

Federal Court



Cour fédérale

**Date: 20230321**

**Docket: IMM-4627-22**

**Citation: 2023 FC 381**

**Ottawa, Ontario, March 21, 2023**

**PRESENT: Associate Chief Justice Gagné**

**BETWEEN:**

**JAYANT ARVIND MEWADA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Mr. Jayant Arvind Mewada is a young Indian citizen who sought a study permit to come to Canada to attend a Truck Transportation Technology program at Red River College in Winnipeg. His Application was denied because, based on the purpose of his visit, a Visa Officer was not satisfied that he would leave Canada at the end of his stay.

[2] The Applicant now seeks judicial review of this negative decision, arguing that the Visa Officer disregarded the evidence adduced, and gave reasons that show no rational nor intelligible chain of analysis.

[3] For the reasons set out below, this Application will be granted.

I. Facts

[4] The Applicant holds a Diploma in Mechanical Engineering from Gujarat Technological University, which he was awarded in 2016.

[5] He has made two previous study permit applications, both of which were denied by Immigration, Refugees and Citizenship Canada. Both applications were for a Mechanical Technician program at St. Clair College in Toronto.

[6] Since 2021, the Applicant has been employed at Dash Technologies as a Bench Sales Recruiter, performing duties that appear to be unrelated to his studies.

[7] In February 2022, the Applicant received an acceptance letter from Red River College for a Truck Transportation Technology Diploma program. He has prepaid \$17,070 towards his first year of tuition.

[8] The Visa Officer refused the Applicant's study permit application in May 2022, and the Applicant filed the present Application shortly thereafter.

II. Decision Under Review

[9] The Officer's refusal letter is dated May 4, 2022 and simply states:

...I am refusing your application on the following grounds:

- I am not satisfied that you would leave Canada at the end of your stay, as stipulated in subsection 216(1) of IRPR, based on the purpose of your visit.

[10] The Officer's notes recorded in the Global Case Management System [GCMS] reveal two main grounds for refusal; low previous grades and inconsistent educational goals between applications:

On review of all information including PA's educational history and employment history, their motivation to pursue studies in Canada at this point does not seem reasonable because client has low grades in their transcripts from 2012-2015, as well as the inconsistency of educational goals from one application to another.

[11] Regarding academic history, the Officer details their review of the Applicant's grades, and concludes "I am not satisfied that applicant has demonstrated the academic proficiency required to successfully complete the study program in Canada":

Educational documentation presented in this application reflect low to low average prior academic history - more specifically the records in the transcripts from Gujarat Technological University (2012-2015) provided which I have placed more weight on core subjects of Engineering, Computer Engineering and Mechanics.

When looking at low marks, I considered the marks of the 2012 transcript on courses of Mathematics, Engineering Physics and Hazard Management, all presenting letter grades of DD (50%). In the 2013 transcript, I considered the marks on courses of Applied Mechanics and Material Science, all presenting letter grades of FF and DD (under 50-50%). In the 2014 and 2015 transcripts, I considered the marks on courses of Applied Electrical and

Electronic Engineering, Strength of Materials, Thermal Engineering, Manufacturing Engineering, and Fluid Mechanics and Hydraulic Machines, all presenting letter grades of DD (50%).

Transcripts submitted by client reflect low-to-low average prior scholastic history, therefore I am not satisfied that applicant has demonstrated the academic proficiency required to successfully complete the study program in Canada.

[12] Regarding consistency of academic goals, the Officer's notes are:

In addition, applicant had initially applied to Mechanical Technician at St Clair College and was refused twice. Has now applied to a different program and different institution. Educational goals in Canada are not consistent from one application to another with no explanation provided. In the first and second refused applications, client was looking to pursue a program of study in Mechanical Technician at St Clair College. In the current application, client is looking to pursue a program of study in Truck Transportation Technology at Red River College.

[13] The Officer concludes that:

Based on the above balance, I am not satisfied that this applicant is a bona fide student. I have considered the client's educational history and previous refusals on file. Weighing the information on hand in this specific case, the applicant has failed to establish that they are a bona fide temporary resident who will leave Canada following the completion of their studies pursuant to section R216 (1)(b) of IRPR.

Application refused.

### III. Issues and Standard of Review

[14] The sole issue to be decided is whether the Officer erred in refusing the visa application.

The standard of review that applies is reasonableness (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 25).

IV. Analysis

*Is the Officer's decision to deny the Applicant's study permit application reasonable?*

[15] The Applicant takes issue with both of the Officer's main reasons for the refusal.

Regarding the Officer's reliance on his past low grades, the Applicant raises two main issues.

Firstly, he argues that assessment of academic proficiency is outside the realm of the Officer's discretion. He argues that it is for the Designated Learning Institution (DLI) not the Officer to assess academic proficiencies. He has been accepted by Red River College – the DLI – so the Officer's reliance on grades is inappropriate and surpasses their authority.

[16] Regarding the Officer's second reason for refusal – inconsistency of educational goals –

the Applicant submits that the Officer's reasons fail to reveal a rational chain of analysis. The

Applicant argues no intelligible or transparent justification is offered, as there is no information

as to how the Officer reached their conclusion. The Applicant also notes that his motivation letter

explained that he wants to find work as a Service engineer for heavy-duty equipment.

[17] The Respondent submits that the Officer made a reasonable decision, arguing that the

Applicant's study plan is generic and does not present any connection between his planned

studies, his past employment or future career plans. The Respondent submits that there was no

evidence before the Officer about why a diploma from an Indian college or university would be

insufficient. They further submit it was reasonable for the Officer to find that the study plan was

not logical given the intended course of study did not correlate with the Applicant's previous

academic and work history.

[18] Having considered the parties' arguments, I agree with the Applicant that the Officer's reasons are insufficient.

[19] This Court's jurisprudence allows for an immigration officer considering an applicant's grades when assessing whether they are a bona fide student who will leave Canada at the end of their studies. However, it warns that this should be done with caution, within certain limits, and explained by more detailed reasons.

[20] In *Patel v Canada (Citizenship and Immigration)*, 2020 FC 517, Justice John Norris noted that an applicant's wanting to undertake a course of studies in which they were unlikely to succeed could raise questions about whether they are a bona fide student. However, he cautioned that this is something officers should approach with care. He specifically noted the weak connection between the two concepts and the fact that visa officers do not necessarily have expertise in assessing individuals' prospects for success in a given program (*Patel*, at para 24).

[21] In *Bougrine v Canada (Citizenship and Immigration)*, 2022 FC 528, Justice Peter Pamel found there to be nothing unreasonable in an immigration officer considering grades, but underscored that an officer's reasons must show an understanding of the applicant's course load and must explain any concerns they have (*Bougrine*, at paras 15 & 23). He found in the case before him that the officer had failed to show the above caution or that he had a general understanding of the abilities required to successfully complete the program the applicant was considering.

[22] I agree with the Applicant that in this case, the Officer's reasons are insufficient on this front. The Officer failed to explain how the subjects the Applicant had received low marks in would form the core of his future studies in the Truck Technician Program.

[23] While the Applicant's grades in Mechanics were logical to consider, it is unclear how Engineering subjects, not to mention Computer Engineering, are central to the Applicant's proposed program of study. I also note that the program includes a Co-op/internship element. The Applicant's transcripts show both a "Practical Grade" and a "Theory Grade" for each subject, with the former being consistently higher than the latter for the Applicant, perhaps suggesting more of an aptitude for applied learning. Taken together, the above logically contradicts the Officer's conclusions regarding the Applicant's ability to successfully complete his study program.

[24] Turning to the Officer's other main reason for refusal, that the Applicant's educational goals are inconsistent, I also agree with the Applicant that the reasons are lacking necessary detail. The Applicant studied Mechanical Engineering, yet now works in a completely unrelated field. Combined with his lower grades in engineering, it might make sense for the Applicant to turn to a more applied field of mechanics. Again, the content of the Certified Tribunal Record does not shed light on the Officer's deficient reasons.

[25] I am mindful that visa officers have a heavy load of applications to assess and that they do not need to provide detailed reasons, but at a minimum, the content of the file should support

the decision (*Canada (Minister of Citizenship and Immigration) v Khan*, 2001 FCA 345 at para 32; *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at paras 15-17).

V. Conclusion

[26] The Officer failed to explain how the Applicant's educational goals were inconsistent and how his previous low grades in certain Engineering topics would cause him issues in his Truck Transportation Technology Diploma program. For these reasons, this Application for judicial review is granted.

[27] The parties have proposed no question of general importance for certification and no such question arises from the facts of this case.



**JUDGMENT in IMM-4627-22**

**THIS COURT’S JUDGMENT is that:**

1. The Application for judicial review is granted, the decision of the Visa Officer dated May 4, 2022 is set aside and the matter is remitted to a different Officer for a new determination;
2. No question of general importance is certified;
3. No costs are granted.

“Jocelyne Gagné”  
\_\_\_\_\_  
Associate Chief Justice

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

**DOCKET:** IMM-4627-22

**STYLE OF CAUSE:** JAYANT ARVIND MEWADA 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:** MARCH 21, 2023

**APPEARANCES:**

Samin Mortazavi FOR THE APPLICANT

Ely-Anna Hidalgo-Simpson FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Pax Law Corporation FOR THE APPLICANT  
North Vancouver, British Columbia

Attorney General of Canada FOR THE RESPONDENT  
Vancouver, British Columbia