

Federal Court



Cour fédérale

Date: 20240923

Docket: IMM-3700-23

Citation: 2024 FC 1487

Toronto, Ontario, September 23, 2024

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

RUCHA DAYALBHAI TANDEL

Applicant

and

**THE MINISTER OF CITIZENSHIP &
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is an application for judicial review of a decision by an Immigration Officer dated March 2, 2023 refusing an application for a study permit (the “Decision”).

II. Background

[2] The Applicant, Rucha Dayalbhai Tandel, is a dentist in India. She has been working as a dentist since 2013.

[3] The Applicant applied for a study permit to study Health Care Administration and Service Management, a post-graduate certificate program, at Conestoga College in Ontario, Canada. The Applicant's stated reasons for wanting to take this program is to learn the management, administration, and marketing skills required to open a chain of dental clinics across her home State, Gujarat, in India.

[4] On March 2, 2023, the Officer rejected the study permit application on the basis that the Applicant did not establish that she would leave Canada.

III. The Decision

[5] The Officer refused the Applicant's application for a study permit as the Officer was not satisfied that the Applicant would leave Canada at the end of her stay, finding that the purpose of the visit to Canada was not consistent with a temporary stay. To support this, the Officer found that the motivation to pursue the particular program was not reasonable given the high cost of study when weighed against potential career benefits, and the general study plan submitted was inconsistent with previous schooling and employment.

IV. Issues

[6] The only issue is whether the decision of the Officer was reasonable.

V. Analysis

[7] The standard of review with respect to the Officer's substantive findings is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 25).

[8] Subsection 216(1) of the *Immigration and Refugee Protection Regulations* ("IRPR") obliges a foreign national who is applying for a study permit, to establish that they will leave Canada at the end of an authorized stay, and to meet the relevant legislative requirements for a study permit.

[9] There is a presumption that any person seeking to enter Canada will remain in Canada as an immigrant (*Danioko v MCI*, 2006 FC 479 at para 15). The burden is on the Applicant to prove that they are not an immigrant and will leave Canada at the end of the requested period.

[10] The Applicant submits that the Officer erred by: (1) ignoring the evidence regarding the Applicant's career path; (2) not clearly explaining the reasons why choosing this program is not clear; (3) unreasonably acting as a career counsellor; and (4) citing to the high cost of study.

[11] The Respondent submits that the Applicant's arguments amount to mere disagreement with the Officer's decision and request for the Court to reweigh the evidence. I disagree.

[12] The Officer unreasonably found the study plan to be “general” and an “illogical study progression.” Having reviewed the Applicant’s study plan, I find that she provided a detailed explanation of the program’s utility to her career goals of opening dental clinics. While the Respondent points out the various occupations that the Applicant specifies that she could qualify to work as after this program, the Respondent fails to acknowledge that she then states that “after a few years of experience, I shall have the knowledge to run my own clinic successfully.” The Applicant was consistent in her career plan.

[13] Although the Officer is not obliged to provide extensive reasons, I find the Officer failed to be responsive to the core of the Applicant’s submissions (*Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at para 17, cited with approval in *Motlagh v Canada (Citizenship and Immigration)*, 2022 FC 1098 at para 22). Consequently, the Officer did not provide an intelligible, justifiable, and transparent line of analysis that could reasonably lead from the evidence to the conclusion that the Applicant would not leave Canada at the end of the study permit period.

[14] I also agree with the Applicant that the Officer erred in concluding that the motivation to study in Canada was unreasonable given the high cost of the program (*Mohammadi v Canada (Citizenship and Immigration)*, 2024 FC 598 at para 28). The Applicant has met her burden of proving that she has adequate funds to support herself and pay tuition for both academic years, noting that she has already paid tuition for the first year and bought GIC bonds to cover living expenses. The high cost of education in Canada is thus not an obstacle for the Applicant (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 199 at para 29).

[15] The Officer's Decision is unreasonable.

VI. Conclusion

[16] This application for judicial review is granted. The Officer's Decision is set aside and the matter is remitted for redetermination by a different officer.

[17] No question of general importance arises for certification.

JUDGMENT in IMM-3700-23

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is granted.
2. The matter is referred back for redetermination by a different officer.
3. No question of general importance is certified.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3700-23

STYLE OF CAUSE: RUCHA DAYALBHAI TANDEL v THE MINISTER
OF CITIZENSHIP & IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 20, 2024

JUDGMENT AND REASONS: MANSON J.

DATED: SEPTEMBER 23, 2024

APPEARANCES:

KAPILKUMAR RATHOD FOR THE APPLICANT

ASHA GAFAR FOR THE RESPONDENT

SOLICITORS OF RECORD:

KAPILKUMAR RATHOD FOR THE APPLICANT
CALEDON EAST, ONTARIO

ATTORNEY GENERAL OF FOR THE RESPONDENT
CANADA
TORONTO, ONTARIO