

Federal Court



Cour fédérale

Date: 20101109

Docket: IMM-983-10

Citation: 2010 FC 1111

Ottawa, Ontario, November 9, 2010

PRESENT: The Honourable Mr. Justice Beaudry

BETWEEN:

RAVINDER SINGH

Applicant

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review brought under subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the Act) of a decision of an visa officer (the officer), dated December 17, 2009, refusing Ravinder Singh (the applicant) a temporary resident visa (TRV).

[2] The application for judicial review shall be allowed for the following reasons.

[3] The officer was not satisfied that the applicant, a 42 year old citizen of India would leave Canada at the end of the requested TRV. The purpose of applying for a TRV was among other

things, for the applicant, to engage in an exploratory visit to the province of Quebec to become a permanent resident as an investor under the Quebec Investor Program.

[4] The applicant had previously applied and been rejected under the Quebec Investor Program in 2007 because the visa officer was of the opinion that most of the applicant's assets were in the name of his father. The applicant's father passed away in 2008, and the applicant has stated that these assets are now in his own name.

[5] The officer's CAIPS' notes to (Computer Assisted Immigration Processing System) constitute his reasons (Tribunal's record, page 3):

PA IS A 42 YR OLD FARMER. HAS A FEW DAYS TRAVEL IN SE-ASIA IN 2006-07. NO TRAVEL TO EUR, UK OR NORTH AMERICA EVER. HAS CLOSE FAMILY TIES IN CDA AND PROVIDES NO SATISFACTORY PROOF OF HIS ELIGIBILITY OR INVITE FROM THE QUEBEC INVESTOR PROGRAM. CANNOT ESTABLISH HIS FLUENCY IN ENGLISH/FRENCH THAT WILL ENABLE HIM TO MAKE A FRUITFUL VISIT EVEN IF HE WERE A POTENTIAL INVESTOR. I AM NOT SATISFIED THAT THE APPLICANT WILL DEPART CANADA AT THE END OF THE PERIOD AUTHORIZED FOR STAY. REFUSED.

[6] I agree with both parties that the applicable standard of review in similar matters is reasonableness (*Dunsmuir v. New Brunswick (Citizenship and Immigration)*, 2008 SCC 9, [2008] 1 S.C.R. 190 at para 47).

[7] The defendant argues that the applicant's travel experience was considered as a neutral factor by the officer. I do not agree. While the applicant traveled in 2006- 2007 to Southeast Asia,

the officer gave no reasons why the absence of travel to EUR, UK or North America should be held against the applicant. I find that the decision read as a whole clearly indicates that it was considered as a negative factor without reasonable explanations. This case can be distinguished from *Obeng v. Canada (Citizenship and Immigration)*, 2008 FC 754 at para 13, [2008] F.C.J. No. 957 (QL) cited by the respondent.

[8] Also, in my view, the officer made no reference or analyzed an important document from Robert Varin (Déclaration du courtier ou de la Société de fiducie relative aux vérifications de l'identité et aux démarches effectuées sur la provenance et l'origine de l'avoir du candidat investisseur) provided by the applicant (Tribunal's record, page 16).

[9] The document was attached to the cover letter (Tribunal's record, pages 8 and 9) from the immigration consultant who explained the purpose of the application for a TRV.

[10] The applicant wanted a TRV for an “exploratory visit to Montréal. Applicant intends to visit for about a two weeks period where he will stay in Montréal for 7 days to have a meeting with the officer of Quebec Immigration and to meet out the *IRPA & its attendant Regulations* requirements of 7 days stay in Montréal ...” (Tribunal's record, page 9) [emphasis in the original].

[11] Finally, I agree with the applicant's argument that the officer erred in his balancing of the factors which might prompt the applicant to stay in Canada as opposed to those factors which suggest he would return to India. The officer mentioned that the applicant has close family ties in

Canada (mother and brother) but ought to have considered his family (wife and daughters) and property he has in India (*Paramasivam v. Canada (Citizenship and Immigration)*, 2010 FC 811, [2010] F.C.J. No. 988 (QL)).

[12] While I am mindful that deference should be owed to the officer's appreciation of the evidence, I am of the opinion that the Court's intervention is warranted here.

[13] No question for certification was proposed and none arise.

JUDGMENT

THIS COURT ORDERS that the application for judicial review be granted. The matter is remitted back to a different officer for reconsideration. No question is certified.

“Michel Beaudry”

Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: IMM-983-10

STYLE OF CAUSE: **RAVINDER SINGH
and
THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: November 4, 2010

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

DATED: November 9, 2010

APPEARANCES:

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