

Federal Court



Cour fédérale

Date: 20241206

Docket: IMM-6547-23

Citation: 2024 FC 1987

Toronto, Ontario, December 6, 2024

PRESENT: Madam Justice Go

BETWEEN:

**Amir VAFAEI
Liana VAFAEI
Maryam DIBANEZHAD**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Amir Vafaei [Principal Applicant or PA], his spouse Maryam Dibanezhad, and their daughter Liana Vafaei [the Applicants] are citizens of Iran. The PA applied for a Study Permit to pursue a Masters of Business Administration [MBA] degree. His spouse and daughter submitted

work permit and visitor visa applications, respectively, with a view to accompanying the PA to Canada.

[2] On May 3, 2023, an Immigration, Refugees and Citizenship Canada [IRCC] officer [Officer] refused the Applicants' applications [Decision].

[3] The Applicants seeks a judicial review of the Decision. I find the Decision unreasonable and I grant the application.

II. Analysis

[4] The Applicants submit the Decision was unreasonable and the Officer breached procedural fairness.

[5] Applying the reasonableness standard of review per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, I find the Decision unreasonable for two reasons. First, the Officer failed to consider the evidence concerning the PA's ties to Iran. Second, the Officer's treatment of the letter from the PA's employer was unreasonable.

A. *Officer's failure to consider evidence concerning the PA's ties to Iran*

[6] The Officer's findings, with regard to the issue of the PA's ties to Iran, are found in the following portion of the Global Case Management System [GCMS] notes:

The PA does not have significant family ties outside Canada. PA is traveling with their spouse and child, I have concerns that the ties to

Iran are not sufficiently great to motivate departure from Canada. The ties to Iran are weaken [sic] with the intended travel to Canada by the client as the travel involves their immediate family; the motivation to return will diminish with the applicant's immediate family members residing with them in Canada.

[7] In making these findings, I agree with the Applicants that the Officer failed to consider the evidence concerning the PA's family, professional, and financial ties to Iran.

[8] In his study plan, the PA provided detailed information about his family ties to Iran, including the PA being "the youngest member of a close-knit family of 7," his close relationships with his family in general, and with his parents in particular. The PA also made submissions about his professional network in his country and his desire to keep those ties. The PA indicated that he has been working for the same employer for the past five years, and will be returning to the same employer after completing his studies. The PA also provided submissions and documentary evidence of his financial ties to his home country.

[9] The Officer did not mention any of the above-cited evidence that contradicted their finding that "the [PA] does not have significant family ties outside Canada." Nor did the Officer engage with the evidence with regard to the PA's professional and financial ties to Iran. The Decision's lack of mention of the evidence regarding these ties signals that the Officer ignored the evidence.

[10] The facts in this case are similar to that in *Jafari v Canada (Citizenship and Immigration)*, 2023 FC 183 [*Jafari*]. The officer in *Jafari* adopted the identical wording – with the same typo – to reject the applicant's application, stating simply: "[t]he ties to Iran are weaken

[sic] with the intended travel to Canada by the client as the travel involves their immediate family; the motivation to return will diminish with the applicant's immediate family members residing with them in Canada." The Court in *Jafari* set aside the decision, finding that the officer "does not reference any of the evidence on the Applicant's ties to Iran, including the fact that he owns property there. The Officer does not engage with the fact the Applicant has no family or friends in Canada, or his employment prospects and the promotion offer from his current employer when he returns to Iran."

[11] Similarly, the Court in *Masouleh v Canada (Citizenship and Immigration)*, 2023 FC 1159 [Masouleh] adopted the same reasoning as in *Sadeghinia v Canada (Citizenship and Immigration)*, 2023 FC 107, when it concluded at para 33:

The Officer's GCMS notes lack any explanation of the Principal Applicant's family ties in Iran and how they were assessed in the context of her lack of family ties in Canada, beyond her husband and minor child, who will be accompanying her for the duration of her studies. Although the Officer is not required to mention every piece of evidence, a failure to mention evidence that clearly contradicts the Officer's finding supports the inference that it was overlooked

[citations omitted]

[12] Here, I reach the same conclusion as the Court did in *Masouleh* and *Jafari*.

[13] While I agree with the Respondent that the Officer was entitled to consider the fact that the PA's ties to Iran would be weakened due to the fact that he is travelling with his immediate family, the Officer in this case erred by not engaging with the evidence about the PA's ties to Iran. The case of *Aryanfar v Canada (Citizenship and Immigration)*, 2024 FC 1712, cited by the

Respondent, is distinguishable on the facts given the Court's finding about the applicant's ties to Iran as merely an assertion (at para 7).

[14] The Respondent also cites *Chhetri v Canada (Citizenship and Immigration)*, 2011 FC 872 to argue that visa officers must assess the strength of ties that bind or pull an applicant to their home country against incentives that might induce a foreign applicant to overstay. However, this was precisely what the Officer failed to do in this case: the Officer focused on the ties that pull the PA to Canada, without analyzing the ties that bind him to Iran.

B. *Officer's treatment of the employer's letter was unreasonable*

[15] The PA included a letter from his employer with his study permit application. The Applicants submit that the Officer's findings with respect to the employer's letter were unreasonable. Having reviewed the employer's letter, I agree.

[16] Contrary to the Officer's findings that the employer's letter is "generic in its details" and simply "lists a series of tasks that were/will be performed by the applicant along with positive character attributes," the letter confirms the employer's offer of promotion accompanied by a salary increase, conditional upon the PA's completion of the MBA program. I pause here to note that the letter does not in fact describe any "positive character attributes" of the PA. In that regard, the Officer's findings were factually incorrect.

[17] While I may not share the Applicants' view that the letter explained in detail how the MBA program may benefit the employer, I share similar concerns as expressed by the Court in

Hagh Shenaz v Canada (Citizenship and Immigration), 2024 FC 1086 [*Hagh Shenaz*] dealing with similar findings of an officer regarding an employer's letter.

[18] Just as Justice Battista concluded in *Hagh Shenaz*, I find the employer's letter in this case was not designed to support the PA's study plan, but to demonstrate the likelihood of his return to stable future employment in Iran.

[19] By misconstruing both its content and purpose, the Officer's findings regarding the employer's letter were therefore unreasonable.

[20] Given my findings above, I need not consider the remainder of the Applicants' arguments.

III. Conclusion

[21] The application for judicial review is granted.

[22] There is no question for certification.

JUDGMENT in IMM-6547-23

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-6547-23

STYLE OF CAUSE: AMIR VAFAEI, LIANA VAFAEI, MARYAM
DIBANEZHAD v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: HELD VIA VIDEOCONFERENCE

DATE OF HEARING: DECEMBER 4, 2024

JUDGMENT AND REASONS: GO J.

DATED: DECEMBER 6, 2024

APPEARANCES:

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