

Federal Court



Cour fédérale

Date: 20210813

Docket: IMM-1068-20

Citation: 2021 FC 841

Fredericton, New Brunswick, August 13, 2021

PRESENT: Madam Justice McDonald

BETWEEN:

SIMRAN KAUR GILL

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Simran Kaur Gill, a citizen of India, challenges the decision of the Visa Officer (the Officer) who denied her application for a study permit. The Officer concluded that she was inadmissible for misrepresentation in accordance with paragraph 40(1)(a) of the *Immigration and Refugee Protection Act, SC 2001, c 27 (IRPA)*. The misrepresentation was in

relation to her claim that she holds a Master's degree from a university in India that has been decertified.

[2] For the reasons that follow, this judicial review is dismissed as the decision of the Officer is reasonable.

Background

[3] In her 2019 application to study Information Technology Infrastructure in Kitchener, Ontario, the Applicant listed her education as including a 2015 Master of Technology (Computer Science) from Karnataka State Open University (the University), in Mysore, India. Some documents provided by the Applicant also refer to this degree as a Master of Engineering (Computer Science).

[4] On January 6, 2020, Immigration, Refugees and Citizenship Canada (IRCC) sent an email to the University to verify the Applicant's degree. The University Registrar responded to IRCC stating in part: "[t]he University Grants Commission has withdrawn the recognition of the programmes offered by the University through the academic collaborators in open and distance learning (ODL) mode with retrospective effect from the academic years 2013-14 and 2014-15 [...]."

[5] On January 9, 2020, IRCC sent a procedural fairness letter to the Applicant stating that "[t]he Indian Master of Engineering (Computer Science) 2015 degree and marksheets from

Karnataka State Open University, Mysore you provided in support to your application were verified and confirmed fraudulent/non genuine."

[6] The Applicant's representative responded on January 13, 2020, and included a letter from Karnataka State Open University dated January 10, 2020 from the Dy. Registrar stating:

It is to certify that Ms. SIMRAN KAUR GILL [...] was a student of M.tech in Computer Science from 2013-2015 Session from Karnataka State Open University. She has Completed the Two year Course of studies and passed the Examination held in 2015. The Conduct of classes for this course was Correspondence and she has awarded the degree of M.tech (Computer Science) and is placed in First Grade.

[7] The Applicant also attached a World Education Services (WES) report dated May 22, 2018, stating that Karnataka State Open University is a "Recognized Institution" and that the Applicant's Canadian Equivalency is a "Master's degree."

Decision Under Review

[8] In a decision dated January 20, 2020, the Officer found that the Applicant was inadmissible to Canada for misrepresentation.

[9] In the Global Case Management System (GCMS) notes, the Officer concluded that the Applicant misrepresented her degree credentials as the University Grants Commission confirmed they had withdrawn the recognition of the programmes offered by the University. The Officer also noted that the letter provided by the Applicant and purportedly issued by the University "is by an unknown signatory with the designation title only" and does not follow common

grammatical rules. Furthermore, the Officer stated, "unclear why the university will [sic] issued a verification letter to this applicant [in] 2020, for a diploma/certificate/marksheet issued after the public notice advising Karnataka State Open University, Mysore remained undeterred."

Issue and Standard of Review

[10] The only issue that arises is whether the decision of the Officer is reasonable. As stated in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 99, 441 DLR (4th) 1: "A reviewing court must develop an understanding of the decision maker's reasoning process in order to determine whether the decision as a whole is reasonable. To make this determination, the reviewing court asks whether the decision bears the hallmarks of reasonableness - justification, transparency and intelligibility - and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" [Citations omitted.]

Analysis

[11] The Applicant argues that the Officer failed to reasonably consider the response she provided to the procedural fairness letter. She also argues that the fact that the Officer made a decision so quickly after she provided additional information is suggestive of a failure of the Officer to properly consider the additional documents.

[12] As a general rule, the Applicant bears the burden of providing the Officer with all of the relevant information to satisfy the Officer that he or she meets the statutory requirements of the

IRPA (Tabari v Canada (Citizenship and Immigration), 2019 FC 1046 at para 24, 308 ACWS (3d) 824).

[13] It is well established that the GCMS entries form part of the reasons for the decision under review (*Coube De Carvalho v Canada (Citizenship and Immigration)*, 2019 FC 1485 at para 9, 312 ACWS (3d) 815). The GCMS entries demonstrate that the Officer relied upon the information from the Registrar of the University that it was unable to verify the Applicant's degree or statement of marks because "[t]he University Grants Commission has withdrawn the recognition of the programmes offered by the University [...]."

[14] The Officer reasonably questioned the reliability of the letter offered by the Applicant - purportedly from the Dy. Registrar of Karnataka State Open University - contradicting the information obtained by the Officer from the University's Registrar. The Officer also identified concerns with the authenticity of the letter because of the lack of a name for the Dy. Registrar and grammatical irregularities. On balance, the Officer was not satisfied the University would issue this letter while the public notice regarding the status of the University to confer degrees was still in place.

[15] Additionally, although the Applicant relies upon the WES letter as evidence of her Master's degree, the WES letter deals with educational equivalency and does not respond to the direct evidence from the University Registrar regarding its degree-conferring status for the Applicant's program.

[16] It is clear from the GCMS notes that the Officer reviewed the Applicant's supporting documents but found the information unreliable. The procedural fairness letter to the Applicant clearly indicated that the issue was the reliability of the "2015 degree and marksheets from Karnataka State Open University". In the circumstances, this was sufficient notice to the Applicant of the Officer's concerns with the alleged "fraud or non genuine nature" of the documents. The Officer concluded that the response to the procedural fairness letter did not provide evidence that the Applicant possessed the credentials she claimed in her application.

[17] The procedural fairness owed by the Visa Officer is on the low end of the spectrum. Here, the Applicant was informed of the specific nature of the Officer's concerns regarding her credentials from Karnataka State Open University and she was afforded an opportunity to respond. In the circumstances, she knew the case she had to meet and was given a meaningful opportunity to respond (*Talpur v Canada (Citizenship and Immigration)*, 2012 FC 25 at para 21) therefore no procedural fairness issues arise.

[18] The Officer's refusal to issue the Applicant a study permit was reasonable and within the range of possible, acceptable outcomes.

[19] Therefore, this judicial review is dismissed.

JUDGMENT IN IMM-1068-20

THIS COURT'S JUDGMENT is that:

1. The application for judicial review of the Visa Officer's decision is dismissed.
2. No question is certified.

"Ann Marie McDonald"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1068-20

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CITIZENSHIP AND IMMIGRATION

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