

Federal Court



Cour fédérale

Date: 20240517

Docket: IMM-1869-23

Citation: 2024 FC 757

Toronto, Ontario, May 17, 2024

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

DANIAL NASERIKARIMVAND

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] The Applicant, Danial Naserikarimvand, seeks judicial review of the decision of a visa officer denying his application for a study permit. Mr. Naserikarimvand had applied for a study permit to pursue a Masters in Business Administration [MBA] program at Trinity Western University [TWU]. The Officer concluded that Mr. Naserikarimvand's proposed program did not appear reasonable given his employment and educational history, or his future career path. As a

consequence, the Officer was not satisfied that the Applicant would leave Canada at the end of his stay.

[2] For the reasons that follow, I will grant this application for judicial review, as I find that the Officer's decision was not responsive to, or supported by, the application materials submitted by Mr. Naserikarimvand. The Officer's decision lacks justification and is, as such, unreasonable.

II. **BACKGROUND**

[3] The Applicant obtained a Bachelor's degree in Mechanical Engineering in 2019 and has worked as a Designer and Assistant Project Manager with a construction company in Iran since 2017. The Applicant was accepted into the International MBA program at TWU in September 2022. In October 2022 he submitted an application, together with supporting materials, for a study permit to enable him to come to Canada for the MBA program.

[4] In his proposed study plan, the Applicant explained his rationale for wanting to obtain an MBA from TWU. He stated that his ultimate goal is to start up his own "administrative-engineering company" in Iran, and noted that an MBA would give him the necessary management and business knowledge to ensure the company's profitability.

[5] The Applicant also described his interest in an international MBA program, such as the one offered at TWU, noting that they teach students about the "global challenges facing companies, foreign markets, global economics, and cross-border relationships, as well as the leadership and communication skills necessary to thrive in multinational corporations."

[6] In addition to assisting in his future plans to start a business, the Applicant also indicated that his current employer has offered to hold his position for him during his studies and to offer a promotion upon his completion of the MBA.

III. **DECISION**

[7] In a decision letter dated January 27, 2023, an Officer rejected the Applicant's work permit application. The substance of the letter states:

- I am not satisfied that you will leave Canada at the end of your stay as required by paragraph R216(1)(b) of the IRPR (<https://laws-lois.justice.gc.ca/eng/regulations/sor-2002-227/section-216.html>). I am refusing your application because you have not established that you will leave Canada, based on the following factors:
- The purpose of your visit to Canada is not consistent with a temporary stay given the details you have provided in your application.

[8] In supporting notes entered into the Global Case Management System [GCMS], which form a part of the reasons for decision, the Officer questioned the relevance of an MBA in Canada to the Applicant's previous education and employment history, noting that his "previous studies were in an unrelated field." The Officer acknowledged that the Applicant claims he wants to open a business, but questioned why he seeks to complete his MBA in Canada and how the program would be a logical progression in his career.

[9] The Officer also noted that similar programs (for example, an MBA program at the University of Tehran) are available to the Applicant with more competitive tuition fees, and that the benefits of completing an MBA in Canada do not appear to outweigh the cost. These facts led

the Officer to conclude that the Applicant had failed to establish that he would leave Canada at the end of his studies, and the application was rejected on this basis.

IV. ISSUES AND STANDARD OF REVIEW

[10] The Applicant has raised two issues on judicial review:

1. Was the Officer's decision reasonable?
2. Did the Officer breach the duty of procedural fairness owed to the Applicant?

[11] In my view, this application must be granted on the first of the above issues, as I have found the Officer's decision to be unreasonable. As such, I need not consider the second issue on the fairness of the process leading up to the decision.

[12] The parties agree, as do I, that the standard of review applicable to the substance of the Officer's decision is reasonableness: *Canada (Minister of Citizenship and Immigration v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*]). A reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker": *Vavilov* at para 85. The reviewing court must ensure that the decision bears the hallmarks of reasonableness; namely, that it is justifiable, intelligible, and transparent (*Vavilov* at para 99). For a decision to be set aside, the reviewing court must determine that the shortcomings or flaws must be central to the decision (*Vavilov* at para 100).

V. **RELEVANT PROVISIONS**

[13] The issuance of study permits is guided by subsection 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR], which reads:

Study permits

216 (1) Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign national if, following an examination, it is established that the foreign national

(a) applied for it in accordance with this Part;

(b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;

(c) meets the requirements of this Part;

(d) meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act; and

(e) has been accepted to undertake a program of study at a designated learning institution.

[Emphasis added.]

Permis d'études

216 (1) Sous réserve des paragraphes (2) et (3), l'agent délivre un permis d'études à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

a) l'étranger a demandé un permis d'études conformément à la présente partie;

b) il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9;

c) il remplit les exigences prévues à la présente partie;

d) s'il est tenu de se soumettre à une visite médicale en application du paragraphe 16(2) de la Loi, il satisfait aux exigences prévues aux paragraphes 30(2) et (3);

e) il a été admis à un programme d'études par un établissement d'enseignement désigné.

[Je souligne.]

[14] Under paragraph 216(1)(b), an officer must be satisfied that a study permit applicant will leave Canada by the end of their authorized stay period. The officer's decision in this case was based on this broad requirement.

VI. ANALYSIS

A. *The Officer's decision was unreasonable*

[15] I have concluded that the Officer's decision is unreasonable for two primary reasons: (1) the Officer unreasonably questioned the Applicant's motivation for studying and drew inferences from the Applicant's study plan that were simply not available to the Officer based on the record; and (2) the Officer considered a locally available alternative to the TWU MBA program without any evidence to support the finding that this alternative was genuinely comparable to the Applicant's proposed Canadian course of study.

(1) The Officer unreasonably assessed the Applicant's study plan

[16] The Officer's GCMS notes suggest general skepticism with the Applicant's study plan and, more specifically, with the Applicant's rationale for wanting to obtain a Canadian MBA.

The officer states:

The study plan does not appear reasonable given the applicant's employment and education history. I note that the applicant's previous studies were in an unrelated field. The applicant has previously completed a Mechanical Engineering degree and wishes to pursue an MBA. It is unclear how obtaining this degree in a Canadian institution will benefit the applicant's education and career path in their home country.

[17] There are two key problems with the Officer's reasoning. The first is that there is simply no basis, in either the evidence or in logic, to find that it does not make sense for an engineering graduate, who works in a business and wants to start his own business, to pursue an MBA program. It is true that MBA programs are different from mechanical engineering programs, but this on its own does not make it illogical for an engineer to want to obtain an MBA. On the contrary, it is patently clear to me that an engineer who aspires to run a business would require some business training to succeed, which is precisely the rationale provided by the Applicant in his study plan.

[18] Furthermore, this Court has specifically noted that an MBA is a general degree that may be applicable to any number of jobs. To succeed in both of the Applicant's career goals – which include both advancement in his workplace and starting his own business – an MBA is a logical educational pathway. As Justice Grammond recently stated in *Safarian v Canada (Citizenship and Immigration)*, 2023 FC 775 at para 5: “With respect, these reasons are devoid of logic. People often pursue an MBA after a first degree in a different discipline and after acquiring work experience.”

[19] The second problem arises at the end of the above passage. The Officer found it unclear how a degree in a Canadian institution will benefit the Applicant's career path. This was an unreasonable finding because: (i) the Officer failed to consider the rationale that the Applicant provided as to why he wanted to study in Canada; and (ii) the Officer did not appear to appreciate that the Applicant had applied to an *international* MBA program, and explained in his study plan why this would be of particular benefit in furthering his career plans.

[20] With regard to the Applicant's desire to pursue an MBA, and to do so in Canada, the Applicant stated:

My ultimate goal is to start my own business and set up an administrative-engineering company in Iran with the help of my father. He was an experienced executive manager and is now retired. As I mentioned, I got my bachelor's degree in the mechanical engineering field. However, to start a company and lead it on a profitable path, I need to have management and business knowledge...

I choose to study in Canada since Canadian universities offer high-quality education, and Iran's Ministry of Science approves the credentials of Canadian universities. ... Carrying back this experience to my country could set me apart from others. Not only can I start a company with help from my father's knowledge and experience, but I can get a promotion and a better salary in the job offered by Avita Ideh Pardaz.

[21] The Applicant also explained why he was particularly drawn to TWU's international MBA program:

An MBA in International Business is similar to a regular MBA degree. Still, it will also teach students about the global challenges facing companies, foreign markets, global economics, and cross-border relationships, as well as the leadership and communication skills necessary to thrive in multinational corporations...

I am confident that the courses offered in Business Administration and International Business program at Trinity Western University will help me develop such skills. These courses include Operations Management; Business Strategy; Leadership, Management, and Systems Change; and Comparative International Management.

[22] The Officer's reasons do not engage with these submissions and on my own review of the Applicant's study plan I see no logical basis for the Officer to conclude that the Applicant's desire to pursue a Canadian international MBA program is unreasonable. This Court has granted judicial review in numerous other cases in which officers' findings have been similarly detached

from the evidentiary record: *Ahadi v Canada (Citizenship and Immigration)*, 2023 FC 25 at para 22; *Kheradpazhooh v Canada (Citizenship and Immigration)*, 2018 FC 1097 at para 18; *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 21 [*Aghaalikhani*].

[23] I find that the Officer took an overly narrow view of the TWU MBA program’s potential value for the Applicant’s future. Rather than assess the Applicant’s study plan based on its content, the Officer appears to have simply assumed that it is inherently unreasonable for an Iranian mechanical engineer to want to pursue an MBA program in Canada. Not only is this finding unsupported by the documentary record, but it is also the precise kind of “foray into career counselling” that this Court has found to be unreasonable on several occasions: see *Hassani v Canada (Citizenship and Immigration)*, 2023 FC 734 at para 36 [*Hassani*]; *Asghari v Canada (Citizenship and Immigration)*, 2023 FC 606 at para 21; *Jafari v Canada (Citizenship and Immigration)*, 2023 FC 183 at paras 12-14; *Jalilvand v Canada (Citizenship and Immigration)*, 2022 FC 1587 at para 18; *Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at para 18; *Adom v Canada (Citizenship and Immigration)*, 2019 FC 26 at paras 16-17.

[24] The following remarks from Justice Gascon in *Hassani* at para 36 are directly applicable to the present case:

[36] A visa officer must be careful not to “foray into career counselling” [citation omitted] and not to speculate about the relevance of an applicant’s study plan, especially when an applicant provided explanations that were not referenced by the officer in their reasons. In the present circumstances, I am not convinced that the Officer was alive to the representations made by Ms. Hassani in her study plan.

(2) The Officer unreasonably considered locally available alternatives without any evidence to support their claim

[25] This Court has found on multiple occasions that it is unreasonable to reject a study permit application based on a presumed but unsupported finding that lower cost local alternatives to a proposed program of study are available: *Aghaalikhani* at para 20; *Yuzer v Canada (Citizenship and Immigration)*, 2019 FC 781 at para 21; *Musasiwa v Canada (Citizenship and Immigration)*, 2021 FC 617 at para 27; *Afuah v Canada (Citizenship and Immigration)*, 2021 FC 596 at paras 15; *Zibadel v Canada (Citizenship and Immigration)*, 2023 FC 285 at para 41.

[26] In this case, the Officer found that programs similar to the TWU MBA (such as the MBA at the University of Tehran) are available to the Applicant. Absent from the record was any information about this alternative, particularly given that the TWU program is an International MBA, and the Applicant provided specific reasons in his plan of study as to why he felt this kind of program would further his career goals. As Justice Gascon recently noted in *Aghaalikhani* at para 20:

[20] In the circumstances, it was not reasonable, in my opinion, for the Officer to find that Mr. Aghaalikhani was not a genuine student on the basis of elusive programs at home, while ignoring the evidence on Mr. Aghaalikhani's reasons to come to Canada to obtain a diploma in a field of study he already knows. In his motivation letters to CIC, Mr. Aghaalikhani explained why the contemplated studies would positively contribute to his career and complete his education in industrial management. In those circumstances, discounting Mr. Aghaalikhani's study permit application because of alternative options not even existing in the evidence was unreasonable.

[27] If the Officer wished to compare and contrast an MBA program in Iran to the Applicant's proposed program of study, some reference should have been made to available information on, for example, tuition costs for the Iranian program and the equivalency of the Iranian MBA to the TWU International MBA program. As in the above-cited cases, in the absence of such information, the Court has no basis on which to assess the reasonableness of the Officer's findings.

VII. **CONCLUSION**

[28] For the above reasons, this application for judicial review will be granted and the matter will be remitted for redetermination.

[29] The parties agree that no question of general importance arises from this case and none will be stated.

JUDGMENT in IMM-1869-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted;
2. The matter is remitted to Immigration, Refugees and Citizenship Canada for reconsideration by a different Officer; and
3. No question of general importance is certified.

"Angus G. Grant"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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