

**Date: 20080215**

**Docket: IMM-1233-07**

**Citation: 2008 FC 200**

**Ottawa, Ontario, February 15, 2008**

**PRESENT: The Honourable Mr. Justice Phelan**

**BETWEEN:**

**KHADIZATUN NABIN  
and ROBAIT-E-JASMIN**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

**I. INTRODUCTION**

[1] The Applicant sponsored her sister who was denied a visa on the basis that she was not a member of the family class. This is the judicial review of that Visa Officer's decision.

## II. BACKGROUND

[2] The Applicant Nabin was advised in December 2005 that she qualified as a sponsor for the permanent residence of her mother and her sister (Robait-E-Jasmin). The file was forwarded to the Visa Office in Singapore. When the mother submitted her application for permanent residence, Jasmin was 25 years old.

[3] In order to expedite the process, the Applicant waived any request for an interview.

[4] By letter dated March 15, 2007, the Visa Officer informed the mother that Jasmin did not meet the family class requirement because she was not a “dependent child”, as defined in s. 2 of the *Regulations*. The Visa Officer noted that there was insufficient evidence to support the claim that Jasmin had been continuously enrolled in and attending an accredited post-secondary institution on a full-time basis since 2002. The Visa Officer observed that documentary evidence demonstrated that Jasmin may have been enrolled up to 2005 but that did not demonstrate attendance.

[5] Most importantly, the Visa Officer referred to her letter of February 7, 2007 in which she raised concerns about the sufficiency and accuracy of the documents submitted and accorded the mother an opportunity to submit additional documents. No new documents were submitted.

### III. ANALYSIS

[6] The issue in this judicial review is whether the Applicant (which in reality includes the mother and Jasmin) was accorded fairness in the manner with which the visa application was dealt.

[7] The case law in this Court is consistent; the burden of establishing entitlement to a visa rests on an applicant. This burden includes the responsibility to produce all relevant information which may assist the application. There is no general requirement that visa officers engage in a form of dialogue as to the completeness or adequacy of materials filed.

[8] The exception to the absence of any obligation on a visa officer to give notice of concerns about filed materials is where there are concerns about the credibility, accuracy or genuineness of the information submitted or extrinsic evidence arises with respect to that information (see *Olorunshola v. Canada (Minister of Citizenship and Immigration)*, 2007 FC 1056, paras. 30-37).

[9] In the present case, the Visa Officer's concern was with respect to the adequacy or completeness of the information and what conclusions should be drawn. This is not a circumstance under which the Visa Officer was legally required to give notice of his/her concerns.

[10] Moreover, the Visa Officer did give the Applicant notice of concern, albeit in a general manner. The Applicant did not even take the rudimentary step of inquiring as to the concerns. Therefore, I can find no unfairness on the part of the Visa Officer.

IV. CONCLUSION

[11] Therefore, this judicial review is dismissed. There is no question for certification.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that** this application for judicial review is dismissed.

“Michael L. Phelan”

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Judge

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

**DOCKET:** IMM-1233-07

**STYLE OF CAUSE:** KHADIZATUN NABIN and ROBAIT-E-JASMIN  
and  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** January 23, 2008

**REASONS FOR JUDGMENT  
AND JUDGMENT:** Phelan J.

**DATED:** February 15, 2008

**APPEARANCES:**

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