Federal Court  Cour fédérale

Date: 20150219

Docket: T-1596-14

Citation: 2015 FC 211

Toronto, Ontario, February 19, 2015

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

DAVID PRABAKAR JAYARAJ

Applicant

and

HIS EXCELLENCY THE RIGHT HONORABLE GOVERNOR GENERAL DAVID JOHNSTON, THE HONORABLE CHRIS ALEXANDER, THE ATTORNEY GENERAL OF CANADA, THE MINISTER OF JUSTICE AND THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondents

JUDGMENT AND REASONS

[1] This is an Application brought by an individual, David Prabakar Jayaraj, as against the Respondents, the Governor General (also named personally), the Attorney General of Canada, the Minister of Justice and the Minister of Citizenship and Immigration (also named personally), seeking relief described as:

*Pursuant to s. 18 and 18.1 of the Federal Court Act, R.S.C. 1985, c. F-7 as amended, inter alia, declaratory, prerogative and injunctive relief, from the Governor General's decision, on June 19th, 2014 to grant Toyal(sic) Assent to Bill C-24 and similar relief against the "**Strengthening of Canadian Citizenship Act**" itself. a Writ of Certiorari or any other writ or order or direction*

1) *That the Governor General's decision to give Royal Assent on the C-24 for its purported provision to revoke the citizenship of naturalized Canadians and remove them from Canada pursuant to that purported revocation of citizenship was beyond his constitutional authority in that C-24 is beyond the authority of the Federal Parliament and contrary to s. 91(25) of the Constitution Act, 1867 as reaffirmed and re-enacted pursuant to the supremacy clause of s.52 of the Constitution Act, 1982 and the binding jurisprudence on s. 91(25) of the Constitution Act, 1867.*

2) *Quashing several sections of the Strengthening of Canadian Citizenship Act as several sections of the Strengthening of Canadian Citizenship Act violate the rights not only under the Charter, but also under the International Covenant on Human and Political Rights and the Applicant prays that all portions of the said Act as mentioned below which violate the rights as guaranteed by the Canadian Charter of Rights and Freedoms be quashed.*

3) *Quash all portions of the Criminal Procedure rules, civil procedure rules and any other rule which states that leave has to be obtained to appeal to the Federal Court or to the Federal Court of Appeal or the Superior Court or to the Court of appeal and once denied no appeal lies forthwith. As the Charter guarantees everyone a fair and impartial trial and all matters are challengeable until the Apex Court.*

4) *For an order, for a stay on implementation of Bill C24 "The Strengthening of Canadian Citizenship Act" against any Canadian Citizen pending final decision on appeals.*

[2] The Applicant is self-represented. The Respondents are represented by Counsel. No evidence has been filed by any party.

[3] I have read the materials filed by each of the parties. I have heard the submissions made by the Applicant in person and by Counsel for the Respondents.

[4] Counsel for the Respondents made a motion in opening to dismiss the application based not only on the arguments as to standing, lack of evidence and other arguments as set out in the Respondents' Memorandum but also on the basis that the recent decision of Justice Rennie of this Court in *Galati v The Governor General et al,* 2015 FC 91, was dispositive of the substantive issues in the present application before me. I permitted the Applicant to make submissions not only in respect of the preliminary motion but also in respect of the entirety of his application.

I. STANDING

[5] I will first address the issue as to whether the Applicant has standing to bring this application. Essentially, there are two types of standing, private interest standing and public interest standing. Both of these types of standing require that the Court have some evidence in the record to support an applicant's standing. I have no evidence of any kind here. The Applicant makes various assertions in his Memorandum and oral argument, but none of this is evidence.

[6] In respect of private interest standing, the Applicant has failed to provide any evidence that he has a private interest that would support his standing.

[7] In respect of public interest standing, the Supreme Court of Canada has, in *Canada (Attorney General) v Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45, in its Reasons for Judgment delivered by Justice Cromwell, set out three factors that must, in a balanced way, guide the Court in respect of granting public interest standing. He wrote at paragraph 37:

> *In exercising the discretion to grant public interest standing, the court must consider three factors: (1) whether there is a serious justiciable issue raised; (2) whether the plaintiff has a real stake or a genuine interest in it; and (3) whether, in all the circumstances, the proposed suit is a reasonable and effective way to bring the issue before the courts: Borowski, at p. 598; Finlay, at p. 626; Canadian Council of Churches, at p. 253; Hy and Zel's, at p. 690; Chaoulli, at paras. 35 and 188. The plaintiff seeking public interest standing must persuade the court that these factors, applied purposively and flexibly, favour granting standing. All of the other relevant considerations being equal, a plaintiff with standing as of right will generally be preferred.*

[8] With respect to these factors, I will accept as to the first factor, that a serious issue has been raised; however, that issue has been addressed in *Galati* by Justice Rennie and, if an appeal is taken, will be addressed at the appellate level. As to the second factor, the Applicant has provided no evidence as to a genuine interest in the matter; he clearly fits the profile of a "busybody" referred to by Justice Cromwell in his Reasons in *Downtown Sex Workers*. As to the third factor, this application does not provide a reasonable and effective way to bring the issues before the Court. There is no evidence, the written Memorandum and oral argument of the Applicant provides no more than an unstructured ramble of thoughts, relevant and irrelevant to

the issue, with no proper focus and no proper legal analysis. The *Galati* case already provides a sufficient vehicle to bring the relevant issues before this and appellate Courts.

[9] In balancing these considerations I find that the Applicant has no public interest standing to bring the present application.

II. SUBSTANTIVE ISSUES

[10] Having determined that the Applicant has no standing, this would be sufficient to dismiss the application on that basis alone.

[11] Were it necessary to go further, I would accept and follow Justice Rennie's reasoning in the *Galati* case and find, for the same reasons he gave in respect of the substantive issues, that judicial review is not available in the circumstances of this case.

III. CHARTER ARGUMENTS

[12] The Applicant has raised arguments based on the *Canadian Charter of Rights and Freedoms*; however, he has provided no evidence to support such arguments. As Justice Cory wrote in *MacKay v Manitoba*, [1989] 2 S.C.R. 357 at paragraphs 8 to 14, the Courts are entitled to expect careful preparation and presentation of the factual basis for a *Charter* challenge.

[13] I dismiss the *Charter* challenge for lack of evidence.

IV. COSTS

[14] I have been provided by Counsel for the Respondents correspondence that he had with the Applicant in January and February inviting the Applicant to discontinue this proceeding whereupon the Respondents would not seek costs. The Applicant did not do so.

[15] Justice Cromwell, in *Downtown Sex Workers* at paragraph 28, has instructed the Courts that the power to award costs may be used to discourage litigation brought by "mere busybodies". Justice Laskin (as he then was) of the same Court, in *Thorson v Canada (Attorney General)*, [1975] 1 S.C.R. 138 at paragraph 12, said the same.

[16] I have found that the Applicant meets the description of a "busybody" and that applications of this kind are to be discouraged. The Respondents have presented a draft Bill of Costs at the Column V level wherein fees and disbursements total $6,721.18. They have also presented a draft Bill of Cost at the solicitor-client level totally $17,716.59. While tempted to award the higher level, I will be somewhat lenient and award costs to the Respondent at the lower level.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application is dismissed;

2. The Respondents are entitled to costs to be paid to the Respondents at the Column V level, fixed in the sum of $6,721.18.

"Roger T. Hughes"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1596-14
STYLE OF CAUSE:	DAVID PRABAKAR JAYARAJ v HIS EXCELLENCY THE RIGHT HONORABLE GOVERNOR GENERAL DAVID JOHNSTON, THE HONORABLE CHRIS ALEXANDER, THE ATTORNEY GENERAL OF CANADA, THE MINISTER OF JUSTICE AND THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
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JUDGMENT AND REASONS:	HUGHES J.
DATED:	FEBRUARY 19, 2015

APPEARANCES:

DAVID PRABAKAR JAYARAJ	FOR THE APPLICANT (ON HIS OWN BEHALF)
PETER SOUTHY AMINA RIAZ	FOR THE RESPONDENTS

SOLICITORS OF RECORD:

	FOR THE APPLICANT
William F. Pentney Deputy Attorney General of Canada	FOR THE RESPONDENTS