Federal Court  Cour fédérale

**Date: 20190401**

**Docket: IMM-1842-18**

**Citation: 2019 FC 391**

**Ottawa, Ontario, April 1, 2019**

**PRESENT: The Honourable Madam Justice Walker**

**BETWEEN:**

**BUTA SINGH DHILLON**
**GURMEL KAUR DHILLON**
**SHINDERPAL KAUR SANGHA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

## JUDGMENT AND REASONS

[1] The Applicants, Buta Singh Dhillon and Shinderpal Kaur Sangha, wish to bring their biological mother, Ms Gurmel Kaur Dhillon, to Canada as a permanent resident. They seek judicial review of the Respondent's refusal to process their application for permanent residence on humanitarian and compassionate (H&C) grounds and request an order of *mandamus* compelling the Respondent to accept the H&C application for processing. This application for

judicial review is brought pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (IRPA).

[2] For the reasons that follow, the application will be dismissed.

## I. Background

[3] The Applicants are Canadian citizens and are brother and sister. Gurmel gave birth to the Applicants in India. Following the death of their biological father, the Applicants were adopted by other family members and came to Canada. As adults, they learned that Gurmel was their biological mother.

[4] In June 2017, the Applicants submitted an H&C application for permanent residence from outside of Canada pursuant to subsection 25(1) of the IRPA. Their application was accompanied by an application and forms for sponsoring Gurmel for permanent residence as a parent or grandparent. The reason for the H&C application was that Gurmel was excluded from the family class due to the adoption of the Applicants.

[5] On December 12, 2017, the H&C application was returned to the Applicants by the Respondent pursuant to Ministerial Instructions (MI-21) because they had not been invited by the Respondent to submit their application. In order for a sponsorship application for a parent or grandparent to proceed, MI-21 requires that the sponsors must first have been selected to apply through the randomized selection process or lottery established by the Minister.

[6] On March 8, 2018, the Applicants resubmitted their H&C application. On March 23, 2018, it was again returned to the Applicants because it could not be processed pursuant to MI-21. The decision by the Respondent to return the application is the Decision under review in this application.

## II. Decision under review

[7] The Decision under review is the Respondent's March 23, 2018 letter informing the Applicants that their H&C application for Gurmel would not be processed.

[8] In the Decision, the Respondent explained the process established by MI-21. The letter informed the Applicants that H&C requests for individuals outside of Canada will not be processed unless the potential sponsor is selected in the randomized selection process and subsequently submits a complete application. The Respondent stated:

> As you were not randomly selected and invited to submit an application to sponsor your parents and grandparents, we cannot accept your application for processing and it is being returned to you along with the applicable fees.

[9] The Applicants were also informed that they could reapply in early 2019 through the sponsorship program or could apply for a Super Visa to reunite with Gurmel.

## III. Issue in the Application

[10] The issue in this application is whether the Decision under review was reasonable. The subject matter of the Decision was the Respondent's refusal to process the Applicants' H&C

application. The Applicants challenge the Decision by requesting an order of *mandamus* to compel the Respondent to accept the application for consideration on its merits.

## IV. Legislative Framework

[11] In order to understand the Respondent's refusal to consider the Applicant's H&C application, it is first necessary to set out in some detail the relevant legislative framework. The full text of the provisions cited below is set out in Annex A to this judgment.

[12] The starting point is subsection 25(1) of the IRPA which permits the Minister to grant exceptional and discretionary H&C relief from the requirements of the IRPA to an applicant who applies for permanent residence. If the request for relief is made from outside Canada, the request must be made as an application for a permanent resident visa pursuant to section 66 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (IRPRs). Paragraph 10(2)(c) of the IRPRs requires that the application indicate the prescribed class for which the application is made. The prescribed classes are the family class, the economic class, and the Convention refugees abroad and country of asylum class (subsection 70(2) of the IRPRs).

[13] Under the heading "*Selection of Permanent Residents*", subsection 12(1) of the IRPA establishes a foreign national's eligibility for sponsorship as a member of the family class:

| **Family reunification** | **Regroupement familial** |
|---|---|
| 12(1) A foreign national may be selected as a member of the family class on the basis of | 12(1) La sélection des étrangers de la catégorie « regroupement familial » se fait |

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| their relationship as the spouse, common-law partner, child, parent or other prescribed family member of a Canadian citizen or permanent resident. | en fonction de la relation qu'ils ont avec un citoyen canadien ou un résident permanent, à titre d'époux, de conjoint de fait, d'enfant ou de père ou mère ou à titre d'autre membre de la famille prévu par règlement. |

[14] Subsection 13(1) of the IRPA provides for the corresponding eligibility of permanent residents and Canadian citizens to sponsor a foreign national as a family member, subject to compliance with the requirements of the IRPRs. A foreign national is a member of the family class if the foreign national is, among other relationships, the parent of his or her sponsor (paragraph 117(1)(c) of the IRPRs). For purposes of this case, it is important to note that adoption severs the legal parent-child relationship (subsections 3(2) and 133(5) of the IRPRs). As stated above, it is the adoption of the Applicants that led to their reliance on H&C considerations to bring Gurmel to Canada.

[15] The IRPA makes provision for the prioritization and management of sponsorship applications (section 87.3 of the IRPA). Pursuant to subsection 87.3(3) of the IRPA, the Minister may provide instructions with respect to the processing of applications. By virtue of subsection 87.3(1), the Minister's power to provide instructions extends to requests made under subsection 25(1) of the IRPA. Subsection 87.3(4) requires that officers who are authorized to exercise the Minister's powers under section 25 comply with any instructions given by the Minister before processing an application or request. If an application is not processed, it may be returned or otherwise disposed of in accordance with the Minister's instructions.

[16] Subsections 87.3(3) and (4) of the IRPA read as follows:

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| **Instructions** | **Instructions** |
| 87.3(3) For the purposes of subsection (2), the Minister may give instructions with respect to the processing of applications and requests, including instructions | 87.3(3) Pour l'application du paragraphe (2), le ministre peut donner des instructions sur le traitement des demandes, notamment des instructions : |
| (a) establishing categories of applications or requests to which the instructions apply; | a) prévoyant les groupes de demandes à l'égard desquels s'appliquent les instructions; |
| (a.1) establishing conditions, by category or otherwise, that must be met before or during the processing of an application or request; | a.1) prévoyant des conditions, notamment par groupe, à remplir en vue du traitement des demandes ou lors de celui-ci; |
| (b) establishing an order, by category or otherwise, for the processing of applications or requests; | b) prévoyant l'ordre de traitement des demandes, notamment par groupe; |
| (c) setting the number of applications or requests, by category or otherwise, to be processed in any year; and | c) précisant le nombre de demandes à traiter par an, notamment par groupe; |
| (d) providing for the disposition of applications and requests, including those made subsequent to the first application or request. | d) régissant la disposition des demandes dont celles faites de nouveau. |
| […] | […] |
| **Compliance with instructions** | **Respect des instructions** |
| (4) Officers and persons authorized to exercise the powers of the Minister under section 25 shall comply with any instructions before | (4) L'agent — ou la personne habilitée à exercer les pouvoirs du ministre prévus à l'article 25 — est tenu de se conformer aux instructions avant et |

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| processing an application or request or when processing one. If an application or request is not processed, it may be retained, returned or otherwise disposed of in accordance with the instructions of the Minister. | pendant le traitement de la demande; s'il ne procède pas au traitement de la demande, il peut, conformément aux instructions du ministre, la retenir, la retourner ou en disposer. |

[17] On January 7, 2017, the Respondent issued *Ministerial Instructions with respect to the processing of applications for a permanent resident visa made by parents or grandparents of a sponsor as members of the family class and the processing of sponsorship applications made in relation to those applications* (MI-21). The Ministerial Instructions are critical in this application as they form the basis for the Respondent's refusal to consider the Applicants' application. MI-21 requires that a sponsor must first have been selected to apply to sponsor a parent through the randomized selection process before the application will be considered. MI-21 also provides:

> **Humanitarian and compassionate requests**
>
> A request made under subsection 25(1) of the Act from outside Canada and that accompanies an application that was not accepted for processing under these Instructions will not be processed.
>
> **Disposition of applications**
>
> Any application that does not meet the applicable conditions established by these Instructions will be returned.

## V. Analysis

### 1. *Mandamus*

[18] An order of *mandamus* is an equitable remedy that compels the performance of a public legal duty by a public authority who refuses or neglects to carry out the duty when called upon to

do so. The parties agree that the test for *mandamus* was set out in *Apotex Inc. v Canada* (*Attorney General*), [1994] 1 FC 742 (CA), aff'd [1994] 3 SCR 1100 (*Apotex*). The test has been applied in the immigration context many times by this Court (*Vaziri v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1159 at para 38; *Douze v Canada (Citizenship and Immigration)*, 2010 FC 1337 at para 26; *Yassin v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 423 at para 13). The following criteria must be satisfied for an order of *mandamus* to be issued:

1. There must be a public legal duty to act;
2. The duty must be owed to the applicant;
3. There must be a clear right to performance of that duty, in particular:
    (a) the applicant has satisfied all conditions precedent giving rise to the duty;
    (b) there was (i) a prior demand for performance of the duty; (ii) a reasonable time to comply with the demand unless refused outright; and (iii) a subsequent refusal which can be either expressed or implied, e.g. unreasonable delay;
4. Where the duty sought to be enforced is discretionary, the following rules apply: [omitted]
5. No other adequate remedy is available to the applicant;
6. The order sought will be of some practical value or effect.
7. There is no equitable bar to the relief sought; and
8. On a balance of convenience, an order of mandamus should (or should not) issue.

[19] The requirements for an order of *mandamus* are cumulative and must each be satisfied by the party seeking the order.

2. *Submissions of the parties*

[20] The Applicants submit that the Respondent must accept and consider their H&C application. In refusing to do so, they argue that the Respondent failed to comply with the provisions of the IRPA, the IRPRs and its own operational manuals. As Gurmel is excluded from the family class, the Applicants state that the H&C application is not a sponsorship application. Rather, it is an H&C application submitted pursuant to subsection 25(1) of the IRPA. Therefore, MI-21 does not or should not apply to their application and the fact that they were not selected in the sponsor lottery is not relevant. In addition, the Applicants argue that they are not queue jumping as their application must be considered outside of the normal sponsorship stream. The Applicants also argue that, even if they were selected in the sponsorship lottery, MI-21 precludes consideration of their application on H&C grounds.

[21] The Applicants submit that the Respondent owed them a duty to accept service of the H&C application and that his refusal to do so fettered his discretion. The Applicants argue that Ministerial instructions cannot circumscribe the Minister's discretion pursuant to subsection 25(1) of the IRPA.

[22] The Respondent submits that the act of filling out and filing an immigration application does not impose a duty on the Respondent to process the application if it does not meet the requirements of the IRPA and IRPRs. He argues that the Applicants are requesting that this Court use subsection 25(1) of the IRPA to circumvent the requirements for the processing of parental sponsorship applications, including those set out in MI-21, and to force the acceptance and consideration of a non-compliant application. The Respondent emphasizes that his ability to

give instructions for the processing of applications through Ministerial instructions pursuant to subsection 87.3(3) of the IRPA is well-established and robust (*Cabral v Canada (Citizenship and Immigration)*, 2018 FCA 4 at para 40 (*Cabral*)). MI-21 clearly states that any sponsorship application that does not meet the conditions established by the instructions will be returned. The Applicants were not invited to submit an application. As a result, the Respondent had no public legal duty to accept service of and consider their H&C application.

[23] The Respondent addresses the Applicants' argument that their application is solely a request for subsection 25(1) H&C consideration and not a request based on parental sponsorship. The Respondent states that the application form indicated the Applicants were applying under the parents/grandparents category of the family class as did the accompanying forms. The Respondent argues that the Applicants were required to proceed through the sponsorship process and that the issue of *de facto* family membership would be determined as part of the officer's H&C assessment once their application is accepted for processing.

### 3. *Did the Respondent have a public legal duty to consider the Applicants' H&C application?*

[24] The determinative issue in this application is whether the Respondent had a public duty to consider the Applicants' H&C application, the first element of the *Apotex* test. In light of the comprehensive legislative and regulatory framework contained in the IRPA and the IRPRs, and the specific provisions of MI-21, I find that the Minister had no public legal duty to accept the Applicants' H&C application for processing. The Applicants' request for an order of *mandamus*

must be refused. I also find that the Minister's refusal in the Decision to accept the Applicants' application was reasonable.

[25] The Applicants argue that the Minister has created an unworkable legislative labyrinth that unduly fetters his discretion to consider an H&C application pursuant to subsection 25(1) of the IPRA. I disagree. While the framework established for the consideration of sponsorship applications for foreign nationals outside of Canada, including those submitted on H&C considerations, is technical, it is not unworkable.

[26] The Applicants state that their application was not a sponsorship application but rather a standalone H&C application pursuant to subsection 25(1) of the IRPA. However, in *Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at paragraph 23, the Supreme Court of Canada stated that subsection 25(1) was not intended as an alternative immigration scheme. In my view, the Applicants' arguments essentially assert that subsection 25(1) should be considered in isolation from the other provisions of the IRPA and IRPRs and that those other provisions cannot limit the Minister's discretion to consider H&C applications.

[27] The IRPA and IRPRs establish the process through which an H&C application in support of a foreign national who is outside of Canada and who seeks permanent residence in Canada must be pursued. Working through the legislative framework set out above, it is clear that the Applicants were required to submit their application in support of Gurmel as an application for a permanent resident visa pursuant to section 66 of the IRPRs. They were also required to

designate a prescribed class (family class) as part of the application. The provisions of the IRPA and the IRPRs then set out the parameters for the Applicants' sponsorship of Gurmel.

[28] Pursuant to subsection 87.3(1) of the IRPA, sponsorship applications and requests under subsection 25(1) of the IRPA are subject to instructions issued by the Minister pursuant to subsection 87.3(3) for the processing of such applications and requests. There is no ambiguity in the IRPA in this regard. Further, subsection 87.3(4) requires officers to comply with any instructions issued by the Minister before processing a section 25 application. MI-21, issued by the Minister in reliance on subsection 87.3(3), speaks specifically to a request made under subsection 25(1) of the IRPA from outside Canada:

> **Humanitarian and compassionate requests**
>
> A request made under subsection 25(1) of the Act from outside Canada and that accompanies an application that was not accepted for processing under these Instructions will not be processed.

[29] In my view, the Applicants' situation is addressed in MI-21. They were required to submit a request indicating their interest in making a sponsorship application. Only if they were invited to do so through the random selection process were the Applicants permitted to submit a sponsorship application for Gurmel based on H&C considerations. The Applicants did not submit a request and, therefore, their application could not be processed. MI-21 directs an officer to return an application that does not meet the conditions set forth in the instructions and subsection 87.3(4) of the IRPA requires the officer to comply with that direction.

[30] I have considered the Applicants' argument that the Respondent's issuance of MI-21 improperly fettered his discretion pursuant to subsection 25(1) of the IRPA. MI-21 was

established pursuant to subsection 87.3(3) of the IRPA which permits the Minister to give instructions for the processing of applications, including the establishment of the order in which applications will be processed and the number of applications to be processed in a given year. Subsection 87.3(1) provides that section 87.3 applies to "requests under subsection 25(1) made by foreign nationals outside of Canada". Therefore, Parliament specifically contemplated the use of instructions by the Minister to regulate the processing of H&C applications.

[31] In *Esensoy v Canada (Citizenship and Immigration)*, 2012 FC 1343 (*Esensoy*), Justice Zinn considered the validity of Ministerial instructions issued pursuant to subsection 87.3(3) in the context of a moratorium placed on sponsorship applications in 2011 via the issuance of instructions. Justice Zinn concluded that the Minister's power pursuant to the provision is robust (*Esensoy* at para 17) as long as it is used in good faith in response to an issue requiring administrative intervention (see also *Lukaj v Canada (Citizenship and Immigration)*, 2013 FC 8 at paras 28-31). In the present case, the Applicants have not alleged bad faith on the part of the Respondent or that MI-21 does not respond to a *bona fide* administrative requirement.

[32] I find further support for the Minister's authority to manage and organize the processing of sponsorship applications in the decision of the Federal Court of Appeal in *Cabral*. In that case, the Court considered the scope of the Minister's authority to issue instructions regarding language proficiency pursuant to subsection 87.3(3). Justice Gleason stated (*Cabral* at para 40):

> [40] Both this Court and the Federal Court have recognized the broad authority of the Minister to issue Instructions under this or similar provisions in the IRPA to limit the number of applications to be processed and to provide direction as to how processing is to be undertaken: *Tabingo v. Canada (Citizenship and Immigration)*, 2013 FC 377 at para. 8, 362 D.L.R. (4th) 166; aff'd *Austria v.*

> *Canada (Citizenship and Immigration)*, 2014 FCA 191 at paras. 46, 66-67, [2015] 3 F.C.R. 346; *Jia v. Canada (Citizenship and Immigration)*, 2014 FC 596 at para. 29, [2015] 3 F.C.R. 143; appeal dismissed 2015 FCA 146; *Liang v. Canada (Minister of Citizenship and Immigration)*, 2012 FC 758 at para. 42, [2012] F.C.J. No. 683.

[33] The Applicants argue that the framework for sponsorship applications, and the requirement of the designation of a foreign national as a member of the family class, is unworkable because of the adoption of the Applicants and the operation of subsections 3(2) and 133(5) of the IRPRs. However, there is no reason why the issue of *de facto* family membership would not be considered as part of an officer's review of the application on its merits once accepted for processing in accordance with MI-21. The Applicants state that, by refusing to process their H&C application, the Respondent is preventing an officer from assessing the merits of their H&C submissions. This is not the case. A consideration of the merits of their application is simply postponed until their sponsorship application is properly made in accordance with the provisions of the IRPA, IRPRs and MI-21.

[34] In summary, I find that the Applicants have failed to establish that the Respondent owed them a public duty to accept their H&C application for processing. The Respondent acted in accordance with the relevant statutory and legislative provisions governing an H&C application for permanent resident status in respect of a foreign national outside of Canada, including the requirements of MI-21. Accordingly, the Applicants have not met the first element of the *Apotex* test for the issuing of an order of *mandamus*. As each element of the test must be met, it is not necessary for me to consider the remaining elements. I would note only that the Applicants do have other remedies available to them, as was noted in the Decision, and that the balance of

convenience in this case favours the Respondent and his ability to properly govern the acceptance and processing of the many sponsorship applications received each year.

[35] In addition, the Respondent's Decision not to accept the Applicant's application was reasonable. The refusal of the application for failure to comply with MI-21 was the required outcome in this case and was justified and intelligible (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

## VI. Conclusion

[36] The application is dismissed.

[37] No question for certification was proposed by the parties and none arises in this case.

**JUDGMENT in IMM-1842-18**

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

1. The application for judicial review is dismissed.

2. No question of general importance is certified.

"Elizabeth Walker"
Judge

## ANNEX A

*Immigration and Refugee Protection Act*, SC 2001, c 27

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| **Family reunification** | **Regroupement familial** |
| 12(1) A foreign national may be selected as a member of the family class on the basis of their relationship as the spouse, common-law partner, child, parent or other prescribed family member of a Canadian citizen or permanent resident. | 12(1) La sélection des étrangers de la catégorie « regroupement familial » se fait en fonction de la relation qu'ils ont avec un citoyen canadien ou un résident permanent, à titre d'époux, de conjoint de fait, d'enfant ou de père ou mère ou à titre d'autre membre de la famille prévu par règlement. |
| […] | […] |
| **Sponsorship of foreign nationals** | **Parrainage de l'étranger** |
| 13(1) A Canadian citizen or permanent resident, or a group of Canadian citizens or permanent residents, a corporation incorporated under a law of Canada or of a province or an unincorporated organization or association under federal or provincial law — or any combination of them — may sponsor a foreign national, subject to the regulations. | 13(1) Tout citoyen canadien, résident permanent ou groupe de citoyens canadiens ou de résidents permanents ou toute personne morale ou association de régime fédéral ou provincial — ou tout groupe de telles de ces personnes ou associations — peut, sous réserve des règlements, parrainer un étranger. |
| […] | […] |
| **Humanitarian and compassionate considerations — request of foreign national** | **Séjour pour motif d'ordre humanitaire à la demande de l'étranger** |
| 25(1) Subject to subsection (1.2), the Minister must, on | 25(1) Sous réserve du paragraphe (1.2), le ministre |

request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35 or 37 — who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.

doit, sur demande d'un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35 ou 37 —, soit ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada — sauf s'il est interdit de territoire au titre des articles 34, 35 ou 37 — qui demande un visa de résident permanent, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.

[…]

[…]

**Application**

87.3(1) This section applies to applications for visas or other documents made under subsections 11(1) and (1.01), other than those made by persons referred to in subsection 99(2), to sponsorship applications made under subsection 13(1), to applications for permanent resident status under subsection 21(1) or temporary resident status under subsection 22(1) made by

**Application**

87.3(1) Le présent article s'applique aux demandes de visa et autres documents visées aux paragraphes 11(1) et (1.01) — sauf à celle faite par la personne visée au paragraphe 99(2) —, aux demandes de parrainage faites au titre du paragraphe 13(1), aux demandes de statut de résident permanent visées au paragraphe 21(1) ou de résident temporaire visées au paragraphe 22(1) faites par un

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| foreign nationals in Canada, to applications for work or study permits and to requests under subsection 25(1) made by foreign nationals outside Canada. | étranger se trouvant au Canada, aux demandes de permis de travail ou d'études ainsi qu'aux demandes prévues au paragraphe 25(1) faites par un étranger se trouvant hors du Canada. |
| […] | […] |
| (3) For the purposes of subsection (2), the Minister may give instructions with respect to the processing of applications and requests, including instructions | (3) Pour l'application du paragraphe (2), le ministre peut donner des instructions sur le traitement des demandes, notamment des instructions : |
| (a) establishing categories of applications or requests to which the instructions apply; | a) prévoyant les groupes de demandes à l'égard desquels s'appliquent les instructions; |
| (a.1) establishing conditions, by category or otherwise, that must be met before or during the processing of an application or request; | a.1) prévoyant des conditions, notamment par groupe, à remplir en vue du traitement des demandes ou lors de celui-ci; |
| (b) establishing an order, by category or otherwise, for the processing of applications or requests; | b) prévoyant l'ordre de traitement des demandes, notamment par groupe; |
| (c) setting the number of applications or requests, by category or otherwise, to be processed in any year; and | c) précisant le nombre de demandes à traiter par an, notamment par groupe; |
| (d) providing for the disposition of applications and requests, including those made subsequent to the first application or request. | d) régissant la disposition des demandes dont celles faites de nouveau. |
| […] | […] |
| **Compliance with instructions** | **Respect des instructions** |

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| (4) Officers and persons authorized to exercise the powers of the Minister under section 25 shall comply with any instructions before processing an application or request or when processing one. If an application or request is not processed, it may be retained, returned or otherwise disposed of in accordance with the instructions of the Minister. | (4) L'agent — ou la personne habilitée à exercer les pouvoirs du ministre prévus à l'article 25 — est tenu de se conformer aux instructions avant et pendant le traitement de la demande; s'il ne procède pas au traitement de la demande, il peut, conformément aux instructions du ministre, la retenir, la retourner ou en disposer. |

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

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| **Interpretation — adoption** | **Interprétation : adoption** |
| 3(2) For the purposes of these Regulations, adoption, for greater certainty, means an adoption that creates a legal parent-child relationship and severs the pre-existing legal parent-child relationship. | 3(2) Pour l'application du présent règlement, il est entendu que le terme adoption s'entend du lien de droit qui unit l'enfant à ses parents et qui rompt tout lien de filiation préexistant. |
| […] | […] |
| **Request** | **Demande** |
| 66 A request made by a foreign national under subsection 25(1) of the Act must be made as an application in writing accompanied by an application to remain in Canada as a permanent resident or, in the case of a foreign national outside Canada, an application for a permanent resident visa. | 66 La demande faite par un étranger en vertu du paragraphe 25(1) de la Loi doit être faite par écrit et accompagnée d'une demande de séjour à titre de résident permanent ou, dans le cas de l'étranger qui se trouve hors du Canada, d'une demande de visa de résident permanent. |
| […] | […] |

| | |
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| **Classes** | **Catégories** |
| 70(2) The classes are | 70(2) Les catégories sont les suivantes : |
| (a) the family class; | a) la catégorie du regroupement familial; |
| (b) the economic class, consisting of the federal skilled worker class, the transitional federal skilled worker class, the Quebec skilled worker class, the provincial nominee class, the Canadian experience class, the federal skilled trades class, the Quebec investor class, the Quebec entrepreneur class, the start-up business class, the self-employed persons class and the Quebec self-employed persons class; and | b) la catégorie de l'immigration économique, qui comprend la catégorie des travailleurs qualifiés (fédéral), la catégorie des travailleurs qualifiés (fédéral — transitoire), la catégorie des travailleurs qualifiés (Québec), la catégorie des candidats des provinces, la catégorie de l'expérience canadienne, la catégorie des travailleurs de métiers spécialisés (fédéral), la catégorie des investisseurs (Québec), la catégorie des entrepreneurs (Québec), la catégorie « démarrage d'entreprise », la catégorie des travailleurs autonomes et la catégorie des travailleurs autonomes (Québec); |
| (c) the Convention refugees abroad class and the country of asylum class. | c) la catégorie des réfugiés au sens de la Convention outre-frontières et la catégorie de personnes de pays d'accueil. |
| […] | […] |
| **Member** | **Regroupement familial** |
| 117(1) A foreign national is a member of the family class if, with respect to a sponsor, the foreign national is | 117(1) Appartiennent à la catégorie du regroupement familial du fait de la relation qu'ils ont avec le répondant les étrangers suivants : |

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| […] | […] |
| (c) the sponsor's mother or father; | c) ses parents; |
| […] | […] |
| **Adopted sponsor** | **Répondant adopté** |
| 133(5) A person who is adopted outside Canada and whose adoption is subsequently revoked by a foreign authority or by a court in Canada of competent jurisdiction may sponsor an application for a permanent resident visa that is made by a member of the family class only if the revocation of the adoption was not obtained for the purpose of sponsoring that application. | 133(5) La personne adoptée à l'étranger et dont l'adoption a été annulée par des autorités étrangères ou un tribunal canadien compétent ne peut parrainer la demande de visa de résident permanent présentée par une personne au titre de la catégorie du regroupement familial que si l'annulation de l'adoption n'a pas été obtenue dans le but de pouvoir parrainer cette demande. |

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-1842-18 |
| **STYLE OF CAUSE:** | BUTA SINGH DHILLON, GURMEL KAUR DHILLON, SHINDERPAL KAUR SANGHA v THE MINISTER OF CITIZENSHIP AND IMMIGRATION |
| **PLACE OF HEARING:** | CALGARY, ALBERTA |
| **DATE OF HEARING:** | NOVEMBER 20, 2018 |
| **JUDGMENT AND REASONS:** | WALKER J. |
| **DATED:** | APRIL 1, 2019 |

**APPEARANCES:**

| | |
|---|---|
| Raj Sharma | FOR THE APPLICANTS |
| David Shiroky | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

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|---|---|
| Raj Sharma<br>Barrister & Solicitor<br>Calgary, Alberta | FOR THE APPLICANTS |
| Attorney General of Canada<br>Calgary, Alberta | FOR THE RESPONDENT |