

Federal Court



Cour fédérale

Date: 20250716

Docket: IMM-14572-23

Citation: 2025 FC 1264

Ottawa, Ontario, July 16, 2025

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

SHREEMATTIE SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Shreemattie Singh, a citizen of Guyana, has been in Canada for almost twenty years. She applied to remain in Canada by filing an application for permanent residence based on humanitarian and compassionate grounds (“H&C Application”). An officer at Immigration, Refugees and Citizenship Canada (“IRCC”) refused the H&C Application. Ms. Singh challenges this refusal on judicial review.

[2] Ms. Singh raises a number of arguments challenging the merits of the decision. The parties agree, as do I, that I ought to review the Officer's decision on a reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 23). It is only necessary for me to address two of Ms. Singh's arguments. First, in considering the impact of family separation, the Officer was not responsive to the Applicant's submissions and evidence relating to her relationship with her mother and siblings in Canada. Second, the Officer made a factual error with respect to the evidence of Ms. Singh's husband and son on the conditions she would face in Guyana. These two issues provide a sufficient basis to find the Officer's decision to be unreasonable and require the decision to be redetermined.

[3] Foreign nationals applying for permanent residence in Canada can seek discretionary humanitarian and compassionate relief from requirements in section 25 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. The Supreme Court of Canada in *Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 [Kanthasamy], citing *Chirwa v Canada (Minister of Citizenship and Immigration) (1970)*, 4 IAC 338 [Chirwa], confirmed that the purpose of this humanitarian and compassionate discretion is "to offer equitable relief in circumstances that 'would excite in a reasonable [person] in a civilized community a desire to relieve the misfortunes of another'" (*Kanthasamy* at para 21 citing *Chirwa* at p. 350).

[4] Given that the purpose of humanitarian and compassionate discretion is to "mitigate the rigidity of the law in an appropriate case," there is no limited set of factors that warrant relief (*Kanthasamy* at para 19). The factors warranting relief will vary depending on the circumstances, but "officers making humanitarian and compassionate determinations must substantively

consider and weigh all the relevant facts and factors before them” (*Kanthasamy* at para 25, citing *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 [*Baker*] at paras 74-75).

[5] Ms. Singh raised the hardship of family separation in her request for H&C relief. Ms. Singh has a number of family members with permanent status in Canada, including: her mother, two adult children, and her five siblings. Ms. Singh argued that the Officer failed to address her submissions on the hardship of separating from her siblings and her mother.

[6] I agree.

[7] The Officer addressed the specific submissions about Ms. Singh’s adult children. The only mention of Ms. Singh’s mother is to say that she had legal custody of her children but that the children are now adults. There is no mention of Ms. Singh’s submissions about her support of her mother in her old age, nor is there any mention of Ms. Singh’s relationships with her siblings. It is not apparent from the limited reasoning on family separation whether these relevant facts about Ms. Singh’s mother and siblings were “substantively consider[ed] and weigh[ed]” (*Kanthasamy* at para 25).

[8] The Minister concedes that the Officer made a factual error in finding that since returning to Guyana, Ms. Singh’s husband and son did not continue to experience attacks from criminal gangs at their convenience store. The evidence before the Officer was to the contrary. The

Minister nonetheless argues that the error is not significant and therefore should not be a basis on which to find the decision unreasonable.

[9] I do not agree that this error was insignificant. The Officer relies on this fact – the lack of evidence about further attacks – to diminish the potential hardship the Applicant would face in returning to Guyana. Further, the Officer also notes that the Applicant could work at the family convenience store and relies on this to support their finding that she would have sufficient financial support in Guyana. Misstating the evidence on the further attacks by criminal gangs on the family's business is not a minor misstep but a relevant factual constraint that had to be considered by the Officer in weighing the Applicant's hardship of return (*Vavilov* at para 100).

[10] In conclusion, I find the Officer's evaluation of the Applicant's hardship in relation to family separation and conditions she would face in Guyana to be unreasonable. The application for judicial review is allowed. Neither party raised a question for certification and I agree none arises.

JUDGMENT in IMM-14572-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed;
2. The decision dated October 11, 2023 is quashed and sent back to be redetermined
by a different decision maker; and
3. No serious question for certification is certified.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-14572-23

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

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 30, 2025

JUDGMENT AND REASONS: SADREHASHEMI J.

DATED: JULY 16, 2025

APPEARANCES:

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Jennifer Luu	FOR THE RESPONDENT

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