

Federal Court



Cour fédérale

Date: 20200928

Docket: IMM-2361-19

Citation: 2020 FC 934

Ottawa, Ontario, September 28, 2020

PRESENT: The Honourable Mr. Justice Pamel

BETWEEN:

**RAJVEER SINGH GILL
HARPREET KAUR**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Nature of the Matter

[1] This is an application for leave to seek judicial review and set aside the decision of a visa officer [the Senior Officer] to refuse Mr. Gill’s application for a temporary resident visa and open work permit for Canada under the Temporary Foreign Worker Program (spousal work permit) so as to accompany Ms. Kaur to Canada on a study permit. The application was refused on the basis that Mr. Gill was not a “spouse” as their marriage was entered into in bad faith as set

out in subsection 4(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, and had misrepresented material facts in his application.

[2] The Applicants submit that the Senior Officer did not respect the principles of procedural fairness and that, in any event, the Senior Officer's decision was unreasonable. According to the Applicants, the Senior Officer breached procedural fairness because (1) Mr. Gill was denied the use of an interpreter during his first interview, (2) the visa officer who conducted his second interview relied on the previous visa officer's findings without providing Mr. Gill with an opportunity to respond, and (3) the visa officer conducting the second interview did not review the additional documents brought by Mr. Gill to his second interview.

[3] For the reasons that follow, I will allow the present application.

II. Facts

[4] The Applicants are citizens of India, from the State of Punjab.

[5] On January 15, 2018, Ms. Kaur's father and a friend of Mr. Gill's father, who acted as a matchmaker, met Mr. Gill and his family at their home to discuss the prospects of Mr. Gill marrying Ms. Kaur. It would seem as though Mr. Gill's father had mentioned to his friend sometime prior to the meeting that they were looking for a bride for their only child, young Mr. Gill. The matchmaker knew both families.

[6] One week later, Mr. Gill, along with his parents and grandmother, went to the home of Ms. Kaur to meet her family. A few days later, Mr. Gill's aunt and uncle visited Ms. Kaur's home. The match was agreed to, and Mr. Gill and Ms. Kaur were engaged on February 4, 2018 at a restaurant in the City of Kot Kapura in the State of Punjab; they did not know each other prior to their families meeting and confirming their engagement.

[7] Ms. Kaur was a teacher in her village and had applied sometime earlier to travel to Canada for studies. She was accepted at Fleming College, which is in Peterborough, Ontario, on December 2, 2017, and had applied for a student visa to travel to Canada in January 2018.

[8] The couple were married on March 27, 2018, and, in April 2018, Ms. Kaur left for Canada to begin classes at Fleming College the following month.

III. Interview Process

[9] On June 19, 2018, Mr. Gill applied for a spousal work permit for Canada so as to join his wife. The idea was that Mr. Gill would be able to work with Ms. Kaur's brother, who was already in Canada on a study permit. Notes in the Global Case Management System [GCMS] indicate that the visa officer who initially reviewed Mr. Gill's application identified some concerns regarding the genuineness of his marriage to Ms. Kaur; Mr. Gill was called in for an interview.

A. *The first interview*

[10] On November 14, 2018, Mr. Gill attended the interview at the visa office in New Delhi. The interview was conducted in English. Ms. Kaur did not attend, and Mr. Gill did not have an interpreter with him. When asked by the visa officer [the first visa officer] whether he understood him/her, Mr. Gill responded that he would prefer the use of an interpreter. It would seem from the GCMS notes that someone from within the visa office was brought in to act as an interpreter, however in his affidavit in support of the present application for judicial review, Mr. Gill stated that no interpreter was provided notwithstanding the GCMS notes to contrary; no affidavit was provided by the first visa officer to support the entry in the GCMS system that an interpreter was indeed provided to Mr. Gill. I find this troubling.

[11] It is clear from the first visa officer's notes that he/she had serious reservations about the genuineness of the marriage, in particular on account of the haste with which the couple were married and the timing of the wedding in relation to the issuance of Ms. Kaur's study permit.

[12] The first visa officer found, amongst other things, that Mr. Gill was not sufficiently knowledgeable about Ms. Kaur's history and background, including her studies and work prior to the wedding, and did not even know the name of the college in Canada that Ms. Kaur was attending. In addition, the first visa officer found that the photographs of the wedding (1) did not support Mr. Gill's assertion as to the number of people who attended the wedding, (2) looked staged, and (3) did not depict a joyful occasion – the people in the photographs looked unhappy and angry on what should have been a very happy event.

[13] Finally, the first visa officer expressed the view that Ms. Kaur's family did not seem to place a great deal of importance on the wedding as Ms. Kaur's only brother, who was studying in Canada, did not attend, something that was unusual from a cultural standpoint given that it was the first marriage for both Mr. Gill and Ms. Kaur. According to Mr. Gill, Ms. Kaur's brother could not get the time off from his studies in Canada to attend the wedding.

[14] In the end, the first visa officer advised Mr. Gill of his/her concerns regarding the genuineness of the marriage and the consequences of misrepresentation under the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act]. The first visa officer included the following as part of his/her final GCMS notes: "Based on information available to me, on the balance of probabilities, this marriage does not appear to be genuine. He entered this marriage to gain admission to Canada as a spouse (R4 refers)".

[15] In his affidavit filed in support of the present application for judicial review, Mr. Gill asserted that at the conclusion of the first interview, he expressed his dissatisfaction with the process in that he was not advised in advance of the lack of interpretation services, and that the interview had been conducted in English although he had expressly indicated that he would have preferred the services of an interpreter.

[16] I should mention that Mr. Gill's invitation letter for the first interview did not contain the often seen notation that it is the applicant's responsibility to provide an interpreter.

[17] In any event, Mr. Gill was invited to a second interview.

B. *The second interview*

[18] On November 27, 2018, Mr. Gill attended a further interview before a different, second, visa officer, along with an interpreter arranged at his own expense. Mr. Gill was better prepared to answer questions regarding where and what Ms. Kaur was studying in Canada. As with the first interview, Mr. Gill explained how the marriage to Ms. Kaur had been arranged by his father's friend, as matchmaker, and was able to provide more details as to Ms. Kaur's experience in Canada.

[19] When asked to explain the haste in which the wedding took place – according to the second visa officer only two weeks following the approval of Ms. Kaur's study permit – Mr. Gill explained that his mother was ill and was admitted to hospital; it was her health condition that drove the timing of the engagement and wedding.

[20] Mr. Gill confirmed that he was aware prior to their engagement that Ms. Kaur had applied for her visa to come to Canada in January, and stated that Ms. Kaur was adamant about coming to Canada regardless of the wedding. He was not concerned that he was to be engaged to someone who was planning to leave India to study in Canada and in fact paid for her tuition and some of her expenses in preparation for her trip.

[21] In the end, the second visa officer noted in the GCMS system: "I concur with the previous officer's assessment", and echoed the first visa officer's finding that the photographs did not support Mr. Gill's assertion that "everyone attended the wedding" and that the marriage did not appear to be a happy celebration, with the couple and guests appearing unhappy and

angry. In addition, the second visa officer found that Mr. Gill did not seem knowledgeable about his spouse and that unsatisfactory answers were provided to explain the arrangement of the marriage.

[22] The second visa officer concluded by stating the following:

As a result I have reasonable grounds to believe, the arrangement, engagement and wedding were contingent upon an approved study permit. On a balance of probability, the marriage does not appear genuine. I have reasonable concerns that the client entered the marriage to gain admission to Canada as a spouse per R4.

[23] On January 2, 2019, a procedural fairness letter was issued advising Mr. Gill of concerns with the *bona fides* of his relationship and of his possible inadmissibility to Canada on the grounds of misrepresentation. The letter stated the following, among other things:

Upon review of your application and two interviews, I have reasonable grounds to believe that your relationship is non-genuine and was entered for the purposes of gaining entry to Canada. Since this forms a key part of your reason for entering Canada as a worker, I am concerned that this misrepresentation was liable to induce an error in the administration of the Act.

[24] In response, Mr. Gill provided numerous additional photographs of the couple together, as well as numerous receipts from restaurants, hotels and places that they visited together.

C. *Refusal letter*

[25] On February 5, 2019, the Senior Officer denied the application for the following reasons:

- I am not satisfied that you have truthfully answered all questions asked of you.

- You have been found inadmissible to Canada in accordance with paragraph 40(1)(a) of the [Act] for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of the [Act]. In accordance with paragraph A40(2)(a), you will remain inadmissible to Canada for a period of five years from the date of this letter or from the date a previous removal order was enforced.

[26] In the GCMS notes, the Senior Officer indicated that he/she reviewed the application, supporting documents, the notes on the application and the information gathered at the interview. No mention was made of the documents submitted by Mr. Gill following the issuance of the procedural fairness letter.

[27] The GCMS notes of the Senior Officer also mention that Mr. Gill:

. . . provided insufficient information or explanation regarding the progression of their relationship, the wedding, time spent together after marriage and their current living arrangements to support their marriage is genuine. As well, the applicant provided insufficient evidence or explanation as to ongoing communication between the couple before and after the marriage. . . . In my opinion, on the balance of probabilities, the applicant has not provided sufficient evidence and/or explanation to support that the marital relationship is genuine or that it was not entered into primarily for the purpose of acquiring a status or privilege under the Act.

[28] The Senior Officer further noted that had he/she acted on Mr. Gill's claims that the marriage was genuine, an error in the administration of the Act could have occurred, and therefore the Senior Officer declared the Applicant inadmissible for misrepresentation.

IV. Issues

[29] The parties raised three issues before me:

- First, the procedural fairness issues:
 - (a) Did the second visa officer rely on the first visa officer’s findings without providing the Applicant with an opportunity to respond, in violation of the procedural fairness owed to the Applicant?
 - (b) Did the issues with the interpretation during the first interview constitute a breach of procedural fairness?
 - (c) Was there a breach of procedural fairness because the visa officers failed to review the additional documentation submitted by the Applicant and did not provide him with an opportunity to respond?
- Second, did the Senior Officer reasonably determine that the Applicant had not met the criteria for the issuance of a temporary resident visa?
- Third, did the Senior Officer reasonably determine that the Applicant misrepresented his marriage as being genuine or as not entered into primarily for an immigration benefit?

V. Standard of Review

[30] As regards the merits of the Senior Officer’s decision, in particular regarding the genuineness of the marriage and whether it was entered into for the purposes of acquiring status under the Act, the decision is reviewable on the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*]; *Patel v Canada (Citizenship and Immigration)*, 2017 FC 401 at para 14; *Rahman v Canada (Citizenship and Immigration)*, 2016 FC 793 at para 6; *Glen v Canada (Citizenship and Immigration)*, 2011 FC 488 at para 43).

[31] Under the reasonableness standard, the Court must “focus . . . on the decision actually made by the decision maker, including both the decision maker’s reasoning process and the outcome . . . [and] whether the decision made . . . — including both the rationale for the decision and the outcome to which it led — was unreasonable” (*Vavilov* at para 83) so as to determine

whether the decision is “one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker” (*Vavilov* at para 85). In doing so, the decision-maker’s written reasons must be interpreted holistically and contextually (*Vavilov* at para 97).

[32] As regards the issues of procedural fairness, although the standard of review may be “best reflected in the correctness standard” . . . , strictly speaking, no standard of review is being applied.” A court must simply determine “whether the procedure was fair having regard to all of the circumstances” and ask “whether a fair and just process was followed” (*Canada Pacific Railway Company v Canada* (Attorney General), 2018 FCA 69 at para 54).

VI. Relevant Provisions

Immigration and Refugee Protection Act, SC 2001, c 27 [the Act]:

Misrepresentation

40(1) A permanent resident or a foreign national is inadmissible for misrepresentation (a) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;

...

Application

(2) The following provisions

Faussees déclarations

40(1) Emportent interdiction de territoire pour fausses déclarations les faits suivants :
a) directement ou indirectement, faire une présentation erronée sur un fait important quant à un objet pertinent, ou une réticence sur ce fait, ce qui entraîne ou risque d’entraîner une erreur dans l’application de la présente loi;

[...]

Application

(2) Les dispositions suivantes

govern subsection (1): (a) the permanent resident or the foreign national continues to be inadmissible for misrepresentation for a period of five years following, in the case of a determination outside Canada, a final determination of inadmissibility under subsection (1) or, in the case of a determination in Canada, the date the removal order is enforced;	s'appliquent au paragraphe (1) : a) l'interdiction de territoire court pour les cinq ans suivant la décision la constatant en dernier ressort, si le résident permanent ou l'étranger n'est pas au pays, ou suivant l'exécution de la mesure de renvoi;
--	--

Immigration and Refugee Protection Regulations, SOR/2002-227:

Bad faith

4(1) For the purposes of these Regulations, a foreign national shall not be considered a spouse, a common-law partner or a conjugal partner of a person if the marriage, common-law partnership or conjugal partnership:

(a) was entered into primarily for the purpose of acquiring any status or privilege under the Act; or

(b) is not genuine.

Mauvaise foi

4(1) Pour l'application du présent règlement, l'étranger n'est pas considéré comme étant l'époux, le conjoint de fait ou le partenaire conjugal d'une personne si le mariage ou la relation des conjoints de fait ou des partenaires conjugaux, selon le cas :

a) visait principalement l'acquisition d'un statut ou d'un privilège sous le régime de la Loi;

b) n'est pas authentique.

VII. Analysis

[33] I need not address the first and third issues as I have determined that the decision of the Senior Officer was unreasonable.

[34] There is no question that pursuant to section 11 of the Act, the burden was on Mr. Gill to have satisfied the visa officer, on the balance of probabilities, that he was not inadmissible to Canada.

[35] Mr. Gill submits that the Senior Officer simply stated in his/her decision that the evidence was “insufficient” yet did not explain what evidence was being referred to. In addition, Mr. Gill argues that a finding that his marriage was not genuine was arrived at without any indication as to what factors were looked at in order to come to that conclusion or why the evidence was considered insufficient. Accordingly, Mr. Gill claims the decision lacks intelligibility, transparency and justification.

[36] Mr. Gill also submits that the decision to reject his application is also unreasonable because the Senior Officer ignored or disregarded relevant evidence, in particular the answers provided during the second interview as well as the documents provided in response to the procedural fairness letter. According to Mr. Gill, none of this information was addressed in the reasons for decision although it went to contradict the findings of the Senior Officer, nor did the Senior Officer explain how all of the evidence submitted by Mr. Gill was somehow “deficient”.

[37] I must agree with Mr. Gill.

[38] I should first state that in addition to the unexplained notation in the GCMS notes of the first interview regarding the use of an interpreter for Mr. Gill, I also found it troubling that the Certified Tribunal Record contains neither the documents Mr. Gill brought to his second

interview nor the documents which were provided to the visa office in New Delhi in response to the procedural fairness letter, documents which were put before me by way of Mr. Gill's affidavit. The Minister did not address this issue in his submissions, nor did he contest such evidence, included as part of Mr. Gill's Application Record although not in the Certified Tribunal Record.

[39] There is no doubt that a decision-maker is presumed to have weighed and considered all the evidence presented unless the contrary is shown (*Boulos v Public Service Alliance of Canada*), 2012 FCA 193, [2012] FCJ No 832 (QL) at para 11, citing *Florea v Canada (Minister of Employment and Immigration)* (FCA), [1993] FCJ No 598 (QL) at para 1). A failure to refer to any particular piece of evidence will not generally justify a finding that the decision was made without regard to the evidence.

[40] However, a decision-maker is required to at least address relevant evidence if such evidence goes directly to contradict his/her findings. As I stated in *Sbayti v Canada (Citizenship and Immigration)*, 2019 FC 1296 at paragraph 60, where "there is a fundamental issue going to the crux of the matter, reference should be made to any credible document that deals with that matter head on." A court may infer that a decision-maker has made an erroneous finding of fact without regard to the evidence from a failure to mention in the reasons evidence that is relevant to the finding and which points to a different conclusion (*Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC), [1998] FCJ No 1425 (QL) at para 15; *Begum v Canada (Citizenship and Immigration)*, 2017 FC 409, [2018] 1 FCR 3 at para 81).

[41] Here, after having “reviewed the application, supporting documents, the notes on this application and the information gathered at the interview”, the Senior Officer found that Mr. Gill “provided insufficient information or explanation regarding the progression of their relationship, the wedding, time spent together after marriage and their current living arrangements to support their marriage is genuine”.

[42] I accept that the Senior Officer did not necessarily have to repeat the explanations set out by the previous visa officers in the GCMS notes, however, on the basis that the Senior Officer was relying on those previous notes to come to his/her findings, I find that the reasons expressed in those notes were deficient and did not address clear evidence that arguably contradicted the findings.

[43] The fact that Mr. Gill was given two interviews somewhat complicates matters. Putting aside for the moment the issue of procedural fairness arising in connection with the interpretation services during the first interview, had the decision been made to reject Mr. Gill’s application following the first interview, that decision may well have been reasonable. Mr. Gill stated that he was unprepared for that first interview, something that is clear from the inadequacy of his answers.

[44] Mr. Gill was unaware of the name of the school Ms. Kaur attended and the nature of the courses she was taking. He also stated that Ms. Kaur did not work prior to their marriage, when in fact she did work in India as a teacher. Nor could he provide details of Ms. Kaur’s previous education. The first visa officer found that there was insufficient evidence to support the

contention that 100 to 120 people attended the wedding, that the photographs of the wedding provided by Mr. Gill did not reflect what should have been a very happy occasion, and that it was unusual, from a cultural perspective, that Ms. Kaur's brother did not travel from Canada to attend the wedding.

[45] In the end, the first visa officer found that Mr. Gill did not provide sufficient documentation to satisfy him/her that there had been continuous and ongoing meaningful communication between Mr. Gill and Ms. Kaur and that, on the balance of probabilities, the marriage did not appear to be genuine.

[46] On account of what would seem to be concern regarding the adequacy of interpretation services during his first interview, Mr. Gill was provided with a second interview. He brought with him additional documentation to address the expressed concerns of the first visa officer, as well as his own interpreter. From his answers, it is clear that Mr. Gill was better prepared for the questions relating to Ms. Kaur's background, educational and work history, as well as her life since coming to Canada.

[47] The second visa officer's preliminary question allowed Mr. Gill to explain that during his first interview the first visa officer spoke in English and that he felt he may not have been properly understood. The second visa officer made a point to specifically mention in his/her notes that Mr. Gill answered one question prior to the interpreter interpreting the question, leading the second visa officer to conclude that Mr. Gill "clearly understood question in

English”—I am uncertain why such a comment by the second visa officer would even be relevant as Mr. Gill’s language skills in English may very well have only been limited.

[48] In any event, the second visa officer’s questions centered around the reasons for, the attendance at, and the timing of, the wedding, as well as Ms. Kaur’s experiences and living conditions in Canada.

[49] Then came the crux of the concern: given the timing of events, with Ms. Kaur’s application for her student visa having been made in January, the engagement having taken place in February, the suggested issuance of Ms. Kaur’s study permit on March 15 and the wedding on March 27, the second visa officer put it directly to Mr. Gill that it appeared that the marriage was contingent upon Ms. Kaur obtaining her study permit.

[50] Mr. Gill denied the suggestion put forward by the second visa officer and explained that Ms. Kaur was adamant about studying in Canada well before the engagement. In fact, the evidence includes the acceptance letter that Ms. Kaur received from Fleming College; it is dated December 2, 2017, which is nearly a month and a half prior to Mr. Gill and Ms. Kaur even meeting for the first time. No mention of this letter was made by any of the visa officers in their GCMS notes.

[51] Mr. Gill also explained that, once he discovered Ms. Kaur’s plans to study in Canada, he had no issue with marrying a woman who was planning to study abroad during their first few years of marriage. As to the haste with which the events transpired, Mr. Gill explained to the

second visa officer that it was necessary because his mother had health issues and was not well, and in fact he had submitted medical evidence of her hospitalization to this effect.

[52] In the end, the second visa officer noted the following in the GCMS system:

I concur with the previous officer's assessment. – Client states everyone attended the wedding, however, documentation shows otherwise. Marriage did not appear to be a happy celebration as the couple and guests appear unhappy and/or angry. – Client does not appear knowledgeable about his spouse. – Unsatisfactory answer explaining the marriage arrangement. As a result, I have reasonable grounds to believe, the arrangement, engagement and wedding were contingent upon an approved study permit. On a balance of probability, the marriage does not appear genuine. I have reasonable concerns that the client entered the marriage to gain admission to Canada as a spouse per R4.

[Emphasis added.]

[53] Putting aside the finding that the wedding photographs do not support Mr. Gill's assertion that over one hundred people were at the wedding or that it was a happy occasion (concerns which the second visa officer did not mention during the interview so that Mr. Gill could address them), I cannot see from the GCMS notes how the second visa officer came to the conclusion that Mr. Gill "does not appear knowledgeable about his spouse".

[54] I accept that such a finding may have been reasonable following the first interview – putting aside that it was an arranged marriage to begin with – but during the second interview the answers to the questions seemed considerably more fulsome. The second visa officer did not point to any answer by Mr. Gill on this issue as being either superficial, evasive, incomplete or incorrect; in fact, no mention was made at all as to why he/she found that Mr. Gill was not knowledgeable about Ms. Kaur.

[55] More importantly, the second visa officer did not address or raise with Mr. Gill the additional documents he brought with him to support his assertion of the genuineness of the relationship and ongoing communication with Ms. Kaur in light of the concerns expressed to him on this issue at the end of the first interview.

[56] I have the most difficulty with the second visa officer's conclusion that Mr. Gill provided an "unsatisfactory answer explaining the marriage arrangement".

[57] First, Mr. Gill submitted evidence as to his mother's failing health condition and stated that as he is an only child, it was important for his mother to see him married. The evidence of the mother's failing health directly supported Mr. Gill's assertion as to the haste with which the marriage was arranged. This evidence was not addressed in any way by the second visa officer, although I find that it should have been.

[58] Second, the second visa officer's concern regarding the marriage arrangement is predicated upon the timing of the wedding relative to the issuance of the study permit to Ms. Kaur. Although the engagement took place on February 4, 2018, the study permit was issued, according to the second visa officer, on March 15, 2018, and with the wedding having taken place on March 27, 2018, the timing lent itself to the reasonable assertion that the marriage was conditional on the issuance of the study permit.

[59] However there is one flaw with this assertion.

[60] In reviewing the documents, Ms. Kaur's study permit actually shows an issuance date of April 25, 2018, not March 15, 2018, thus nearly one month after the wedding. The second visa officer referred to March 15, 2018 as the issuance date of the study permit when in fact that was the date of the commencement of the validity period for Ms. Kaur's visa which was inserted in her passport – visa valid from March 15, 2018 to November 30, 2019.

[61] It may well be, although not clear, that the validity period for Ms. Kaur's visa was determined according to internal guidelines and in line with study periods. However, with Ms. Kaur's study permit showing an issuance date of April 25, 2018, the contention that the marriage that took place on March 27, 2018 was contingent upon a validly issued study permit for Ms. Kaur, without any other explanation as to discrepancy in validity dates for the issuance of the study permit, becomes unsupportable and thus unreasonable as a basis for denying Mr. Gill's application.

[62] According to the Minister, the sequence of events and the haste with which the marriage was organized is behavior which can only be logically explained if viewed in the immigration context. I disagree.

[63] Had the second visa officer and the Senior Officer properly addressed the inconsistency regarding the issuance date of Ms. Kaur's study permit, and the documents submitted by Mr. Gill which went to contradict their findings, including that which was submitted during the second interview and in answer to the procedural fairness letter, the explanations given by Mr. Gill to

address the concerns of the visa officers may well have been found to be reasonable. However, this exercise did not take place.

[64] The Minister further submits that Ms. Kaur's lack of participation in the immigration proceedings is telling as to the genuineness of the marriage. At first blush, I must admit that it does seem rather odd that Ms. Kaur provided no evidence to support the genuineness of her marriage. Even if one would not necessarily have expected such evidence being submitted prior to the first interview, one would have expected at least a letter of support from Ms. Kaur prior to the second interview, and even more so after the issuance of the procedural fairness letter whereby the visa office in New Delhi specifically highlighted its concerns regarding the marriage.

[65] Mr. Gill's counsel explains that the Applicants were self-represented throughout the entire process and that what may seem obvious to a lawyer and the Court may not seem as obvious to regular applicants. In any event, the issue of the lack of supporting evidence by Ms. Kaur was not raised by any of the visa officers as an issue of concern, so I do not see why I should make a point of it now, all things considered.

[66] More importantly, the lack of an explanation as to how the visa officer arrived at a finding that the marriage was not genuine goes to the deficiency of the analysis in the final decision. It is not possible from the decision to determine what factors were considered in concluding that the marriage was not genuine – something that is unacceptable in the post-*Vavilov* era.

[67] I do appreciate the context: an overseas visa officer dealing with an application by a foreign national for a temporary visa to Canada, and that this context cannot lend itself to a more fulsome reasoning process being undertaken by the visa officer. However try as I might, I simply could not “connect the dots on the page where the lines, and the direction they are headed, may be readily drawn” (*Vavilov* at para 97). The decision on this issue did not engage with the evidence and was simply unintelligible (*Sidhu v Canada (Citizenship and Immigration)*, 2014 FC 176; *Singh Dhatt v Canada (Citizenship and Immigration)*, 2013 FC 556; *Likhi v Canada (Citizenship and Immigration)*, 2020 FC 171).

VIII. Conclusion

[68] Accordingly, I will allow the application for judicial review and return the matter to a different visa officer for determination in line with these reasons.

JUDGMENT in IMM-2361-19

THIS COURT'S JUDGMENT is as follows:

1. The application for judicial review is granted and the matter is returned to a different visa officer for redetermination.
2. There is no question to certify.

"Peter G. Pamel"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2361-19

STYLE OF CAUSE: RAJVEER SINGH GILL AND HARPREET KAUR v
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE BETWEEN
MONTREAL, QUEBEC AND TORONTO, ONTARIO

DATE OF HEARING: AUGUST 27, 2020

JUDGMENT AND REASONS: PAMEL J.

DATED: SEPTEMBER 28, 2020

APPEARANCES:

Matthew Jeffery FOR THE APPLICANTS

Lorne McClenaghan FOR THE RESPONDENT

SOLICITORS OF RECORD:

Matthew Jeffery FOR THE APPLICANTS
Barrister & Solicitor
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario