

Federal Court



Cour fédérale

**Date: 20240822**

**Docket: IMM-11051-23**

**Citation: 2024 FC 1302**

**Toronto, Ontario, August 22, 2024**

**PRESENT: The Honourable Mr. Justice A. Grant**

**BETWEEN:**

**MOHAMMAD SAAD**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. OVERVIEW**

[1] The Applicant is a young Bangladeshi national who has commenced a four-year Bachelor's degree in Computer Engineering at the University of Saskatchewan. In July 2023, he applied for a study permit to enable him to continue his studies. The permit was refused, as a visa officer found that the purpose for his visit was not consistent with a temporary stay, given the details of his application. The Officer was also not satisfied that the Applicant would leave

Canada at the end of the authorized period and noted that on a past visit, the Applicant did not comply with all conditions outlined in Rule 183 of the *Immigration and Refugee Protection Regulations* [IRPR].

[2] For the reasons that follow, this application for judicial review will be granted as I have found that the underlying decision is unreasonable.

## II. BACKGROUND

[3] As noted, the Applicant is a 21-year-old citizen of Bangladesh. In September 2020, during the COVID pandemic, he began his studies at the University of Saskatchewan remotely and completed the first semester online.

[4] The Applicant then applied for a study permit to come to Canada to continue his studies in person, which was approved. The study permit was valid from August 27, 2021, to February 4, 2023. The Applicant travelled to Canada on the study permit and studied in person at the University of Saskatchewan between August 2021 and February 2023.

[5] The Applicant did not apply to extend his study permit before it expired. Instead, sometime after February 4, 2023 he applied to Immigration, Refugees and Citizenship Canada [IRCC] for restoration of his status and for an extension of the study permit.

[6] On April 14, 2023, the Applicant received a request from IRCC to provide an updated letter of acceptance and education transcripts. He states that he uploaded these documents to the

IRCC portal prior to the deadline, but mistakenly failed to press submit. As a result, these documents were not delivered to IRCC.

[7] On May 15, 2023, the Applicant realized his error when he received a letter from IRCC informing him that his restoration and study permit extension request were rejected. The letter explained that IRCC did not receive his documents and advised him that he was in Canada without status and should leave immediately. The Applicant left Canada on May 25, 2023 and returned to Bangladesh.

[8] Following his return, the Applicant applied for a new study permit from Bangladesh in July 2023, which was refused. He then submitted another study request, including a letter of explanation, which explained his error in responding to IRCC's April 14, 2023 request for documents. The Applicant provided documents in support of this application, including a confirmation of enrollment at the University of Saskatchewan, but again did not provide any formal transcripts. The application was rejected. This rejection gives rise to the present application for judicial review.

### III. DECISION

[9] The decision letter rejecting the Applicant's study permit application stated as follows:

- I am not satisfied that you will leave Canada at the end of your stay as required by paragraph R216(1)(b) of the IRPR (<https://laws-lois.justice.gc.ca/eng/regulations/sor-2002-227/section-216.html>). I am refusing your application because you have not established that you will leave Canada, based on the following factors:
  - The purpose of your visit to Canada is not consistent with a temporary stay given the details you have provided in your application.

- On a past visit to Canada you did not comply with all conditions outlined in R183 of the IRPR (<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-227/section-183.html>) or written on your previous Canadian Immigration document.

[10] In notes entered into the Global Case Management System, which form a part of the decision under review, the Officer provided some further detail, as follows:

- I have reviewed the application.
- I have considered the following factors in my decision.
- The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application. PA has not provided education transcripts.
- On a past visit to Canada the applicant did not comply with all conditions outlined in RI83 of the IRPR or written on their previous Canadian Immigration document.

#### IV. ISSUES

[11] The broad issue to be determined on this application is whether the decision under review was reasonable.

[12] In arguing that the underlying decision was unreasonable, the Applicant breaks his submission into two key points. First, the Applicant argues that the Officer's reasons were inadequate, principally because they do not demonstrate that the Officer considered the submissions filed in support of his application. Second, the Applicant argues that the Officer erred in finding that the Applicant had previously failed to comply with section 183 of the IRPR.

V. STANDARD OF REVIEW

[13] The standard of review in this case is reasonableness, per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*].

VI. ANALYSIS

A. *Adequacy and Alleged Errors in the Reasons for Decision*

[14] I agree with the Applicant that the Officer's reasons in this matter are inadequate in that, even when read holistically, they fail to disclose a rational chain of analysis.

[15] As noted above, the application was refused because the Officer found that the Applicant had failed to establish he would leave Canada at the end of his stay. This rationale was supported by a finding that the purpose of the Applicant's visit to Canada was not consistent with a temporary stay. Notably absent from this finding was any explanation as to how or why the stated purpose of the Applicant's application was not consistent with a temporary stay. The Applicant had already commenced his studies, both online during the pandemic, and in person following the issuance of his first study permit.

[16] The Applicant also left Canada soon after the rejection of his restoration application, indicating that he understood both the temporary nature of his authorization to be in Canada, and that his authorization was tied to his educational purpose. Absent any explanation as to what "details" provided in the application suggested an improper purpose, neither the Applicant, nor the Court can understand this aspect of the Officer's decision. The reasons are unintelligible on

this point and are therefore unreasonable. I note as well here that the Officer's reasons appear to be templated language that was not particularly adapted to the Applicant's situation. While "boilerplate" language is not inherently unreasonable, reasons for decision must show an actual engagement with the specific situation of applicants: *Kashefi v. Canada (Citizenship and Immigration)*, 2024 FC 856 at para 13.

[17] The other rationale provided in support of the Officer's finding that the Applicant had failed to establish he would leave Canada at the end of his stay was that he had failed to comply with all conditions outlined at section 183 of the IRPR on his previous visit to Canada.

[18] The Applicant argues on judicial review that the Officer simply erred in this finding, as he: i) refrained from studying following the expiry of his study permit; ii) promptly applied to have his status restored, which is a lawful process provided for under the IRPR; and iii) left Canada immediately following the denial of this restoration application.

[19] The Respondent argues that the Officer correctly interpreted section 183 of the IRPR because the Applicant was authorized to be in Canada until February 4, 2023, and he remained in the country beyond this date, without having had his status extended.

[20] There is validity to both the Applicant's and Respondent's perspectives on this issue. It is true that the Applicant promptly sought restoration of his status following the expiry of his study permit, which is a broadly available process meant to address and cure situations such as the one in which the Applicant found himself. Notably, the restoration provisions specifically authorize

applicants to remain in Canada pending the outcome of the application. The Applicant simply availed himself of this authorization and left promptly following the rejection of his application.

[21] It is also true, however, that the Applicant did not seek to extend his study permit prior to February 2023 and, as such, he was not in formal compliance with section 183 of the IRPR commencing on the day following its expiry.

[22] For the purposes of this judicial review, I do not see a need to resolve the question of whether the Applicant formally complied with the IRPR in promptly seeking restoration of his status, or whether he breached the IRPR in remaining in Canada beyond the date of his study permit. This is because the Applicant's past compliance with the Regulations was not the primary basis on which the Officer rejected his application, but was rather an indicator that the Applicant would not in the future leave Canada at the end of his stay.

[23] As an indicator of future intentions, however, it was important for the Officer to consider that the Applicant subjectively thought that he was complying with Canadian immigration law – a fact that is strongly supported by his prompt departure from Canada after his restoration application was rejected. In the circumstances, I find that it was unreasonable for the Officer to have failed to consider this aspect of the Applicant's immigration history in assessing the likelihood of his compliance with immigration requirements in the future. In the absence of any discernible rationale as to why the purpose of the Applicant's proposed studies was inconsistent with a temporary stay in Canada, this information related to the Applicant's past departure should have been considered by the Officer.

B. *The Transcript*

[24] In its Further Memorandum of Argument, the Respondent notes that the Applicant failed to provide a transcript in support of his study permit application, which is specifically required by the Singapore visa office. As such, the Officer would have been entitled to refuse his application on the basis of his missing transcripts alone.

[25] The Officer did mention the absence of a transcript in the GCMS notes, but did not do so as an independent basis on which to reject the application. Rather, the Officer appears to have been of the view that the absence of a transcript lent support to the finding that the Applicant would not leave Canada at the end of his stay. For ease of reference, this part of the Officer's reasoning was as follows:

The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application. PA has not provided education transcripts.

[26] With respect, I fail to see a rational chain of analysis between the Applicant's failure to provide a transcript and a finding that the purpose of the Applicant's visit was inconsistent with a temporary stay. This is particularly the case given that the Applicant did provide a detailed Confirmation of Enrollment from the University of Saskatchewan, which outlined the Applicant's studies to date, and indicated his eligibility to continue his studies. In the circumstances, it was unreasonable for the Officer not to have considered this document.



VII. CONCLUSION

[27] As a result of the above, I grant this application for judicial review and remit the matter to a different decision-maker for determination. When this matter is reconsidered, the Applicant will have the opportunity to provide all required documents in support of his study permit application, which he is strongly encouraged to do. The parties did not propose a question for certification, and I agree that none arises.

**JUDGMENT in IMM-11051-23**

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

1. The application for judicial review is granted.
2. The decision under review is set aside and the matter is referred back for redetermination by a different decision-maker.
3. No question is certified for appeal.

"Angus G. Grant"

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Judge

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

**DOCKET:** IMM-11051-23

**STYLE OF CAUSE:** MOHAMMAD SAAD v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** AUGUST 19, 2024

**JUDGMENT AND REASONS:** GRANT J.

**DATED:** AUGUST 21, 2024

**APPEARANCES:**

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