

Federal Court



Cour fédérale

Date: 20240815

Docket: IMM-4779-23

Citation: 2024 FC 1277

Ottawa, Ontario, August 15, 2024

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

**MOHAMEDFARHAN ABDULGAFOOR
KHALIFA
ZAKERA MOHAMED FARHAN KHALIFA**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicants are a married couple who are citizens of India. They applied for Temporary Resident Visas (“TRV”) to visit Canada. They booked a 12-day tour with a Canadian tour operator to visit the Maritimes. The Applicants have no family in Canada and provided evidence that their three young children (aged approximately 10, 8 and 2) would be staying with the mother of one of the Applicants while they were going on this tour. The male Applicant

operates a business in India and provided proof of his business, income tax documents, proof of assets, and bank statements, including six months of transactions.

[2] The Officer refused the application because they found the Applicants had not established under section 179 (b) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] that they “will leave Canada by the end of the period authorized for their stay”. This is the second refusal of the Applicants’ application to visit Canada. The Applicants indicated in their submissions to the Officer that they are addressing the concerns raised in the previous refusal by explaining their financial resources and their intention for the visit.

[3] The sole basis given for the concern that the Applicants would overstay is the Officer’s view that this trip did not seem reasonable in relation to the Applicants’ socio-economic status. The Officer found that the source of funds in the savings account is not adequately explained given that it is significantly higher than the Applicants’ annual income.

[4] I have to consider whether the decision is reasonable in light of the legal and factual constraints bearing on it. The Respondent argues that the Applicants are asking this Court to impermissibly reweigh the evidence. I do not agree. The Applicants argue that the Officer failed to explain their reasoning for their concerns about their source of funds and further, that the Officer stated they weighed the factors but did not explain how any of the other relevant factors were taken into account, including: the short duration of the trip, that the details of the trip were all provided, and that the Applicants have three young children left in India.

[5] I agree with the Applicants that I cannot follow the Officer's concern about the source of funds in the bank accounts. The amount in the savings account is approximately double the amount that the Applicants earn per year. It is not clear why this should lead to a doubt as to the source of funds requiring further explanation for the funds in the bank accounts, particularly given that transaction records have also been provided as well as other financial documents related to the Applicants' business.

[6] I also agree that the Officer did not explain how the other factors, like strong family ties, including the Applicants' three young children, remaining in India, factor into their determination that the Applicants were unlikely to leave at the end of the period authorized for their stay. The Officer notes that they weighed the factors but does not explain which factors were weighed or in what way. While extensive reasons are not required, an officer's decision must be transparent, justified and intelligible. There needs to be a "rational chain of analysis" so that a person impacted by the decision can understand the basis for the determination (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 103; see also *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at para 17; *Samra v Canada (Citizenship and Immigration)*, 2020 FC 157 at para 23; and *Rodriguez Martinez v Canada (Citizenship and Immigration)*, 2020 FC 293 at paras 13–14).

[7] I agree with the Applicants that the Officer's reasons are not transparent, intelligible or justified in light of the evidence before them. Accordingly, the matter must be sent back to be redetermined.

JUDGMENT in IMM-4779-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed;
2. The decision dated February 16, 2023 is set aside and sent back to be redetermined by a different decision-maker; and
3. No serious question of general importance is certified.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4779-23

STYLE OF CAUSE: MOHAMEDFARHAN ABDULGAFOOR KHALIFA
AND ZAKERA MOHAMED FARHAN KHALIFA v
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: APRIL 30, 2024

JUDGMENT AND REASONS: SADREHASHEMI J.

DATED: AUGUST 15, 2024

APPEARANCES:

Altaf Patel FOR THE APPLICANTS

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FOR THE RESPONDENT