Federal Court Cour fédérale

Date: 20240621

Docket: IMM-2648-23

Citation: 2024 FC 965

Ottawa, Ontario, June 21, 2024

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

LEILA DEHGHANISANIJ

Applicant

and

THE MINISTER OF CITIZENHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Leila Dehghanisanij [Applicant] seeks judicial review to set aside a decision by a visa officer [Officer] dated December 29, 2022 denying her a study permit [Decision] to pursue a Master of Education in Windsor, Ontario. The Decision was sent by way of letter to the Applicant, who is currently residing in Iran.

[2] In its letter, the Officer explained that the Applicant had not demonstrated she would leave Canada at the end of her stay as required by paragraph 216 (1)(b) of *Immigration and Refugee Protection Regulations*, SOR/2002-227 . The Officer also explained the reason for refusing the study permit had been based on the lack of significant family ties outside of Canada and the inconsistency between the purpose of the Applicant's visit to Canada and the details provided about her temporary stay.

[3] The Applicant argues that the Decision lacked the requisite coherence, intelligibility and justifiability to understand the reasons for refusing the study permit. The Officer should have sent a procedural fairness letter to giver her an opportunity to respond to any concerns, before refusing the study permit.

[4] After reviewing the record and the Decision, and considering the submissions of the parties, I find that the Decision was unreasonable. For the reasons set out below, the application for judicial review is granted.

II. Legal Issues and Standard of Review

[5] The issues I am to address are as follows:

a) Was the Decision rejecting the study permit application unreasonable?

b) Was there a breach of procedural fairness?

[6] The parties agree that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [*Vavilov*]).

[7] To avoid intervention on judicial review, the decision must bear the hallmarks of reasonableness – justification, transparency and intelligibility (*Vavilov* at para 99). A reasonable decision will always depend on the constraints imposed by the legal and factual context of the particular decision under review (*Vavilov* at para 90). A decision may be unreasonable if the decision maker misapprehended the evidence before it (*Vavilov* at paras 125-126). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100).

[8] A reviewing court must take a "reasons first" approach by examining the reasons provided with "respectful attention," in which the Court seeks to understand the reasoning process followed by the decision maker for drawing its conclusion (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 58, 60; *Vavilov* at para 84). Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are "sufficiently serious shortcomings" (*Vavilov* at para 100).

[9] In respect to allegations of procedural fairness, the Court's task is to determine "whether the procedure was fair having regard to all of the circumstances" (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54).

III. Analysis

[10] A key consideration in the judicial review of an Officer's denial of a student permit is whether the reasons meet the standard of "responsive justification." The context for decision-making is an important factor in this assessment — in particular, the high volume of applications

to be processed, as well as the nature of the interests involved, including the fact that in most instances an applicant can simply re-apply (*Nesarzadeh v Canada (Citizenship and Immigration),* 2023 FC 568 at paras 11, 12).

[11] The Applicant submits that the Decision was unreasonable and alleges that the Officer failed to consider evidence establishing her ties to her home. She submitted evidence by listing family members establishing her ties to her home country, the medical report taking care of her mother, the section in her cover letter explaining the reasons for bringing the applicant back home.

[12] The Respondent submits that the Officer was entitled to take into consideration the fact that the Applicant was "single, mobile and has no dependents" as evidence to support a finding that the Applicant has no "significant ties to her home country" (*Ocran v MCI*, 2022 FC 175 at para 25; *Babu v MCI*, 2012 FC 690 at paras 20-21; *Singh c MCI*, 2012 CF 526 at para 43). The Respondent refers this Court to *Chhetri v MCI*, 2011 FC 872 at paragraph 14 to submit that the focus must be on the "strength of the ties to the home country," and that the Officer may assess the strength that "bind or pull the applicant to their home country against the incentives, economic and otherwise, that induce the foreign national to overstay."

[13] In reviewing the Global Case Management System notes, the Decision was based on facts related to the Applicant being "single, mobile, is not well established and has no dependents (sic)." The Officer also mentioned that the Applicant "does not have significant family ties outside Canada" and that "bank statements show funds but little history of transactions."

[14] I agree with the Applicant that the Officer did not appear to grapple with material evidence and her submissions, including evidence of a medical certificate outlining her mother's circumstances requiring the Applicant's return, and her particular family circumstances that address the issue of her significant ties to her home country.

[15] Although the Officer referred to the Applicant's profile as "single, mobile, is not well established and has no dependents," it is unclear from the reading of the Officer's reasons the specific link that the Officer drew between the Applicant's relationship status and mobility to suggest that the Applicant had the incentives to overstay in Canada. It is unclear how the Officer concluded that the purpose of the Applicant's visit to Canada had been inconsistent with a temporary stay as a student.

[16] Although the Officer is not required to mention every single piece of evidence in the record, the reasons do need to address evidence material or contradictory to its conclusions. In this case, the Officer refused a study permit on the finding that there had been no significant family ties outside of Canada. Considering the evidence demonstrating the contrary, the Officer's conclusion was unreasonable.

[17] In reviewing the letter of offer from the University of Windsor and the letter of the University of Concordia, the Officer mentions "it is confusing which program applicant will attend." However, the Applicant clearly explained in a letter sent to the visa officer the reasons she chose to study at the University of Windsor. In the letter, the Applicant explained choosing University of Windsor, although having been admitted to both Windsor University and Concordia

University. She also mentioned choosing Windsor University because of “well-known professors” and its proximity to Toronto. It is unclear what purpose this statement had in the overall assessment of the application.

IV. Conclusion

[18] Given the above, I find that the Decision read as a whole does not bear the hallmarks of reasonableness per *Vavilov*. This application for judicial review is granted. This matter will be remitted for redetermination.

[19] The parties filed no questions to certify. I agree that none arise.

JUDGMENT in IMM-2648-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.

2. There are no questions for certification.

"Phuong T.V. Ngo"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-2648-23
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