

Federal Court



Cour fédérale

Date: 20210909

Docket: IMM-2129-20

Citation: 2021 FC 931

St. John's, Newfoundland and Labrador, September 9, 2021

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

MANVEER SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

AMENDED JUDGMENT AND REASONS

[1] Mr. Manveer Singh (the “Applicant”) seeks judicial review of the decision made by the Minister’s Delegate, pursuant to paragraph 40(1)(a) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”), refusing his application for a study permit. The Minister’s Delegate determined that the Applicant had misrepresented facts in his application.

[2] The Applicant is a citizen of India. The Reviewing Officer determined that an income tax return submitted by the Applicant was fraudulent. Neither the Reviewing Officer nor the Minister's Delegate were satisfied with the Applicant's response to the Procedural Fairness Letter sent to him about the income tax return.

[3] The Applicant now argues that the Minister's Delegate is unreasonable. The Minister of Citizenship and Immigration (the "Respondent") submits that it is not.

[4] The decision is subject to review upon the standard of reasonableness.

[5] According to the recent decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019), 441 D.L.R. (4th) 1 (S.C.C.), the standard of reasonableness presumptively applies to administrative decisions, including decisions made under the Act, except where legislative intent or the rule of law suggests otherwise; see *Vavilov, supra* at paragraph 23.

[6] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on that decision"; see *Vavilov, supra* at paragraph 99.

[7] Considering the evidence in the Certified Tribunal Record, including the Global Case Management System, GCMS, I am not satisfied that the decision meets the applicable standard of review.

[8] The Minister Delegate's reasons do not clearly explain why the Applicant's explanation to the procedural fairness letter was unacceptable. The reasons of the decision maker do not meet the standard of transparency.

[9] In the result, the application for judicial review is allowed, the decision is set aside and the matter is remitted to a different decision maker for redetermination. There is no question for certification arising.

JUDGMENT in IMM-2129-20

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Minister' Delegate is set aside and the matter is remitted to a different decision maker for redetermination, there is no question for certification arising.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2129-20

STYLE OF CAUSE: MANVEER SINGH v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

DATE OF HEARING: SEPTEMBER 1, 2021

JUDGMENT AND REASONS: HENEGHAN J.

DATED: SEPTEMBER 8, 2021

AMENDED SEPTEMBER 9, 2021

APPEARANCES:

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David Cranton FOR THE RESPONDENT

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