Federal Court  Cour fédérale

Date: 20191024

Docket: IMM-1389-19

Citation: 2019 FC 1327

Ottawa, Ontario, October 24, 2019

PRESENT: The Honourable Madam Justice Fuhrer

BETWEEN:

KALSANG NAMGYAL

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is an application for judicial review pursuant to section 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. On December 20, 2018, a Senior Immigration Officer [SIO] refused the Applicant's Pre-Removal Risk Assessment [PRRA] application, submitted pursuant to IRPA s 112(1).

[2] For the reasons that follow, this application for judicial review is dismissed.

II. Background

[3] The Applicant, Mr. Namgyal, is a Tibetan born in India in 1973. He arrived in Canada on November 17, 2015, and filed a refugee claim against the People's Republic of China (China) on the basis that he does not have any permanent status in India.

[4] On August 12, 2016, the RPD rejected Mr. Namgyal's claim for refugee protection on the basis that Mr. Namgyal had not taken direct steps to avail himself of citizenship in India conferred on him by statute, specifically the Indian *Citizenship (Amendment) Act, 2003*, as he was required to do pursuant to the Federal Court of Appeal decision *Tretsetsang v Canada (Citizenship and Immigration),* 2016 FCA 175 [*Tretsetsang*]. In its decision, the RPD noted Mr. Namgyal resided in India his entire life, had obtained undergraduate and graduate degrees in commerce, and was employed as an accountant from 1996 until his departure for Canada. His employment included travel abroad in the early 2000s. The RPD further noted Mr. Namgyal's testimony that he attempted to obtain a birth certificate from a local municipal office, but he was unsuccessful because he could not satisfy the formalities in establishing his birth. When asked if he had attempted to use his Identity Certificate, which indicates both his date and place of birth, as proof of birth, he answered that he had not, because the Identity Certificate indicated he was a foreigner. Mr. Namgyal's subsequent application for leave and judicial review of the RPD's decision was denied.

[5] Mr. Namgyal submitted his PRRA application on April 17, 2018. Mr. Namgyal asserted he remained unable to obtain proof of Indian citizenship because he did not have an Indian birth certificate, having been born in a tent and his parents failing to register his birth. The only identification documents that show Mr. Namgyal's date and place of birth are: (i) the Registration of Foreigners Certificate of Registration ("Registration Certificate" or "RC"), and (ii) as noted above, the Identity Certificate; however, the evidence establishes these two documents are insufficient proof to seek an Indian Passport directly. He further explained that although he himself had taken no direct steps to apply for an Indian passport (which is considered proof of citizenship), he never bothered to do so because Indian officials previously denied his siblings' attempts to obtain Indian passports using other identity documents such as school certificates, RCs, and identity certificates.

[6] Mr. Namgyal provided new evidence as part of this PRRA application, including: (i) submissions on the obstacles Tibetans face to obtain proof of Indian citizenship, and which explain that he would be at risk of deportation to China as his RC was about to expire; (ii) a legal opinion from a lawyer in India, who describes Mr. Namgyal's chance of obtaining a passport as "negligible" given his lack of documentation (the opinion states specifically the RC and Identity Certificate are not proof of Indian nationality, and do not aid in the process of obtaining a passport or being declared an Indian citizen); (iii) an affidavit testifying to his recent political involvement in the Tibetan Youth Congress and free Tibet movements, including public demonstrations, protests, and candlelight vigils, and his continued worship of the Dalai Llama; and (iv) updated country conditions for Tibetans living in India.

III. Impugned PRRA Decision

[7] The SIO began by summarizing Mr. Namgyal's procedural history, including the RPD decision, and admitting Mr. Namgyal's new evidence.

[8] Referencing the United States Department of State report *2017 Country Reports on Human Rights Practices – India,* the SIO concluded Mr. Namgyal meets the legal requirements for citizenship under s 3(1) of India's *Citizenship Act* because he was born in India between January 26, 1950 and July 1, 1987. The SIO conceded, however, the same document explains some Tibetans reportedly faced difficulty acquiring Indian citizenship despite meeting the legal requirements.

[9] The SIO next considered the Immigration and Refugee Board ("IRB") report *India: The Delhi High Court decision of September 22, 2016, on the rights of Tibetans to citizenship and access to passports, including implementation (August 2016-April 2017),* which discussed the IRB's consideration of this decision and notice of a resultant new policy released in March 2017 ("March 2017 Policy") to "all passport offices in India and abroad to process pending applications of Tibetan Refugee applicants born in India between 26/01/1950 to 01/07/1987 for the issue of passports, and treat them as Indian citizens by birth." The SIO also considered the RPD's decision, noting its reliance on *Tretsetsang,* above, Mr. Namgyal's allegation that he did not have the required documentation, and the RPD's conclusion that he took no direct steps to avail himself of Indian citizenship.

[10] The SIO found that even two years later, Mr. Namgyal provided "little information or evidence … indicating the applicant [has] attempted to apply for a birth certificate or Indian passport [or any other documents that could be used to obtain these documents], despite residing in a city in Canada where a Consulate General of India is located in." The SIO also noted a lack of evidence that Mr. Namgyal would not be able to obtain an Indian passport or citizenship following the 2016 High Court ruling.

[11] The SIO considered Mr. Namgyal's expired RC, referring to the Tibet Justice Center's report *Tibet's Stateless Nationals III: The Status of Tibetan Refugees in India*. This source suggested Mr. Namgyal could not update his RC while abroad and that he could be subject, as a result, to "arrest, fines, imprisonment, and actual or threatened deportation". Nonetheless, the SIO distinguished Mr. Namgyal's situation, as "a large number of cases appear to refer to young people who were likely born after 1987." The SIO referred to one case the SIO believed was similar, noting an older woman was granted bail, rather than deported after being arrested for non-renewal of her RC, because of the 2016 High Court ruling.

[12] The SIO concluded: "…I find there is a wide range of different outcomes for individuals who fail to renew their RC and does not necessarily lead to actual deportation. As a result, I find it is speculative that the applicant would be deported to China for not renewing his RC. In addition, I find the applicant is a citizen of India … [and has] failed to demonstrate he has made reasonable efforts to acquire Indian citizenship and an Indian passport." Given this conclusion, and Mr. Namgyal's failure to demonstrate, on a balance of probabilities, that he would be

deported to China or that he would face risk as defined in IRPA ss 96 and 97 should he return to India, the SIO denied the PRRA.

IV. Issues

[13] The overarching issue is whether the SIO's decision was reasonable. More specifically, as clarified by Mr. Namgyal's counsel at the hearing before this Court, did the SIO ignore the legal opinion obtained by Mr. Namgyal on the issue of Indian citizenship and err in doing so?

V. Standard of Review

[14] PRRA assessments "are fact-driven inquiries that involve weighing evidence and which engage an officer's expertise in risk assessment" and thus reviewable on a reasonableness standard: *Yang v Canada (Immigration, Refugees and Citizenship)*, 2018 FC 496 at para 14, citing *Mohamed v Canada (Citizenship and Immigration)*, 2016 FC 619 at para 12, *Korkmaz v Canada (Public Safety and Emergency Preparedness)*, 2015 FC 1124 at para 9, *Adetunji v Canada (Citizenship and Immigration)*, 2012 FC 708 at para 22, and *Raza v Canada (Citizenship and Immigration)*, 2006 FC 1385 at para 10.

[15] Under the reasonableness standard, this Court will "defer to any reasonable interpretation adopted by an administrative decision maker, even if other reasonable interpretations may exist" so long as it falls "within a range of possible, acceptable outcomes which are defensible in respect of the facts and law": *McLean v British Columbia (Securities Commission)*, 2013 SCC 67 at para 40; *Canada (Attorney General) v Heffel Gallery Limited*, 2019 FCA 82 at para 48; *Delios*

v Canada (Attorney General), 2015 FCA 117 at paras 27-28; *Dunsmuir v New Brunswick*, 2008 SC 9 [*Dunsmuir*] at para 47. Before seeking to subvert the decision maker's decision, the Court first must seek to supplement it: *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 [*NL Nurses*] at para 12. If the decision maker's reasons, when read in context with the evidence, allow this Court to understand why the decision maker made its decision, the decision will be justifiable, transparent, and intelligible: *NL Nurses*, above at paras 16-18.

VI. Relevant Provisions

[16] Any individual in Canada who is subject to an in-force removal order, or named in an IRPA s 77(1) certificate, may apply to the Minister for protection. This is known as a "Pre-Removal Risk Assessment" or "PRRA": IRPA s 112(1).

112 (1) A person in Canada, other than a person referred to in subsection 115(1), may, in accordance with the regulations, apply to the Minister for protection if they are subject to a removal order that is in force or are named in a certificate described in subsection 77(1).	**112 (1)** La personne se trouvant au Canada et qui n'est pas visée au paragraphe 115(1) peut, conformément aux règlements, demander la protection au ministre si elle est visée par une mesure de renvoi ayant pris effet ou nommée au certificat visé au paragraphe 77(1).

[17] A positive PRRA will confer refugee protection: IRPA s 114(1)(a).

114 (1) A decision to allow the application for protection has	**114 (1)** La décision accordant la demande de protection a pour effet de conférer l'asile au demandeur; toutefois, elle a pour effet, s'agissant de celui visé au paragraphe 112(3), de surseoir, pour le pays ou le lieu

	en cause, à la mesure de renvoi le visant.
(a) in the case of an applicant not described in subsection 112(3), the effect of conferring refugee protection; and	
(b) in the case of an applicant described in subsection 112(3), the effect of staying the removal order with respect to a country or place in respect of which the applicant was determined to be in need of protection.	

[18] Applicants who were denied refugee protection previously may present only new evidence during a PRRA: IRPA s 113(a).

113 Consideration of an application for protection shall be as follows:	**113** Il est disposé de la demande comme il suit:
(a) an applicant whose claim to refugee protection has been rejected may present only new evidence that arose after the rejection or was not reasonably available, or that the applicant could not reasonably have been expected in the circumstances to have presented, at the time of the rejection;	**(a)** le demandeur d'asile débouté ne peut présenter que des éléments de preuve survenus depuis le rejet ou qui n'étaient alors pas normalement accessibles ou, s'ils l'étaient, qu'il n'était pas raisonnable, dans les circonstances, de s'attendre à ce qu'il les ait présentés au moment du rejet;

[19] SIOs will assess risk against IRPA ss 96-98: IRPA s 113(c).

113 Consideration of an application for protection shall be as follows:	**113** Il est disposé de la demande comme il suit:
(c) in the case of an applicant not described in subsection	**(c)** s'agissant du demandeur non visé au paragraphe 112(3),

112(3), consideration shall be on the basis of sections 96 to 98;	sur la base des articles 96 à 98;

[20] Prior to availing oneself of the protection of another country, an individual must seek protection from their country (or countries) of nationality: IRPA s 96(a).

96 A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,	**96** A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :
(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themself of the protection of each of those countries; or	**(a)** soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;
(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.	**(b)** soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.

[21] A person in need of protection is a person whose removal would subject them personally to a risk to their life, or of torture or cruel and unusual treatment or punishment: IRPA s 97.

97 (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would	**97 (1)** A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence

subject them personally	habituelle, exposée :
(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or	**(a)** soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;
(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if	**(b)** soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :
(i) the person is unable or, because of that risk, unwilling to avail themself of the protection of that country,	**(i)** elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,
(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,	**(ii)** elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,
(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and	**(iii)** la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,
(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.	**(iv)** la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.
(2) A person in Canada who is a member of a class of persons prescribed by the regulations as being in need of protection is also a person in need of protection.	**(2)** A également qualité de personne à protéger la personne qui se trouve au Canada et fait partie d'une catégorie de personnes auxquelles est reconnu par règlement le besoin de protection.

VII. Analysis

[22] In *Williams*, the Federal Court of Appeal held that a refugee claimant will be denied refugee protection in Canada where the person is entitled to acquire citizenship by mere formalities, or acquisition of citizenship is within the control of the person, in a particular country in respect of which there is no risk: *Canada (Minister of Citizenship and Immigration) v Williams*, 2005 FCA 126 [*Williams*] at paras 19-23. The Court also held that where citizenship in another country is available, an applicant will be expected to make efforts to acquire it: *Williams*, above at para 27.

[23] In *Tretsetsang*, the Federal Court of Appeal reaffirmed that the test for determining whether a refugee claimant has a particular country of nationality is the control test described in *Williams*: *Tretsetsang*, above at para 67. If a refugee claimant alleges that the claimant is unable to access state protection from the country of which the person is a citizen and fails to take any steps to confirm whether that country will recognize the person as a citizen, such failure would be fatal to the person's refugee claim, absent a reasonable explanation. The onus is on the claimant to establish inability to access such state protection; any impediment to realizing rights of state protection granted to citizens must be significant: *Tretsetsang*, above at paras 70-71.

[24] As stated by the majority in *Tretsetsang*, above at paras 72-73:

> [72] Therefore, a claimant, who alleges the existence of an impediment to exercising his or her rights of citizenship in a particular country, must establish, on a balance of probabilities:
>
> (a) The existence of a significant impediment that may reasonably be considered capable of preventing the claimant from

> exercising his or her citizenship rights of state protection in that country of nationality; and
>
> (b) That the claimant has made reasonable efforts to overcome such impediment and that such efforts were unsuccessful such that the claimant was unable to obtain the protection of that state.
>
> [73] What will constitute reasonable efforts to overcome a significant impediment (that has been established by any particular claimant) in any particular situation can only be determined on a case-by-case basis. A claimant will not be obligated to make any effort to overcome such impediment if the claimant establishes that it would not be reasonable to require such claimant to make any such effort.

[25] With the applicable test in mind, the administrative decision maker's reasons are not to be read hypercritically by a court, nor are decision makers required to refer to every piece of evidence they received that is contrary to their finding and to explain how it was dealt with. The more important, however, the evidence not mentioned specifically and analyzed in the reasons, the more willing a court may be to infer from the silence that the decision maker made an erroneous finding of fact without regard to the evidence: *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) [*Cepeda-Gutierrez*] at para 17, citing *Bains* v *Canada (Minister of Employment and Immigration)* (1993), 63 FTR 312 (FCTD) [*Bains*].

[26] Mr. Namgyal submits the SIO failed to consider the obstacles preventing him from obtaining Indian citizenship and the evidence relevant to his endeavours to obtain proper documentation. He explains at the time he left India, a birth certificate was a pre-requisite for an Indian passport. He further explains he and his siblings had in the past discussed, but ultimately

decided against, litigating to obtain a passport. Mr. Namgyal submits that without this passport, he is at risk of deportation to Tibet.

[27] Mr. Namgyal concedes, however, Indian citizenship laws have changed and this may no longer be the case. He therefore "contacted the leading lawyer in the field of litigating the right to Indian citizenship vis-à-vis Tibetans born in India" for an opinion on his likelihood of success in acquiring Indian citizenship based on his current documentation, which opinion he relied on before the SIO. He alleges the SIO failed to consider this legal opinion and therefore committed a reviewable error: *Cepeda-Gutierrez*, above; *Bains*, above; *Khakh v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 1030 at para 4.

[28] Mr. Namgyal's counsel referred in oral submissions to the recent decision of this Court in *Yalotsang v Canada (Citizenship and Immigration)*, 2019 FC 563 and argued that it is directly on point.

[29] The Minister submits the SIO did not ignore evidence, including the legal opinion, and this Court must accord significant deference to the SIO's factual findings: *Herrera Andrade v Canada (Citizenship and Immigration)*, 2012 FC 1490 at para 11; *NL Nurses*, above. In the Minister's view, the SIO acted reasonably by (i) relying on the facts established at the RPD, (ii) concluding Mr. Namgyal had taken no further steps to obtain citizenship, and (iii) in interpreting the country condition documents in India, including the citizenship laws.

[30] Regarding the legal opinion, the PRRA decision states: “I note the applicant has submitted a legal opinion from a lawyer in India, who describes the chances of the applicant obtaining an Indian passport is [sic] ‘negligible’ given the applicant does not have any of the documents required.” The PRRA decision also states: “At the time of this writing, over two years since the RPD’s decision, aside from obtaining another legal opinion, I find that the applicant has not made reasonable efforts to overcome the impediment of acquiring Indian citizenship.”

[31] The RPD decision discusses the earlier legal opinion which in turn describes Mr. Namgyal’s attempt in 2015 to obtain a birth certificate from a local municipal authority where he lived at the time. It notes that without the birth certificate, Mr. Namagyal’s case for citizenship would not be considered. The RPD noted several deficiencies in the legal opinion, including no reference to statutory law, case law such as relevant High Court decisions or other circumstances supporting various assertions. Further, the letter did not address clearly whether any other documentation, including government-issued documentation confirming his date and place of birth, would be accepted. As a consequence, the RPD assigned little weight to this opinion.

[32] The legal opinion submitted in connection with the PRRA application (“2018 Legal Opinion”) addresses some of the deficiencies noted by the RPD with the earlier legal opinion. For example, there is a summary of the legislative history applicable to Indian citizenship followed by a conclusion that one must apply for an Indian Passport to endorse or affirm the person’s citizenship by birth. Proof of birth and proof of address are required in connection with the application process. The 2018 Legal Opinion also provides a list of 9 types of documents that

are acceptable to establish proof of birth, only one of which is a birth certificate, and a list of 12 types of documents that are acceptable to establish proof of address. The 2018 Legal Opinion next describes difficulties that some persons of Tibetan origin have in obtaining any of these documents, without indicating whether any of the circumstances mentioned apply to Mr. Namgyal specifically.

[33] The 2018 Legal Opinion also canvasses applicable case law, thereby addressing another deficiency noted by the RPD in respect of the earlier legal opinion. It is not stated, however, whether any of these cases involve the same or very similar circumstances as those pertaining to Mr. Namgyal. Furthermore, though the 2018 Legal Opinion mentions the March 2017 Policy, the 2018 Legal Opinion only considers whether it is being followed by government authorities in India. It does not consider whether the March 2017 Policy is being followed abroad.

[34] The 2018 Legal Opinion notes that issues with regard to persons of Tibetan origin being declared Indian Citizens and being issued Indian Passports remain unresolved, although the chances have increased positively. With regard to Mr. Namgyal specifically, the 2018 Legal Opinion notes that he possesses only the Identity Certificate and RC, neither of which confer Indian nationality or aid in the process of obtaining a passport or being recognized as an Indian citizen. As he does not possess any of the 9 proof of birth or 12 proof of address acceptable documents, Mr. Namgyal's chances of obtaining a passport are negligible.

[35] What is not addressed in the 2018 Legal Opinion, or in any other evidence, is whether the Identity Certificate and RC can be relied on to obtain a birth certificate or any other acceptable

proof of birth document required to obtain an Indian passport. Mr. Namgyal's evidence before the RPD was that he did not use his Identity Certificate when attempting to obtain a birth certificate from a local municipal office.

[36] After noting the 2018 Legal Opinion and other evidence submitted in connection with Mr. Namgyal's PRRA application, the PRRA decision discusses, as mentioned above, the *2017 Country Reports on Human Rights Practices – India*, *India: The Delhi High Court decision of September 22, 2016, on the rights of Tibetans to citizenship and access to passports, including implementation (August 2016-April 2017),* and the March 2017 Policy. The SIO notes that the RPD was guided by the two-pronged test in *Tretsetsang*, above at para 72, regarding an allegation of the existence of an impediment to exercising rights of citizenship, in concluding that Mr. Namgyal took no direct steps toward availing himself of Indian citizenship.

[37] The SIO noted that there was little or no evidence before the SIO indicating Mr. Namgyal: (i) attempted to apply for a birth certificate or Indian passport while residing in a city in Canada where a Consulate General of India is located; (ii) sought or obtained the "other required documents" in order to acquire a passport or citizenship in India; and (iii) was still unable to obtain an Indian passport or citizenship in light of the September 2016 High Court ruling. In the interests of supplementing before subverting the PRRA decision, I am prepared to infer that the reference to "other required documents" was a reference to the acceptable proof of birth and proof of address documents described in the 2018 Legal Opinion.

[38] I therefore find that, although the SIO could have been more explicit in the SIO's consideration of the 2018 Legal Opinion, this is not a case where the PRRA decision was silent about it. I further find that the decision in *Yalotsang* is distinguishable. For example, the decision states at para 13: "Instead of considering whether the Indian authorities would recognize Ms. Yalotsang's Indian citizenship, the Board proceeded to consider the sufficiency of the efforts that she made to obtain an Indian passport." In this case, however, the SIO undertook an analysis of what the RPD described as a "trend … in the direction of recognition of citizenship for those ethnic Tibetans born between 1950 and 1987," including developments since the RPD's decision.

[39] In addition, *Yalotsang* states at para 18: "…there is no mention whatsoever of the legal opinion in the Board's decision, apart from the cryptic reference to 'the affidavits' submitted by Ms. Yalotsang." That clearly is not the case here.

[40] As a final point, I note that the SIO was alive to the issue of the potential risk faced by Mr. Namgyal as a result of his expired RC. Referring to the Tibet Justice Center's report *Tibet's Stateless Nationals III: The Status of Tibetan Refugees in India*, the SIO notes that most of the examples referred to in the report, of persons subject to arrest, fines, imprisonment and actual or threatened deportation for not producing valid and up-to-date RCs, were not similar to Mr. Namgyal's circumstances. A large number of the cases involved individuals born after 1987. In one example where someone born prior to 1987 was arrested, she subsequently was granted bail on the strength of the decision in *Namgyal Dolkar* (which decision also is mentioned in the 2018 Legal Opinion) and she was not deported. Hence, the SIO concluded that there is a wide

range of different outcomes for individuals who fail to renew their RC and does not lead necessarily to deportation. As such, the SIO reasonably concluded that the issue of whether Mr. Namgyal would be deported to China for non-renewal of his RC was speculative.

[41] I find that the SIO did not ignore the 2018 Legal Opinion. The PRRA decision is reasonable in that it is justifiable, transparent and intelligible, and falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

[42] Neither party proposed a serious question of general importance for certification.

JUDGMENT in IMM-1389-19

THIS COURT'S JUDGMENT is that:

1. This judicial review application is dismissed.

2. There is no question for certification.

"Janet M. Fuhrer"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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