

Federal Court



Cour fédérale

**Date: 20211206**

**Docket: IMM-5447-20**

**Citation: 2021 FC 1358**

**Ottawa, Ontario, December 6, 2021**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**NAKUL GULATI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Nakul Gulati, is challenging the refusal of his work permit. Mr. Gulati applied for an open work permit as a spouse of a skilled worker. The Officer found that they were not satisfied that Mr. Gulati was a genuine temporary resident who would leave Canada at the end of the period authorized for his stay due to his failure to comply with the conditions of

his study permit. I do not find that the Applicant has shown that there is a basis for the Court to interfere with this decision. I find the Officer's decision reasonable.

[2] For the reasons set out below, I dismiss the application for judicial review.

## II. Background Facts

[3] Mr. Gulati is a citizen of India. He first entered Canada as a student in 2011. His most recent study permit was issued on August 24, 2017, and was valid until November 30, 2019.

[4] Mr. Gulati married his current spouse on June 27, 2018. She came to Canada as a student and after completing her studies, obtained a post-graduate work permit. Mr. Gulati applied in September 2019 for an open work permit based on being a spouse of a person who held a post-graduate work permit (s. 199(e) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]).

[5] On January 6, 2020, the Officer sent a letter to Mr. Gulati requesting his transcripts and completion of studies letter. In response, the Applicant provided a letter stating that he had never completed any program and transcripts indicating that his last enrollment in courses was in December 2017.

[6] In a decision dated October 22, 2020, the Officer refused Mr. Gulati's application for a work permit because they were not satisfied he would leave at the end of his authorized stay based on his history of contravening the conditions of his study permit.

III. Issues and Standard of Review

[7] The only issue on judicial review was whether the Officer's determination that they were not satisfied that the Applicant would leave Canada at the end of his authorized stay was a reasonable one.

[8] Both parties agree that the standard of review that I should apply in evaluating the Officer's decision is reasonableness. The Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] confirmed that reasonableness is the presumptive standard of review when reviewing administrative decisions on their merits. This case raises no issue that would justify a departure from that presumption.

IV. Analysis

[9] It is not in dispute between the parties that Mr. Gulati was not in compliance with the conditions of his study permit. According to his transcripts, the Applicant was last registered in courses at a designated learning institution ("DLI") in the fall of 2017. He could not provide any proof of studies from 2018 onwards. The transcripts that were provided of his studies from 2013 to 2017 also indicate that Mr. Gulati withdrew from and failed numerous courses during this period. He had not changed his status or left Canada 150 days after leaving his studies as is required (s. 220.1(1) of the *IRPR*; Immigration, Refugees and Citizenship Canada's Operational Instructions and Guidelines).

[10] Applicants who are applying to stay in Canada temporarily, including those who are applying to work in Canada, must demonstrate that they intend to stay temporarily. Accordingly, prior to a work permit being issued, an officer needs to be satisfied that the applicant will leave Canada before their authorization to remain ends (s. 200(1)(b) of the *IRPR*).

[11] The Officer was not satisfied that the Applicant had been a genuine student who complied with his study permit conditions to remain enrolled and actively studying in a designated program (s 220.1(1) of the *IRPR*). The Officer relied on Mr. Gulati's past non-compliance as a basis to find they were not satisfied that he would leave at the end of his authorized stay. There is no basis for the Court to interfere with this determination.

[12] Mr. Gulati argues that since he was applying for a work permit as an accompanying spouse, the Officer had to make a finding about the genuineness of that relationship and the evidence that was provided in that regard. I do not agree. The Officer did not dismiss the application on the basis of this. There was no reason the Officer had to make a finding on this issue or explain that they had considered this evidence.

[13] Mr. Gulati also argues that the Officer ignored the evidence of his compliance with the requirements of his stay in Canada. I do not agree with this submission. The overwhelming evidence before the Officer was that Mr. Gulati failed to comply for a number of years with the conditions of his stay in Canada; he did not study in Canada though he was here on a study permit. Mr. Gulati did not provide the Officer with any explanation for this non-compliance.

[14] Mr. Gulati has not shown that the Officer's decision is unreasonable.

[15] The Respondent argued as an alternative argument that Mr. Gulati's application could be dismissed as he had come to this Court without clean hands due to his lack of valid immigration status. I need not consider this alternative argument as I have already found that the Officer's decision is reasonable.

[16] The parties did not propose a question for certification and I agree that none arises.

**JUDGMENT IN IMM-5447-20**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed;
2. There is no question for certification.

"Lobat Sadrehashemi"

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Judge

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

**DOCKET:** IMM-5447-20

**STYLE OF CAUSE:** NAKUL GULATI v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** DECEMBER 1, 2021

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** DECEMBER 6, 2021

**APPEARANCES:**

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