

Federal Court



Cour fédérale

Date: 20240924

Docket: IMM-5495-23

Citation: 2024 FC 1503

Toronto, Ontario, September 24, 2024

PRESENT: Mr. Justice Diner

BETWEEN:

RANJANA JETHI

Applicant

and

**THE MINISTER OF CITIZENSHIP &
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered from the Bench at Toronto, Ontario on September 24, 2024)

[1] Mrs. Jethi seeks judicial review of a decision [Decision] made by a Visa Officer [Officer] refusing her application for a temporary visitor visa [Application]. For the reasons below, this application for judicial review is dismissed.

[2] In brief, Mrs. Jethi is a resident of India. She applied for a visitor's visa to visit Prince George, British Columbia for the stated purpose of business exploration in contemplation of an

application for permanent residence under the British Columbia Provincial Nomination Program. The Officer refused her Application on the basis that they were not satisfied that Mrs. Jethi had a legitimate business purpose in Canada. The Officer noted that Mrs. Jethi's bank account showed large balances in fixed deposits, which were not commensurate with her modest personal and business income. Therefore, the Officer was not satisfied that Mrs. Jethi would leave Canada at the end of the period authorized for her stay in accordance with the *Immigration and Refugee Protection Act Regulations*, SOR/2002-227 [IRPR], with provisions indicated below by "R"].

[3] Mrs. Jethi challenges the fairness of the Decision, arguing that the Officer made a veiled credibility finding regarding her finances that triggered a duty of procedural fairness. Mrs. Jethi contends that she should have been given an opportunity to respond to the Officer's concerns pertaining to the source of funds in her account. The Respondent, on the other hand, contends the Officer's findings are merely a matter of sufficiency of the evidence provided and a failure of Mrs. Jethi to meet her onus.

[4] An alleged breach of procedural fairness, as raised by Mrs. Jethi, is reviewable on a standard that has been equated to correctness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 paras 37–38 [Vavilov]; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 34–56). Therefore, I am required to ask whether the underlying proceeding was fair having regard to all of the circumstances.

[5] I am unpersuaded by Mrs. Jethi's arguments, and find that the Officer's conclusions pertaining to Mrs. Jethi's finances did not constitute a veiled credibility finding, but were rather

reflective of her failure to produce sufficient evidence and explanations of the financial documentation that her immigration consultant produced on her behalf.

[6] Procedural fairness owed to a visa applicant is on the lower end of the spectrum (*Maghami v Canada (Citizenship and Immigration)*, 2023 FC 542 at para 20; *Khan v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 345 at paras 30 – 32). Here, Mrs. Jethi failed to put her best foot forward in submitting an Application that failed to provide an explanation for her finances that was “relevant, convincing and unambiguous” (*Obeta v Canada (Citizenship and Immigration)*, 2012 FC 1542 at para 25; *Aghvamiamoli v Canada (Citizenship and Immigration)*, 2023 FC 1613 at para 19 (*Aghvamiamoli*)).

[7] In failing to adequately substantiate her financial resources to the satisfaction of the officer, Mrs. Jethi failed to establish that she would meet the IRPR requirements, and specifically, that she would depart Canada at the end of the period authorized for her stay (R179(b) and R183(1)(a)). This Court has long-established that an “officer is not required to advise the applicant of any concerns about the sufficiency of the evidence or documentation in support of the application” or “to provide the applicant with an opportunity to improve his or her evidence” (*Noulengbe v Canada (Citizenship and Immigration)*, 2021 FC 1116 at para 10).

[8] Finally, on the point of credibility, Mrs. Jethi contends that the Officer’s statement that “[t]he submissions show large balances in fixed deposits, however, does not appear commensurate with level of income,” imply that the Officer does not trust the deposits to be genuine. Again, I find the Officer’s findings simply point to a lack of evidence or explanation as

to the source of both personal and business income, when contrasted with fixed deposits, as set out in the Decision. The reasons, once again, are clear that Mrs. Jethi failed to provide sufficient documentation to address the incongruity between her reported income and her bank balances to establish the business purpose of her visit. The Officer concluded the Decision in observing that “I am not satisfied that the applicant's business purpose has been sufficiently substantiated”.

I note similar conclusions have recently been reached by judges of this Court regarding refusals relating to sufficiency of financial explanation (*Gill v Canada (MCI)*, 2024 FC 807 at paras 27 – 29; *Aghvamihamoli* at para 21).

[9] At the hearing, counsel for Mrs. Jethi, leaving no stone unturned on behalf of his client who he ably represented, argued that the Officer overlooked the accountant’s report. This report was submitted along with the remainder of Mrs. Jethi’s application package to the Visa Office by her immigration consultant. As explained to counsel at the hearing, the Officer indeed took the financial documentation into account in the Decision, referencing its contents. Weaknesses in the area of financial evidence can be determinative in temporary residency applications (*Moradian v Canada (Citizenship and Immigration)*, 2024 FC 1343 at paras 7, 14-16; *Aghvamihamoli* at para 36).

[10] In sum, the Officer did not have a duty to provide an opportunity for Mrs. Jethi to address concerns by way of a procedural fairness letter (*Malik v Canada (Minister of Citizenship and Immigration)*, 2024 FC 755 at para 11). Mrs. Jethi has failed to demonstrate a reviewable error in the Officer’s reasons (*Vavilov* at para 102). The Officer’s decision was thus fair, as well as reasonable, constituting sufficiency findings.

JUDGMENT in IMM-5495-23

THIS COURT'S JUDGMENT is that:

1. The judicial review is dismissed.
2. There is no question to certify.
3. No costs will issue.

"Alan S. Diner"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5495-23

STYLE OF CAUSE: RANJANA JETHI v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 24, 2024

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