

Federal Court



Cour fédérale

Date: 20230223

Docket: IMM-4270-22

Citation: 2023 FC 264

Vancouver, British Columbia, February 23, 2023

PRESENT: Associate Chief Justice Gagné

BETWEEN:

SUKHVEER KAUR

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ms. Sukhveer Kaur is a young Indian citizen who holds a Bachelor's Degree in Computer Applications from Punjabi University, Patiala. She applied for a study permit to complete a one-year post-graduate certificate in cyber security at the Saskatchewan Polytechnic College in Saskatoon.

[2] Her application was denied by a Case Processing Officer on April 2, 2022. The Officer was not satisfied that she would leave Canada at the end of her authorized stay as required by s.216(1)(b) of the *Immigration and Refugee Protection Regulations* (SOR/2002-227). The Applicant seeks judicial review of the Officer's decision.

[3] The Officer's rationale is recorded in the Global Case Management System (GCMS) notes, which read in part:

[...] From the applicant's history it is evident that applicant is not consistent with the choice of institution and programs for intended studies in Canada. Integrated search noted, 4x. [...]

[4] Neither the Officer's decision, full notes, nor the Certified Tribunal Record (CTR) provide any information as to what is meant by "Integrated search noted, 4x".

[5] At the leave stage, the Respondent filed an affidavit sworn by a legal assistant with the Department of Justice appending a series of GCMS notes and documents that are neither referred to by the Officer nor contained in the CTR. The documents relate to previous unsuccessful study permit applications made by the Applicant; they would purport to provide the background for the Officer's findings.

[6] However, it was not for the Respondent to supplement the Officer's reasons or the content of the CTR. Without the new evidence, the Court would be left in the dark as to how the Applicant's history shows inconsistencies in her choices of institutions and programs for her intended studies in Canada.

[7] The reviewing Court needs to know what evidence the Officer relied on and what criteria were used. Both are absent from the GCMS notes and from the CTR. Neither the Officer's reasons nor the Respondent's submissions satisfactorily establish that the Officer relied on the documents in question to make their decision.

[8] For this reason alone, this Application for judicial review will be granted and the file remitted to a different officer for a new determination.

[9] Neither party proposed a question of general importance for certification and no such question emanates from the facts of this case.

JUDGMENT in IMM-4270-22

THIS COURT'S JUDGMENT is that:

1. The Application for Judicial Review is granted;
2. The April 2, 2022 decision refusing the Applicant's study permit is set aside and the file is sent back for redetermination by a different officer;
3. No question of general importance is certified.

"Jocelyne Gagné"
Associate Chief Justice

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4270-22

STYLE OF CAUSE: SUKHVEER KAUR v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: FEBRUARY 22, 2023

JUDGMENT AND REASONS: GAGNÉ A.C.J.

DATED: FEBRUARY 23, 2023

APPEARANCES:

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