

Federal Court



Cour fédérale

**Date: 20230920**

**Docket: IMM-6816-22**

**Citation: 2023 FC 1266**

**Ottawa, Ontario September 20, 2023**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**MISHA BABANIA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS AND JUDGMENT**

[1] Ms. Misha Babani (the “Applicant”) seeks judicial review of the decision of an Officer, refusing her application for a study permit. In a separate decision, the Officer refused the application of Ms. Golshid Litkouhi, mother of the Applicant, for a visitor’s visa.

[2] The Applicant is a citizen of Iran. She applied for a study permit on May 17, 2022. The Officer refused the application on the grounds of being dissatisfied that the Applicant would leave Canada at the end of any authorized period for her stay.

[3] The Applicant argues that the Officer breached her right to procedural fairness by providing inadequate reasons. She also pleads that the decision is unreasonable.

[4] The Minister of Citizenship and Immigration (the “Respondent”) submits that there was no breach of procedural fairness and the decision is reasonable.

[5] Any issue of procedural fairness is reviewable upon the standard of correctness; see the decision in *Canada (Citizenship and Immigration) v. Khosa*, [2009] 1 S.C.R. 339 (S.C.C.).

[6] The merits of the decision are reviewable upon the standard of reasonableness, following the decision in *Canada (Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.).

[7] I am not persuaded that there was any breach of procedural fairness in this case. The Applicant’s arguments about the adequacy of the reasons more appropriately relate to the reasonableness of the decision. In that regard, I agree with the Applicant’s submissions.

[8] In my opinion, the Officer either ignored or misunderstood the evidence about the Applicant’s ties to Iran. The Officer apparently was most concerned with the possibility that the

Applicant would overstay in Canada but the reasons do not show consideration of the evidence that contradicted this suspicion. The decision is unreasonable and will be set aside.

**JUDGMENT IN IMM-6816-22**

**THIS COURT'S JUDGMENT is that** the application for judicial review is allowed, the decision of the Officer is set aside and the matter is remitted to another officer for re-determination. There is no question for certification.

"E. Heneghan"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-6816-22

**STYLE OF CAUSE:** MISHA BABANIA V. THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY WAY OF VIDEO CONFERENCE

**DATE OF HEARING:** SEPTEMBER 18, 2023

**JUDGMENT AND REASONS:** HENEGHAN J.

**DATED:** SEPTEMBER 20, 2023

**APPEARANCES:**

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Eli Lo Re FOR THE RESPONDENT

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