

Federal Court



Cour fédérale

Date: 20240826

Docket: IMM-7043-23

Citation: 2024 FC 1323

Ottawa, Ontario, August 26, 2024

PRESENT: Madam Justice Go

BETWEEN:

NEGIN FARHAT

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Ms. Negin Farhat [Applicant] is a citizen of Iran who applied for a Temporary Resident Visa [TRV] in May 2023, hoping to attend her sister's wedding reception in Canada.

[2] By a letter dated May 24, 2023, a visa officer [Officer] refused the application as the Officer was not satisfied that the Applicant would leave Canada at the end of her authorized stay

[Decision]. The Officer found that the Applicant had significant family ties in Canada, the purpose of visit did not appear reasonable given the Applicant's socio-economic situation, and the Applicant's incentives to remain in Canada may outweigh her ties to her home country.

[3] The Applicant seeks to judicially review the Decision. I grant the application as I find the Decision unreasonable.

II. Analysis

[4] The Applicant raises the following issues, arguing that the Decision was unreasonable and that the Officer breached procedural fairness:

- a. The Officer erred by finding that her immediate family resides in Canada, failing to account for the fact that her life is in Iran.
- b. The Officer erred by questioning her financial ability, contrary to the evidence she presented.
- c. The Officer's decision amounts to a veiled credibility finding and the Officer should have provided the Applicant the opportunity to respond.

[5] The determinative issue is the reasonableness of the Decision, for which the parties agree that the standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. The Court should assess whether the decision bears the requisite hallmarks of justification, transparency and intelligibility: *Vavilov* at para 99. The Applicant bears the onus of demonstrating that the decision was unreasonable: *Vavilov* at para 100.

[6] I find the Officer erred by failing to consider the Applicant's ties in Iran, and the Officer's finding that the purpose of visit appeared unreasonable due to the Applicant's socio-economic situation lacks justification.

A. *Family Ties*

[7] The Applicant submits the Officer's conclusion regarding her family ties lacked clear reasoning and ignored her evidence that she resides with her mother in Iran and that her only immediate family member in Canada is her sister, for whom she applied for a TRV to visit. The Applicant also points to her other ties to Iran, including her schooling and employment. It would be unreasonable, argues the Applicant, of a visa officer to deny a TRV application to visit a family member for the reason that that family member represents a significant tie to Canada. This would render the very purpose of TRVs nugatory.

[8] I agree.

[9] While visa officers are not required to set out extensive reasons in their decisions, given the high volume of visa applications and narrow consequences of removal, visa officers must nevertheless set out reasons that are responsive to the TRV application before them. A visa officer's refusal, when read in light of the record, must include an adequate explanation and justification for why a TRV was refused: *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at para 17.

[10] In this case, the Officer's reasons, found in the Global Case Management System notes, were brief. The Officer merely pointed to the Applicant's ties with immediate family members in Canada to conclude that this would diminish her motivation to return to Iran. The Officer made no mention of the Applicant's study and employment in Iran, let alone the Applicant's family ties with her mother.

[11] The Applicant cites *Rudder v Canada (Citizenship and Immigration)*, 2009 FC 689 [*Rudder*], where the Court allowed the judicial review, finding that the officer had failed to account for the factors set out in the relevant operational guideline; and did not consider evidence establishing compelling reasons for the applicant to return to her home country: *Rudder* at paras 32-36.

[12] While the facts in *Rudder* are different, I find that the Court's comment with regard to the need for an officer to consider evidence for an applicant's return to her home country, applies to this case.

[13] The Applicant further submits, and I agree, that when a TRV application involves ties to both countries, the Officer must weigh these ties and explain why the connections in Canada were considered to be more significant: *Balepo v Canada (Citizenship and Immigration)*, 2016 FC 268 at paras 16-19 and *Khansari v Canada (Citizenship and Immigration)*, 2023 FC 17 at para 18. Here, the Officer did not mention nor explain why the Applicant's ties in Iran would be less significant than her ties in Canada.

[14] The Respondent raises several factors to argue that the Applicant failed to establish she would to Iran. The Respondent points to the evidence indicating that the Applicant's sister was her "sole support system" and thus represents a significant tie to the Applicant. The Respondent submits the sister did not explain why she could not travel to Iran to celebrate her marriage, arguing that her explanation regarding her employment was insufficient. Further, the Respondent highlights that there was no evidence of a wedding reception invitation and the record indicates the sister was registered as married in February 2022. Finally, the Respondent questions the Applicant's evidence of schooling and employment, noting that the letters did not provide clarity on her travel plans.

[15] I reject the Respondent's submissions for two reasons. First, the Officer did not offer these submissions as reasons for the Decision; the Respondents' arguments thus inappropriately bolster the Decision after the fact. Second, as the Applicant points out, some of the factors the Respondent raises were addressed in the sister's invitation letter and the Applicant's representative's submission.

[16] At the hearing, the Respondent further argued that the Officer's reference to the Applicant's "socio-economic situation" was an all-encompassing term that necessarily included an assessment of family ties in the Applicant's home country. I find this argument lacks merits and is yet another incident of buttressing reasons for the Decision after the fact. Further, as noted below, the Court often has concerns about the phrase "socio-economic situation" because of its lack of specificity. Allowing officers to rely on this phrase as a "catch-all" rationale is

inconsistent with the requirements of justification, transparency and intelligibility as set out in *Vavilov*.

B. *Socio-Economic Situation*

[17] The Applicant submits she clearly demonstrated her financial capability to travel to Canada and that there is no reasonable basis for finding that her socio-economic situation contradicts her purpose to visit Canada. She questions what socio-economic expectations the Officer had expected that would warrant a short trip to Canada, arguing that her evidence suggests otherwise. The Applicant emphasizes that she has a stable life in Iran: she attends school, is employed, owns assets, and lives with her mother, who will not be accompanying the Applicant to Canada. Additionally, the Applicant argues she has proven her financial ability to travel, including her sister's ability to accommodate her.

[18] The Respondent submits the Officer considered the Applicant's evidence, but ultimately concluded there was insufficient evidence to support her return to her home country upon a global consideration of the evidence. The Respondent submits that as noted in *Babu v Canada (Citizenship and Immigration)*, 2013 FC 690 at paras 20-21, isolated factors cannot be relied upon to argue that the Officer's assessment was unreasonable. The Respondent concludes that the Applicant's arguments amount to an impermissible request for this Court to reweigh the evidence.

[19] I disagree with the Respondent. Nothing in the Decision suggests that the Officer considered the Applicant's financial and employment evidence, let alone weighed the evidence.

[20] Further, the Court often cautions against the use of statements about “socio-economic situation” as reasons for refusal. In a recent decision, *Kashefi v. Canada (Minister of Citizenship and Immigration)*, 2024 FC 856 [*Kashefi*], the Court described a similar statement in that case as “opaque,” as it was not possible to “glean from the record any further explanation about which aspects of the Applicants’ social or economic situation lead the Officer to conclude that they will not leave Canada at the end of their authorized stay:” *Kashefi* at para 12.

[21] I draw a similar conclusion in this case. By adopting a general statement about the Applicant’s socio-economic situation without referring to the evidence submitted by the Applicant or engaging in an analysis of the evidence, the Officer failed to justify their finding with respect to the Applicant’s socio-economic situation and its link to the purpose of visit, rendering the Decision unreasonable.

III. Conclusion

[22] The application for judicial review is granted.

[23] There is no question for certification.

JUDGMENT in IMM-7043-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted and the matter sent back for redetermination by a different officer.
2. There is no question for certification.

"Avvy Yao-Yao Go"
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7043-23

STYLE OF CAUSE: NEGIN FARHAT v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

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DATE OF HEARING: AUGUST 21, 2024

JUDGMENT AND REASONS: GO J.

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