anvari would leave Canada at the end of his authorized stay. The Officer based this conclusion on the purpose of Mr. Anvari's visit and his family ties in Canada and Iran.

[4] The Officer's notes in the Global Case Management System [GCMS] form a part of the decision under review (*Ebrahimshani v Canada (Citizenship and Immigration)*, 2020 FC 89 at para 5). The Officer's GCMS notes read as follows:

> I have reviewed the application. I have considered the positive factors outlined by the applicant, including statements or other evidence. However, I have given less weight to the positive factors, for the following reasons: Taking the applicant's plan of studies into account, the applicant does not appear to be sufficiently well established that the proposed studies would be a reasonable expense. On balance, the PA has failed to satisfy me that the course of study is reasonable given the high cost of international study in Canada when weighed against the potential career/employment benefits, the local options available for similar studies, and the PA's personal circumstances. The applicant's plan of studies appears vague and poorly documented. Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay.

[5] The Officer's decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 10). The Court will intervene only if "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

[6] The criteria of "justification, intelligibility and transparency" are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls

within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[7] The duty of fairness owed by a visa officer is at the lower end of the spectrum (*Nauman v Canada (Citizenship and Immigration)*, 2013 FC 964 at para 15). Nevertheless, the reasons must still permit a reviewing court to understand why the decision was made. As Justice Alan Diner explained in *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 [*Patel*] at paragraph 17:

> Again, while the reality of visa offices and the context in which its officers work include significant operational pressures and resource constraints created by huge volumes of applications, this cannot exempt their decisions from being responsive to the factual matrix put before them. Failing to ask for basic responsiveness to the evidence would deprive reasonableness review of the robust quality that *Vavilov* requires at paras 13, 67 and 72. "Reasonableness" is not synonymous with "voluminous reasons": simple, concise justification will do.

[8] The Officer's reasons indicate that the "positive factors" in Mr. Anvari's application were considered. Mr. Anvari says he provided sufficient evidence to demonstrate his and his family's capacity to pay the expenses for his first year of study, including a receipt for a tuition deposit of $2,400 and an acceptance letter from ITD confirming that he had been awarded a scholarship in the amount of $12,000. The Officer's reasons do not disclose which factors were considered to be positive, or how they were weighed (*Gilavan v Canada (Citizenship and Immigration)*, 2022 FC 1698 at para 18).

[9] The Officer found that Mr. Anvari's proposed studies were not a reasonable expense, because he was not "sufficiently well established". At the time of his application, Mr. Anvari

was 21 years old and a recent high school graduate. It is unclear whether the Officer considered Mr. Anvari's youth or his dependence on his parents and aunt for financial support (*Mundangepfupfu v Canada (Citizenship and Immigration)*, 2022 FC 1220 at para 21).

[10] The Officer referred to "local options available for similar studies", but there is no evidence in the record confirming the existence of comparable courses of study in Iran or their cost (*Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 20).

[11] The Officer found that Mr. Anvari's study plan was "vague and poorly documented". Mr. Anvari's study plan provided the following rationales for his decision to pursue a diploma in hospitality management in Canada: the international reputation of Canadian educational institutions; the knowledgeable professors and academic resources available at ITD; the lack of comparable programs in Iran; his desire to improve his English language skills; his previous employment as a receptionist at a hotel; and his long-term goal of opening his own business in Iran. It is unclear from the Officer's reasons which of these rationales, if any, were considered to be vague or poorly-documented (*Fallahi v Canada (Citizenship and Immigration*), 2022 FC 506 [*Fallahi*] at paras 13-14).

[12] A decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it (*Vavilov* at para 128). It is not the brevity of a decision that makes it unreasonable, *per se*, but rather the lack of responsiveness to the submissions made (*Patel* at para 15). As Justice Richard Southcott explained in *Fallahi* (at para 17):

> In the context of these factual constraints, the Decision does not intelligibly articulate how the Officer concluded that the Principal Applicant's study plan does not appear reasonable, given his employment and education history, or that the plan does not outline a clear career/educational path for which the proposed educational program would be beneficial. This is not to say that such conclusions would necessarily be unreasonable in the context of the facts of this case, if the Officer had articulated a rational chain of reasoning supporting such conclusions. However, in the absence thereof, I find the Decision unreasonable in relation to the Principal Applicant.

[13] The brief reasons provided in the Officer's refusal letter and GCMS notes do not permit this Court to understand the rationale for rejecting Mr. Anvari's application for a study permit request (*Vavilov* at para 15). The application for judicial review is therefore allowed.

[14] Neither party proposed that a question be certified for appeal.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is allowed and the matter is remitted to a different visa officer for redetermination.

"Simon Fothergill"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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APPEARANCES:

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