

Federal Court



Cour fédérale

**Date: 20230210**

**Docket: IMM-239-22**

**Citation: 2023 FC 199**

**Ottawa, Ontario, February 10, 2023**

**PRESENT: The Honourable Mr. Justice Favel**

**BETWEEN:**

**JAGPREET SINGH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Nature of the Matter

[1] Jagpreet Singh [Applicant] seeks judicial review of an immigration officer's [Officer] November 25, 2021 decision [Decision] refusing the Applicant's application for a study permit to complete a College Graduate Certificate in Project Management at Loyalist College. The Officer was not satisfied that the Applicant would leave Canada at the end of his stay and that the proposed studies were reasonable.

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

## II. Background

[3] The Applicant is a 26-year-old unmarried citizen of India with no dependants. In 2019, the Applicant completed a Bachelor of Technology in Civil Engineering at Baba Farid College of Engineering & Technology.

[4] Between 2019-2020, the Applicant was accepted to three academic institutions in Canada in various programs: Automobile Mechanics (Diploma in Vocational Studies); Database Administration; and Civil Engineering Technician. The Applicant applied for study permits for each of these programs, all of which were refused.

[5] On August 24, 2021, the Applicant was admitted to Loyalist College of Applied Arts & Technology to complete a College Graduate Certificate in Project Management commencing in Winter 2022. He subsequently applied for a study permit on August 30, 2021.

## III. The Decision

[6] The Officer refused the application because: (1) the Officer was not satisfied that the Applicant would leave Canada at the end of his stay; and (2) the proposed studies were not reasonable in light of his qualifications, previous studies, mark sheets, academic record, level of establishment, language abilities, and future prospects and plans.

[7] The Officer's Global Case Management System [GCMS] notes raised the following concerns:

- The “high cost of international study in Canada when weighed against the potential career/employment benefits after completion”;
- The “local options available for similar studies”;
- The “Applicant had initially applied to one program and was refused” and “[h]as now applied to different programs and/or different institutions”;
- The “[e]ducational goals in Canada are not consistent from one application to another with no explanation provided”; and
- “One years tuition not paid in full”.

#### IV. Issues and Standard of Review

[8] The issues for consideration are the following:

1. Was the Decision reasonable?
2. Was there a breach of procedural fairness?

[9] Both parties agree that the merits of the Decision are subject to a reasonableness review. In this case, the presumption of reasonableness is not rebutted (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16-17 [*Vavilov*]).

[10] To determine whether a decision is reasonable, a reviewing court must ask 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” (*Vavilov* at para 99). A decision may be unreasonable where there is a fatal flaw in the decision maker’s overarching logic or where it is untenable within the applicable law and facts (*Vavilov* at paras 102-05). The party challenging the decision bears the burden of showing that the decision is unreasonable (*Vavilov* at para 100).

[11] In light of my finding that the Decision was unreasonable, as discussed below, it is unnecessary to address the issue of procedural fairness.

## V. Analysis

### A. *Was the Decision reasonable?*

#### (1) Applicant’s Position

[12] The Officer not only failed to account for the evidence, but misapprehended the evidence they did consider. The Officer’s determinations are not transparent, intelligible, or justifiable.

[13] First, the Officer failed to properly explain why they did not accept the purpose of, and motivations for, the Applicant’s studies (*Iyiola v Canada (Citizenship and Immigration)*, 2020 FC 324 at para 19 [*Iyiola*]).

[14] Second, the Officer did not justify several grounds mentioned in the Decision in their GCMS notes. The Officer also applied criterion that is not otherwise found in governing law by considering whether the Applicant is capable of completing the program (*Hamedani v Canada (Citizenship and Immigration)*, 2021 FC 628 at para 13 [*Hamedani*]).

[15] Third, the Officer failed to address the evidence in favour of the Applicant's application, notably the significant tuition fees already paid, the letter of acceptance [LOA], and the available funds to finance his studies (*Iyiola* at para 19; *Kheradpazhooh v Canada (Citizenship and Immigration)*, 2018 FC 1097 at para 18 [*Kheradpazhooh*]). There is no evidence that the Applicant would not abide by Canadian law (*Cervjakova v Canada (Citizenship and Immigration)*, 2018 FC 1052 at para 12).

[16] Fourth, the Officer based their Decision on erroneous findings of fact with respect to the Applicant's International English Language Testing System [IELTS] score, payment of tuition fees, and establishment in India. The Officer's vague references to the GCMS history and his LOA fail to meet the reasonableness criteria of justification and transparency (*Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at para 21 [*Patel*]).

[17] Finally, any concerns as to the disproportionate cost of studying in Canada lack justification, especially considering that the evidence demonstrates the Applicant can pay the tuition fees (*Patel* at para 19; *Caianda v Canada (Citizenship and Immigration)*, 2019 FC 218 at para 5 [*Caianda*]; *Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at paras 17-18 [*Lingepo*]).

## (2) Respondent's Position

[18] The Decision was reasonable. The Applicant bears the onus of proving the merits of the study plan. The Officer may refuse to grant a study permit in the absence of details as to the program's utility in light of the Applicant's background and professional objectives (*Charara v*

*Canada (Citizenship and Immigration)*, 2016 FC 1176 at paras 36, 38 [*Charara*]). The Officer is presumed to have considered all the evidence presented, unless the contrary is shown, and is not required to refer to each piece of evidence (*Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 28 [*Solopova*]).

[19] The Applicant provided minimal evidence to support his decision not to study in India or opt for nearby international options. Several of the Applicant's statements justifying his choice of program and reasons to study in Canada lack supporting evidence.

[20] The variability in the Applicant's previous study permit applications contributes to the Officer's legitimate concern that the study permit was a means to facilitate entry into Canada for a permanent stay (*Roopchan v Canada (Citizenship and Immigration)*, 2021 FC 1342 at para 19 [*Roopchan*]). The Officer was justified in concluding that the Applicant did not rebut the presumption that he is an immigrant seeking to remain in Canada (*Ali v Canada (Immigration, Refugees and Citizenship)*, 2018 FC 702 at para 19 [*Ali*]; *Ekpenyong v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 1245 at para 19).

### (3) Conclusion

[21] The Decision was unreasonable. In my view, the Officer did not intelligibly explain why they were not convinced by the purpose of, and motivations for, the Applicant's studies. An officer is not required to accept the Applicant's purpose of study, but is required to explain why it was insufficient (*Iyiola* at para 19). Although it may be lacking in terms of detail, the Applicant's August 30, 2021 submission letter explains how the Project Management program

would advance his career. The letter also addresses the inconsistencies between the different programs the Applicant previously applied for, contrary to the GCMS notes. Overall, I find the Decision was generally limited to conclusory statements, with only vague references to the Applicant's LOA and GCMS history. The lack of analysis renders the Decision unintelligible and unjustifiable.

[22] There was also no evidence to indicate that the Applicant could not complete the program. It is not for the Officer to dispute the Applicant's ability to complete his proposed studies if the institution has admitted him and has confidence in his ability to do so (*Hamedani* at para 13).

[23] I agree that an officer is presumed to have considered all the evidence presented, unless the contrary is shown, and is not required to refer to each piece of evidence (*Solopova* at para 28). However, here, the Officer was silent on favourable evidence indicating the Applicant had already paid almost all of his tuition fees and the availability of funds to finance his studies (*Kheradpazhooh* at para 18; *Iyiola* at para 19).

[24] I also agree with the Applicant that there is no evidence that he would not abide by Canadian law. While the Applicant may have submitted various study permit applications for various programs, the evidence demonstrates that he diligently applied through the correct channels and used previous refusals to better meet the criteria. I find *Roopchan* distinguishable from this case, as the applicant had a history contravening the conditions of admission during a previous stay in Canada (at para 1).

[25] This matter is also distinguishable from *Charara*. Although *Charara* also involved a college program admission following the completion of undergraduate studies, the Applicant in the present matter provided an explanation as to the utility of the course (at para 38).

[26] Similarly, *Ali* is distinguishable as the applicant had no prior experience in the proposed venture, nor did they have resources to fund the project (at para 19). Again, the same cannot be said here.

[27] Lastly, the jurisprudence clearly indicates that it is not in the Officer's role to determine the value of education for the Applicant. In both *Caianda* and *Lingepo*, this Court indicated that the high cost of education does not render enrollment unreasonable. Justice Grammond's findings in *Caianda* are entirely applicable to the circumstances of this case:

[28] [5] Second, it is unreasonable to rely on the cost of post-secondary education in Canada to reach the conclusion that Mr. Caianda is not a bona fide student. There is no doubt that the cost of education is a matter of public debate. Visa officers, however, should not have suspicions merely because a particular individual puts a high value on higher education. There are many valid reasons for choosing to study in Canada in spite of the comparatively higher cost. And in this case, the evidence shows that Mr. Caianda can afford the proposed course of study.

[29] The Applicant has met his burden of proving that he has adequate funds to support himself and pay tuition for one academic year. The high cost of education in Canada is thus not an obstacle for the Applicant.



VI. Conclusion

[30] The application for judicial review is allowed. The Decision is not intelligible, transparent, or justifiable, as it only offers conclusions without any significant explanation or context beyond vague references to the record.

[31] The parties have not proposed any question for certification and I agree that none arises.

**JUDGMENT in IMM-239-22**

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

1. The application for judicial review is allowed. The matter is remitted to a different officer for redetermination.
2. There is no question of general importance for certification.

“Paul Favel”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-239-22

**STYLE OF CAUSE:** JAGPREET SINGH v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

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