

Federal Court



Cour fédérale

**Date: 20250127**

**Docket: IMM-2903-24**

**Citation: 2025 FC 162**

**Vancouver, British Columbia, January 27, 2025**

**PRESENT: The Honourable Madam Justice Kane**

**BETWEEN:**

**KAMALJIT KAUR**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, Kamaljit Kaur [Ms. Kaur], a citizen of India, seeks judicial review of the decision of an immigration officer [the Officer], dated January 12, 2024, refusing her application for permanent residence under the Home Child Care Provider Class. The Officer found that Ms. Kaur did not meet the required eligibility criteria, in particular the education requirements.

[2] For the reasons that follow, the Application for Judicial Review is granted, and the application must be redetermined.

I. Background

[3] Ms. Kaur practiced as a dentist in India. She applied for permanent residence in Canada to work as a child care provider under the Home Child Care Provider Pilot and Home Support Worker Pilot [Program].

[4] The Home Child Care Provider and Home Support Worker classes were created pursuant to section 14.1 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act].

[5] Guidelines issued by Immigration, Refugees and Citizenship Canada [IRCC] explain the eligibility requirements, which include language proficiency, type and length of work experience, and minimal levels of education (IRCC, “Home Child Care Provider Pilot and Home Support Worker Pilot: Assessing the application against selection criteria” [Program Guidelines]).

[6] The Program Guidelines indicate, among other things, that an applicant who has not completed a Canadian one-year post-secondary (or higher) educational credential must demonstrate that they have an equivalent foreign educational credential, as confirmed by an Educational Credential Assessment [ECA] report issued by an organization designated by IRCC.

[7] The *Immigration and Refugee Protection Regulations*, SOR/2002-227 [the *Regulations*], provide the definition of “Canadian educational credential” at subsection 73(1) as:

<p><b><i>Canadian educational credential</i></b> means any secondary school diploma or any post-secondary diploma, certificate or credential that is issued on the completion of a Canadian program of study or training at an educational or training institution that is recognized by the provincial authorities responsible for registering, accrediting, supervising and regulating such institutions.</p>	<p><b><i>attestation d’équivalence</i></b> S’entend d’une évaluation faite par une institution ou organisation désignée en vertu du paragraphe 75(4), à l’égard d’un diplôme, certificat ou attestation étranger, attestant son équivalence avec un diplôme canadien et se prononçant sur son authenticité.</p>
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[8] Because Ms. Kaur does not have a Canadian post-secondary (or higher) educational credential, she provided an ECA report from a designated organization, World Education Services [WES], to show that her foreign education credential is equivalent to a completed Canadian 1-year post-secondary (or higher) educational credential.

[9] The ECA report, prepared by WES, dated April 8, 2021, (within five years of her application, as required) states, “Canadian Equivalency Summary: Five years of professional study in dentistry”. The WES analysis acknowledges Ms. Kaur’s 2009 Bachelor of Dental Surgery Degree. Under the “Remarks” heading, the WES states, “the Bachelor of Dental Surgery is the first professional degree in dentistry in India”. The WES does not include a statement that the Bachelor of Dental Surgery is the equivalent of a completed Canadian 1-year post-secondary (or higher) educational credential.

## II. The Decision

[10] The Officer's refusal letter dated January 12, 2024, and the Global Case Management System [GCMS] notes constitute the reasons for the decision. The Officer's letter states that an applicant must satisfy the Officer that they hold:

(A) a completed Canadian educational credential of at least one year of post secondary studies, or

(B) a completed foreign educational credential from a recognized institution AND an Educational Credential Assessment (ECA) report issued within five years before the date on which the application is made-indicating that your completed foreign educational credential is equivalent to at least a completed one-year Canadian post- secondary educational credential, issued by an organization designated by the IRCC.

[11] The letter states:

I am not satisfied that you or your family member meet the requirements of the Act and are not inadmissible to Canada. Your application for permanent residence in Canada as a member of the Home Child Care Provider Class was considered on its substantive merits and has been refused as per R70(1)(d):

**70(1)** An officer shall issue a permanent resident visa to a foreign national if, following an examination, it is established that **(d)** the foreign national meets the selection criteria and other requirements applicable to that class.

[12] The GCMS notes are very brief and state:

Client submitted a (*sic*) ECA report issued by WES as proof of Canadian Equivalency for education issued on 2021/04/08 (edoc 571116060) – equivalent to 5 years of professional study in Dentistry. Client's foreign credential is not equivalent to a completed Canadian post-secondary educational credential.

As such, PA does not meet R70(1)(d).

FILE REFUSED.

III. The Applicant's Submissions

[13] Ms. Kaur submits that the decision is not reasonable as it lacks a rational analysis of the evidence she provided in support of her application.

[14] Ms. Kaur submits that the ECA report is an authoritative evaluation of how her foreign education credentials compare to Canadian credentials and the WES's conclusion that the Canadian equivalent is "Five years of professional study in dentistry" is at least equivalent to a Canadian post-secondary education. She submits that her credentials meet and exceed the criteria for the Program.

[15] In response to the Respondent's argument that the WES failed to clearly state equivalency to a completed Canadian post-secondary educational credential, Ms. Kaur argues that the Officer misinterpreted what constitutes equivalence. She argues that five years of professional dentistry study is obviously a professional degree, and the study required to achieve that degree surpasses a one-year post-secondary program in Canada.

[16] Ms. Kaur argues that the Officer simply failed to engage with all the evidence, which clearly shows that she meets all the eligibility requirements. She submits that the Officer focussed on a form of words in the ECA report and applied a very narrow interpretation, rather than considering the substance of the ECA report.

#### IV. The Respondent's Submissions

[17] The Respondent submits that the onus is on an applicant to establish that they meet all the requirements of the program under which they seek to obtain a visa or work permit. The Respondent submits that Ms. Kaur failed to establish that her foreign educational credential is the equivalent of a completed post-secondary educational credential of at least one year.

[18] The Respondent points to the criteria for the Program and the IRCC website, which provides information to program applicants, including about foreign credentials. The Respondent notes that the program guidelines state that the ECA must “clearly state that your completed foreign credential is equal to a completed Canadian one year post secondary education credential or higher.” The website further notes, “the assessment outcome stated in the ECA Report is conclusive evidence that an applicant’s completed foreign educational credentials are equivalent to at least a completed Canadian 1 year post-secondary educational credential.”

[19] The Respondent submits that the ECA did not clearly state this and as a result, the Officer had no choice but to find that Ms. Kaur had not met the requirements, relying on *Preeti v Canada (Minister of Citizenship and Immigration)*, 2023 FC 551 at para 16 [*Preeti*].

[20] The Respondent argues that the ECA report is only proof that Ms. Kaur had five years of dentistry study; it is not evidence that the dentistry study resulted in the conferment of a credential—i.e., a diploma, certificate or other credential—that is equivalent to a Canadian

credential, as required. The Respondent suggests that Ms. Kaur should have approached the WES to seek clarification of the WES assessment and to provide a clear and positive statement.

V. The Standard of Review

[21] There is no dispute that the Court reviews the Officer's decision on the standard of reasonableness. Whether the decision is reasonable is guided by the principles set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*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 paras 85, 102, 105–07). The Court does not assess the reasons against a standard of perfection (*Vavilov* at para 91), nonetheless, the reasons must permit the Court to understand why the application was refused and to determine that the conclusion falls within the range of reasonable outcomes. A decision should not be set aside unless it contains “sufficiently serious shortcomings ... such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (*Vavilov* at para 100).

VI. The Decision is not reasonable

[22] The Court notes that the facts and arguments in this case are almost identical to the facts, arguments and supporting evidence in *Lakhwinder Kaur v Canada (Citizenship and Immigration)*, 2024 FC 251 [*Lakhwinder Kaur*], where Justice Go found that the officer's decision—that the applicant's five years of professional study in dentistry was not equivalent to the required completed Canadian one-year post-secondary educational credential—was

unreasonable. In *Lakhwinder Kaur*, the applicant attended the same university, obtained the same degree in dentistry, sought permanent residence pursuant to the same program, and submitted an ECA report issued by WES that is identical in content to that of Ms. Kaur in the present case.

[23] In both *Lakhwinder Kaur* and the present case, the WES does not include a definitive statement that the “five years of professional study in dentistry” and “the [degree that] is the first professional degree in dentistry in India” equates to a completed Canadian one-year post-secondary educational credential; nor does the WES state that it does NOT equate to such a credential.

[24] As noted, the Respondent relies on *Preeti*, where Justice Fothergill found that the officer had no choice but to refuse the application for permanent residence under a different program, based on failure to meet the educational eligibility criteria because the WES did not establish that the applicant’s foreign educational credential was equivalent to a completed one-year post-secondary (or higher) educational credential. However, in *Preeti*, unlike the present case, the WES included the statement “[t]he credential is not comparable to a Canadian education credential” [Emphasis added].

[25] Similarly, in *Ajaz v Canada (Citizenship and Immigration)*, 2023 FC 876 [*Ajaz*], Justice McDonald found that the Officer’s refusal of the work permit based on finding that the WES report stated that the applicant’s study of nursing in Pakistan was not equivalent to the required post-secondary credential was reasonable. However, in *Ajaz*, the WES clearly stated that the credential was not equivalent to a Canadian education credential.



[26] In *Lakhanpal v Canada (Citizenship and Immigration)*, 2021 FC 694, Justice Sadrehashemi found the officer's refusal of a work permit unreasonable for failing to explain why the applicant's education was insufficient to show equivalence to a secondary school diploma (which was the requirement for the Interim Pathway for Caregivers Program) despite that the WES clearly stated that the applicant's education was "not comparable to a complete Canadian educational credential".

[27] Unlike *Preeti, Ajaz and Lakhanpal*, as noted above, there is no statement in Ms. Kaur's ECA report that her studies are not comparable to "at least a completed one-year Canadian post-secondary educational credential". The ECA report, as noted above, states, under the Canadian Equivalency Summary: "Five years of professional study in dentistry"; acknowledges the 2009 Bachelor of Dental Surgery Degree; and also states, "the Bachelor of Dental Surgery is the first professional degree in dentistry in India".

[28] The Certified Tribunal Record [CTR], which comprises all the documents provided to the Officer, included Ms. Kaur's completed application form, passport, offer of employment as a caregiver, ECA report, certificate from Baba Farid University of Health Sciences showing that she obtained a bachelor's degree in 2008, transcripts from Baba Farid University of Health Sciences (showing pass marks for each course in each year of the program), and letters from the dental clinic where she worked as a dentist for several years.

[29] The Officer's reasons do not provide any indication whether or how the Officer considered this supporting evidence.

[30] While *Preeti* and *Ajaz* support the view that the ECA is definitive, as noted above, in those cases, the ECA prepared by WES stated that there was no equivalence. In the present case, the Officer's reliance on only the ECA prepared by WES appears to constitute a fettering of the Officer's discretion. The Officer's decision does not permit the Court to conclude that the Officer considered all the evidence provided or simply focussed on the ECA report, searched for a particular set of words, and summarily refused the application.

[31] The GCMS notes simply state, "Client's foreign credential is not equivalent to a completed Canadian post-secondary educational credential." There is no clue about why a bachelor's degree, described as a professional degree, and which would not be conferred unless it was completed, is not equivalent to a "completed" Canadian credential.

[32] The Respondent's position and submissions in the present case echo those made by the Respondent in *Lakhwinder Kaur*, which Justice Go rejected, noting at paras 23-25:

[23] At the hearing, the Respondent made further arguments that the problem in this case lies with WES, and not the Officer. Because the equivalency was missing from the ECA report, argued the Respondent, the Officer was not required to interpret the ECA report to find that it provided the equivalency of a one-year post-secondary Canadian credential. The Respondent further argued the ground for the refusal was in the WES report itself. Finally, the Respondent submitted that applying the ordinary meaning of the words "professional study in dentistry" does not support a finding that the Applicant has the requisite credential equivalency.

[24] I reject these arguments.

[25] As I have already noted, the Officer did not mention anywhere in their Decision that the necessary equivalency was missing from the ECA report. Rather, the Officer did what the Respondent stated they should not do; the Officer interpreted the WES report to indicate that a five-year professional study for a Bachelor degree in

India is not equivalent to a Canadian one-year post-secondary credential, even though the WES report is silent on this issue.

[33] The same considerations apply in the present case. There is no basis to distinguish *Lakhwinder Kaur*.

[34] The Court is curious regarding the identical nature of the documents in this application and in *Lakhwinder Kaur* given that two dentists, who applied to work in Canada as home care workers, attended the same university and obtained identical WES reports (except for the date of their degrees), both without the definitive statement regarding equivalency. However, the Court's role is to determine the reasonableness of the Officer's decision with respect to Ms. Kaur.

[35] It is not the Court's role to determine whether Ms. Kaur meets the requirements for the Home Child Care Provider Class. The Court's role is to determine whether the Officer's decision meets the hallmarks of a reasonable decision and in this case, it does not. The decision lacks justification and fails to provide any indication to Ms. Kaur or the Court that the evidence, in particular the evidence that would appear to contradict the finding that Ms. Kaur did not meet the educational criteria, was considered.

**JUDGMENT in file IMM-2903-24**

**THIS COURT'S JUDGMENT is that:**

1. The Application for Judicial Review is granted.
2. The Applicant's application for permanent residence under the Home Child Care Provider Class must be redetermined by a different decision-maker.
3. There is no question for certification.

"Catherine M. Kane"

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Judge

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

**DOCKET:** IMM-2903-24

**STYLE OF CAUSE:** KAMALJIT KAUR v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** JANUARY 23, 2025

**JUDGMENT AND REASONS:** KANE J.

**DATED:** JANUARY 27, 2025

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