Federal Court  Cour fédérale

**Date: 20130620**

**Docket: IMM-7302-12**

**Citation: 2013 FC 692**

**Ottawa, Ontario, June 20, 2013**

**PRESENT: The Honourable Madam Justice Kane**

**BETWEEN:**

**TSERING LHAMO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

## REASONS FOR JUDGMENT AND JUDGMENT

[1] Tsering Lhamo, the applicant in these proceedings, is the spouse of a Convention refugee in Canada, Tsering Norbu. Mr Norbu lived with his wife and family in India as stateless Tibetan refugees. Mr Norbu was granted refugee status in Canada in 2009. At the time of his application, Mr Norbu, as principal applicant, included his wife and two sons as family members. His wife subsequently applied for a visa for herself and one son, as a dependent of a protected person. The visa application was refused.

[2] Ms Lhamo now seeks judicial review pursuant to section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the *Act*], of the April 20, 2012 decision of the Visa Officer (the Officer) at the Canadian High Commission in New Delhi, India, which determined that she did not meet the requirements for permanent resident status as a dependent of a protected person in Canada.

[3] In assessing the application, the Officer had sought verification that the principal applicant, Mr Norbu, and the applicant, Ms Lhamo, were the biological parents of the sons. DNA results indicated that the younger son was the biological son of the applicant but not the son of Mr Norbu. Prior to submitting to the DNA testing, the older son chose to remain in India with his girlfriend and his name was removed from the application.

[4] Following the receipt of the DNA results, Mr Norbu responded to the procedural fairness letter from the Officer indicating that he was saddened by this revelation. He indicated that his wife had disclosed an extra-marital affair, however he had come to terms with this and he wished to pursue the application. In his more recent affidavit, after the visa application was refused, Mr Norbu indicated that he always knew the two sons were not his biological children. The older son had been abandoned at birth and he and his wife adopted and raised him. The younger child was the son of his wife and her former husband, who had died shortly after the birth of the child. Mr Norbu explained that he was desperate to bring his family to Canada, and that he had received bad advice and thought that the only way to do so was to state that the sons were his own. He was not aware that as the son of his spouse, the younger son could have been included as a family member.

[5] It should be noted that the more recent information included in Mr Norbu's affidavit was not before the Officer. The Officer only had the explanation from Mr Norbu that his wife had had an affair.

*The Decision*

[6] The reasons for the decision include the letter of refusal dated April 2012 and the CAIPS notes which trace the processing of the application. The letter of the Officer indicates that he was not satisfied with the explanation provided. The Officer was not satisfied that the applicant was not inadmissible and that the applicant met the requirements of the *Act*.

*[7]* In refusing the application, the Officer referred to subsection 16(1) of the *Act*, which requires that applicants answer truthfully and completely with the requisite and relevant evidence and documents, and to section 11, which provides that a visa may be issued if the Officer is satisfied that the applicant is not inadmissible and meets the requirements of the *Act*. The Officer also relied on subsections 176(1) and (3) of the *Regulations* which provide that applicants may include family members; however, family members who are inadmissible pursuant to subsection 21(2) of the *Act* shall not become permanent residents.

*Relevant Statutory Provisions*

[8] The relevant statutory provisions are set out below:

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| **11.** (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be | **11.** (1) L'étranger doit, préalablement à son entrée au Canada, demander à l'agent les visa et autres documents requis par règlement. L'agent peut les délivrer sur preuve, à |

issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.

la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi.

**16.** (1) A person who makes an application must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and documents that the officer reasonably requires.

**16.** (1) L'auteur d'une demande au titre de la présente loi doit répondre véridiquement aux questions qui lui sont posées lors du contrôle, donner les renseignements et tous éléments de preuve pertinents et présenter les visa et documents requis.

**21.** (1) A foreign national becomes a permanent resident if an officer is satisfied that the foreign national has applied for that status, has met the obligations set out in paragraph 20(1)(*a*) and subsection 20(2) and is not inadmissible.

**21.** (1) Devient résident permanent l'étranger dont l'agent constate qu'il a demandé ce statut, s'est déchargé des obligations prévues à l'alinéa 20(1)*a*) et au paragraphe 20(2) et n'est pas interdit de territoire.

(2) Except in the case of a person described in subsection 112(3) or a person who is a member of a prescribed class of persons, a person whose application for protection has been finally determined by the Board to be a Convention refugee or to be a person in need of protection, or a person whose application for protection has been allowed by the Minister, becomes, subject to any federal-provincial agreement referred to in subsection 9(1), a permanent resident if the officer is

(2) Sous réserve d'un accord fédéro-provincial visé au paragraphe 9(1), devient résident permanent la personne à laquelle la qualité de réfugié ou celle de personne à protéger a été reconnue en dernier ressort par la Commission ou celle dont la demande de protection a été acceptée par le ministre — sauf dans le cas d'une personne visée au paragraphe 112(3) ou qui fait partie d'une catégorie réglementaire — dont l'agent constate qu'elle a présenté sa demande en conformité avec

satisfied that they have made their application in accordance with the regulations and that they are not inadmissible on any ground referred to in section 34 or 35, subsection 36(1) or section 37 or 38.

les règlements et qu'elle n'est pas interdite de territoire pour l'un des motifs visés aux articles 34 ou 35, au paragraphe 36(1) ou aux articles 37 ou 38.

**40.** (1) A permanent resident or a foreign national is inadmissible for misrepresentation

**40.** (1) Emportent interdiction de territoire pour fausses déclarations les faits suivants :

(*a*) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;

*a*) directement ou indirectement, faire une présentation erronée sur un fait important quant à un objet pertinent, ou une réticence sur ce fait, ce qui entraîne ou risque d'entraîner une erreur dans l'application de la présente loi;

(*b*) for being or having been sponsored by a person who is determined to be inadmissible for misrepresentation;

*b*) être ou avoir été parrainé par un répondant dont il a été statué qu'il est interdit de territoire pour fausses déclarations;

(*c*) on a final determination to vacate a decision to allow their claim for refugee protection or application for protection; or

*c*) l'annulation en dernier ressort de la décision ayant accueilli la demande d'asile ou de protection;

(*d*) on ceasing to be a citizen under paragraph 10(1)(*a*) of the *Citizenship Act*, in the circumstances set out in subsection 10(2) of that Act.

*d*) la perte de la citoyenneté au titre de l'alinéa 10(1)*a*) de la *Loi sur la citoyenneté* dans le cas visé au paragraphe 10(2) de cette loi.

(2) The following provisions govern subsection (1):

(2) Les dispositions suivantes s'appliquent au paragraphe (1):

(*a*) the permanent resident or the foreign national continues to be inadmissible for

*a*) l'interdiction de territoire court pour les deux ans suivant la décision la constatant en

misrepresentation for a period of two years following, in the case of a determination outside Canada, a final determination of inadmissibility under subsection (1) or, in the case of a determination in Canada, the date the removal order is enforced; and

dernier ressort, si le résident permanent ou l'étranger n'est pas au pays, ou suivant l'exécution de la mesure de renvoi;

(*b*) paragraph (1)(*b*) does not apply unless the Minister is satisfied that the facts of the case justify the inadmissibility.

*b*) l'alinéa (1)*b*) ne s'applique que si le ministre est convaincu que les faits en cause justifient l'interdiction.

*Immigration and Refugee Protection Regulations*, SOR/2002-227

Definition of family member

**1.**(3) For the purposes of the Act, other than section 12 and paragraph 38(2)(*d*), and for the purposes of these Regulations, other than sections 159.1 and 159.5, "family member" in respect of a person means

**1.** (3) Pour l'application de la Loi — exception faite de l'article 12 et de l'alinéa 38(2)*d*) — et du présent règlement — exception faite des articles 159.1 et 159.5 —, « membre de la famille », à l'égard d'une personne, s'entend de :

(*a*) the spouse or common-law partner of the person;

*a*) son époux ou conjoint de fait;

(*b*) a dependent child of the person or of the person's spouse or common-law partner; and

*b*) tout enfant qui est à sa charge ou à la charge de son époux ou conjoint de fait;

(*c*) a dependent child of a dependent child referred to in paragraph (*b*).

*c*) l'enfant à charge d'un enfant à charge visé à l'alinéa *b*).

[…]

[…]

**176.** (1) An applicant may include in their application to

**176.** (1) La demande de séjour au Canada à titre de résident

| | |
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| remain in Canada as a permanent resident any of their family members. | permanent peut viser, outre le demandeur, tout membre de sa famille. |
| (2) A family member who is included in an application to remain in Canada as a permanent resident and who is outside Canada at the time the application is made shall be issued a permanent resident visa if | (2) Le membre de la famille d'un demandeur visé par la demande de séjour au Canada à titre de résident permanent de ce dernier et qui se trouve hors du Canada au moment où la demande est présentée obtient un visa de résident permanent si : |
| (*a*) the family member makes an application outside Canada to an officer within one year after the day on which the applicant becomes a permanent resident; and | *a*) d'une part, il présente une demande à un agent qui se trouve hors du Canada dans un délai d'un an suivant le jour où le demandeur est devenu résident permanent; |
| (*b*) the family member is not inadmissible on the grounds referred to in subsection (3). | *b*) d'autre part, il n'est pas interdit de territoire pour l'un des motifs visés au paragraphe (3). |
| (3) A family member who is inadmissible on any of the grounds referred to in subsection 21(2) of the Act shall not be issued a permanent resident visa and shall not become a permanent resident. | (3) Le membre de la famille qui est interdit de territoire pour l'un des motifs visés au paragraphe 21(2) de la Loi ne peut obtenir de visa de résident permanent ou devenir résident permanent. |

*The Issues*

[9] The applicant raises three grounds for review: firstly, that the Officer erred in relying on section 16; secondly, that the Officer conflated the requirements under section 16 with those under section 40 regarding misrepresentation, which is not a ground for inadmissibility of a dependent of a protected person, and in the alternative, that there was no misrepresentation; and thirdly, that the

Officer called into question the genuineness of the marriage of the applicant and principal applicant but did not provide any opportunity for them to respond, which is a breach of procedural fairness.

[10] With respect to all grounds, the applicant submits that the provisions of the *Act* must be considered in the context of the overall objectives and purpose of the *Act* which is to offer protection for refugees. The applicant noted several provisions in the *Act* which apply to family members of protected persons, recognise their special circumstances, and provide some leniency in the processing of their applications for permanent residence.

[11] With respect to subsection 16(1), the applicant agrees that truthfulness is an important consideration for visa officers. Despite this, the applicant again relies on specific provisions of the *Act* that acknowledge the unique circumstances of refugees and, in particular, the family members of protected persons.

*[12]* The applicant submits that the requirement of subsection 16(1) to answer truthfully is not a ground of inadmissibility to refuse an application for permanent residency of a spouse of a protected person pursuant to subsection 176(3) of the *Regulations*.

[13] With respect to the interaction between subsection 176(3) of the *Regulations* and section 21 of the *Act*, the applicant submits that the only grounds for inadmissibility for family members of protected persons in Canada are those set out in subsection 21(2), which in turn refers to sections 34, 35, 36(1), 37 and 38: security (s 34), human or international human rights violations (s 35), serious criminality (s 36(1)), organized criminality (s 37), or serious health grounds (s 38).

[14] Simply put, the applicant's position is that the requirement to be truthful and the requirement not to make misrepresentations are not grounds for inadmissibility under section 21. The applicant submits that the application cannot be refused for either of these reasons.

[15] In the alternative, the applicant submits that if misrepresentation could be a ground to refuse the application, there was no misrepresentation. In particular, the applicant argues that the information withheld was not of a material fact relating to a relevant matter and it could not have induced an error in the administration of the *Act*.

*[16]* The applicant notes that she or the principal applicant could have disclosed that the principal applicant, Mr Norbu, was not the biological father of their son and could have still claimed the son as a *de facto* dependent child. Therefore, the applicant submits that the misrepresentation could not induce an error in the administration of the *Act*.

[17] In later submissions, the applicant notes that the son could have been claimed as a "family member" as the son of the principal applicant's spouse.

[18] The applicant also submits that the Officer breached a duty of procedural fairness by not allowing the applicant and her husband an opportunity to respond to the Officer's concerns about the *bona fides* of their marriage.

[19] The respondent submits that subsection 16(1) is clearly drafted and requires that all applications must be truthful. The failure of an applicant to be truthful is a reasonable ground for refusal of the application. The respondent submits that nothing prevents a refusal pursuant to section 16. While the objectives of the *Act* are well-understood, no provision of the *Act* trumps another. Moreover, the application of the *Act* cannot encourage applicants to make false statements.

[20] The respondent further submits that the Officer did not confuse or conflate the provisions of section 40 and section 16. In his CAIPS notes, the Officer acknowledged that he erroneously referred to misrepresentation in his procedural fairness letter, but knew he was dealing with the dependent of a protected person and that section 16 was applicable, not section 40.

[21] On the issue of misrepresentation more generally, whether or not section 40 is applicable, the respondent submits that the information that was withheld could have led to an error in the administration of the *Act*. But for the Officer's request for the DNA tests and the results, the principal applicant's family would have landed in Canada without disclosure of the true facts.

[22] The respondent also notes that the principal applicant was untruthful in both the application and his explanation to the Visa Officer where he indicated he had just discovered that his wife had an affair. In his subsequent affidavit, he indicated that this was not true and he also indicated that the age of the son had not been accurately disclosed.

[23] I would note that the information in the more recent affidavit was not before the Officer who based his decision only on the information before him.

[24] With respect to the allegations of procedural fairness, the respondent submits that the *bona fides* of the marriage was not an issue for the Officer. The decision was based on the lack of truthfulness of the applicant.

*Standard of Review*

[25] An immigration officer's factual findings relating to an applicant's eligibility for permanent residence in Canada are reviewable on a reasonableness standard: *Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12 [*Khosa*], 2009 CarswellNat 434 at para 59, 61, 63; *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 at para 47, [*Dunsmuir*].

[26] Where the standard of reasonableness applies, the role of the Court is not to substitute any decision it would have made, but to "determine if the outcome 'falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law': *Dunsmuir*, at para 47. There may be more than one reasonable outcome. However, as long as the process and the outcome fit comfortably with the principles of justification, transparency and intelligibility, it is not open to a reviewing court to substitute its own view of a preferable outcome": *Khosa* at para 59.

[27] A breach of procedural fairness and other issues raising questions of law are reviewable on the standard of correctness: *Abou-Zahra v Canada (Minister of Citizenship and Immigration)*, 2010 FC 1073, [2010] FCJ no 1326 at para 16; *Chowdhury v Canada (Minister of Citizenship and Immigration)*, 2009 FC 709, [2009] FCJ no 875 at para 29; *Khosa* at para 43; *Dunsmuir*, supra at para 79.

[28] The applicant submits that the Officer erred in law by relying on section 16, which is reviewable on the correctness standard.

[29] The thrust of the applicant's argument relates to the interpretation of the provisions of the *Act* and the *Regulations*, and how particular provisions relate to each other. As the *Act* would be within the Officer's area of expertise, I would not characterize the interpretation of the provisions at issue as questions of law for which a correctness standard applies.

[30] I would note that the *Act* is a comprehensive regime that must be interpreted in a purposive way in the spirit of the objectives of the *Act*. No single provision can be considered without regard to the related provisions and the overall objectives of the *Act*. Section 3 sets out objectives with respect to immigration and refugees and the application of the *Act*, all of which must be considered and balanced in interpreting specific provisions.

[31] The issues in the present case focus on the factual determinations of the Officer and how the Officer applied the law to the facts and exercised his discretion whether to grant the visa. The decision is, therefore, reviewable on a standard of reasonableness.

*Did the Officer err by incorrectly applying s 16(1) of the Act?*

[32] The main issue is whether the Officer erred by referring to s 16(1) of the *Act* as the reason for finding the applicant inadmissible.

[33] The CAIPS notes indicate the following:

> Refused under 16.1 (sic) as HOF in Canada and PA provided bogus birthc ertificates (sic) for their listed dependents and did not declare that only accompnying (sic) dependetn (sic) is not biological son of HOF.
> Refusal letter. I also note that they never answered our PF letter from may (sic) 2011.

[34] In the April 13, 2012 entry, the Officer acknowledges that a response had in fact been provided to the procedural fairness [PF] letter:

> The HoF gives the explanation that his wife had an indiscretion (i.e. an affair) with another man without him being aware of it. However given that the other son, Richen Tenzin desisted from undergoing DNA testing just 2 months after we requested it in July 2010. This seems more than a coincidence as it is likely that he is not the son of the HoF.
>
> The explanation given by the HoF about his wife having an affair is possible but I am not entirely convinced. As well she failed to declare that her sons were not the HoF's sons thus she did lie by omission on her appln form. Thus my decision to refuse remains unchanged. Refusal still stands.

[35] In the letter of refusal, the Officer clearly states that he was unconvinced by the answer provided. The Officer referred to subsection 11(1) of the *Act* which provides that a visa shall be issued if an officer is satisfied that the foreign national is not inadmissible *and* that the foreign national meets the requirements of the *Act*. The Officer concluded that he was not satisfied that the applicant was not inadmissible *and* he was not satisfied that the applicant had met the requirements of the *Act*.

[36] Regardless of whether the duty to be truthful is a specific ground of inadmissibility, it is clearly a requirement of the *Act*.

[37] Although a person may not be inadmissible pursuant to the specific grounds of inadmissibility set out in subsection 21(3), they are not automatically admissible and provided with a visa. The requirements of the *Act* must be met. One of those requirements is that an applicant be truthful.

[38] Section 11 is clearly a discretionary provision with two criteria. It provides that an officer may issue a visa if the officer is satisfied that first, the applicant is not inadmissible, and second, that the applicant meets the requirements of the *Act*.

[39] Section 16 is a key requirement of the *Act* which the Officer found had not been met. The Officer did not err in relying on section 16 as a reason to refuse the application pursuant to section 11.

*Inadmissibility of Family Members*

[40] Subsections 176(1) and (3) of the *Regulations,* set out above, and referred to by the Officer, provide that the grounds for inadmissibility of a family member are those set out in subsection 21(2) of the *Act*.

[41] As noted above, the grounds listed under subsection 21(2) of the *Act* include: security (s 34), human or international human rights violations (s 35), serious criminality (s 36(1)), organized criminality (s 37), or serious health grounds (s 38).

[42] The applicant submits that the *Regulations* do not include misrepresentation as a ground of inadmissibility in family member applications, and therefore, the Officer erred in law by finding the applicant inadmissible and refusing the application.

[43] The applicant also relies on the OP 24 Operational Manual, which includes guidelines specifically for family members of protected persons (DR2). The applicant notes that paragraph 10.7 of OP 24 states that misrepresentation cannot be used as a basis for inadmissibility of family members of protected persons.

[44] Paragraph 10.7 provides:

> *A40 cannot be used as a basis for the refusal of DR2 family members of protected persons*. A40 is not included in the grounds for inadmissibility of family members of protected persons cited in A21(2), as per R176(3). Where material misrepresentation occurs and concerns a non *bona fide* relationship or the identity of the family member (e.g., marriage of convenience, adoption of convenience, misrepresentation of marriage records or of a child's birth records, etc.), then the family member should be refused not as per A40, but as per R176(1) and R176(3). See the procedures for refusal of ineligible family members in section 10.6 above. [emphasis in original]

(Note that A40 refers to section 40 of the Act which is set out above, regarding misrepresentation.)

[45] The respondent agrees that section 40 is not applicable to family members of protected persons and also notes that the Officer acknowledged this in the CAIPS notes.

[46] The OP manual confirms that a section 40 misrepresentation finding cannot be relied on to refuse family members of protected persons. However, it goes on to provide that material

misrepresentations and concerns of *bona fide* relationships should be used as a basis to refuse DR2 (dependents of protected persons) applicants under subsections 176(1) and (3) of the *Regulations.*

*[47]* In this case, the Officer referred to subsections 176(1) and 176(3) of the *Regulations* in addition to section 16 and section 11 and did not refer to section 40 of the *Act*.

[48] Although it is not necessary to deal with the applicant's alternative argument given the acknowledgement that section 40 does not apply, the applicant submits that if misrepresentation were a ground of inadmissibility, there would be no such misrepresentation in this case because the requirements for misrepresentation were not present. The applicant referred to *Bellido v Canada (Minister of Citizenship and Immigration),* 2005 FC 452, where Justice Snider set out the requirements for a finding of inadmissibility for misrepresentation as follows:

> [27] Two factors must be present for a finding of inadmissibility under s. 40(1). There must be misrepresentations by the applicant and those misrepresentations must be material in that they could have induced an error in the administration of the *IRPA*. The standard of review in the first of these matters is, in my view, patent unreasonableness. These are determinations of fact, which the Visa Officer is in the best position to assess. Without coming to a final determination on the second factor, I will accept that the standard of review is reasonableness *simpliciter*.

[49] The standard of review would now be reasonableness as both are questions of fact: was there a misrepresentation by the applicant (which need not be intentional) and was that misrepresentation material in that it could have induced an error in the administration of the *Act*? As noted by Justice Snider in *Bellido*, the officer is in the best position to assess both requirements.

[50] The applicant's position is that the failure to disclose that the principal applicant was not the biological father of the son is not a material misrepresentation because the son was otherwise a *de facto* dependent or a family member (as the son of the principal applicant's spouse). The failure to disclose the truth would not have induced an error in the administration of the *Act* because the applicant and son would have been admissible and the visa would have been granted if the truth were known.

[51] The applicant also notes that if the decision to refuse had been based on misrepresentation, the consequences to the principal applicant's family would have been inadmissibility for a period of two years, rather than the potentially more severe consequences of the refusal pursuant to section 16.

[52] The applicant further submits that the facts of this case are unique. The lies were innocent and the result of poor advice and the stress of the principal applicant's wife and son remaining in India as stateless persons.

[53] While the applicant's submissions that the overall objectives of Canada's refugee protection regime recognise that applicants may have to take drastic measures to seek refugee protection, including sometimes to lie or to withhold information or to make misrepresentations, have been considered, and that the applicant's circumstances are troubling, I would note that the Officer is well aware of the conditions present in refugees' countries of origin and is tasked with administering the provisions of the *Act* to uphold both the spirit and integrity of the *Act*.

[54] As noted, the Officer did not rely on section 40, which addresses misrepresentation, as the basis to refuse the visa application. Moreover, it is speculative for the applicant to suggest that if the truth were told, the visa application would have been issued, given that the decision to issue a visa is discretionary pursuant to section 11 of the *Act*.

*Procedural Fairness*

[55] I do not agree with the applicant that the Officer questioned the *bona fides* of the applicant's marriage and failed to provide an opportunity for the applicant to respond. Although the CAIPS notes do state, "This brings into question the bona fide (sic) of the relationship between PA (sic) and Norbu Tsering", it is clear from reading the decision as a whole that the refusal was not based on any concerns about the marriage. The CAIPS notes go on to state that the marriage certificate is on file and is a certified copy.

[56] Therefore, there was no breach of procedural fairness.

*Proposed Certified Question*

[57] The applicant proposes the following question for certification:

> "Where a withholding would not result in an error in the administration of the *Immigration and Refugee Protection Act*, does s 176(3) of the *Immigration and Refugee Protection Regulations* limit the use of s 16 of the Act to those grounds of inadmissibility applicable to the dependents of Convention Refugees (CRs), when those dependents are processed concurrently with the CR's application for Permanent Residence?"

[58] The respondent submits that this question would not be determinative of the application for judicial review and does not rise to the level of an issue of general importance.

[59] I find the question difficult to understand as it raises issues that do not arise based on the wording of section 16 of the *Act* or subsection 176(3) of the *Regulations*. In addition, I find that the question would not resolve the issues before me because the Officer did not base his decision to refuse the visa on the basis of withholding and misrepresentation which are governed by section 40. The Officer relied on sections 16 and section 11. Section 16 does not refer to nor is it limited by specific grounds of inadmissibility; rather, it requires applicants to be truthful and to produce all relevant and required documents. Section 11 provides that a visa may be issued where two criteria are met: the applicant is not inadmissible, and the applicant meets the requirements of the *Act*. Therefore, the proposed question would not address the decision made in this case.

[60] In conclusion, the application for judicial review is dismissed. The decision of the Officer was reasonable; it was transparent and intelligible and justified on the facts and the law.
As noted above, the question proposed is not appropriate for certification.

## JUDGMENT

**THIS COURT'S JUDGMENT is that**

1. The application for judicial review is dismissed;

2. No question is certified

"Catherine M. Kane"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-7302-12 |
| **STYLE OF CAUSE:** | TSERING LHAMO v THE MINISTER OF CITIZENSHIP AND IMMIGRATION |
| **PLACE OF HEARING:** | Toronto, Ontario |
| **DATE OF HEARING:** | May 29, 2013 |
| **REASONS FOR JUDGMENT AND JUDGMENT:** | KANE J. |
| **DATED:** | June 20, 2013 |

**APPEARANCES:**

| | |
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| Jennifer Stone | FOR THE APPLICANT |
| Leanne Briscoe | FOR THE RESPONDENT |

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