Federal Court  Cour fédérale

Date: 20250212

Docket: IMM-1797-24

Citation: 2025 FC 275

Ottawa, Ontario, February 12, 2025

PRESENT: The Honourable Madam Justice Turley

BETWEEN:

NITIKA GOEL

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks judicial review of a decision by Immigration, Refugees and Citizenship Canada [IRCC] refusing to re-open her application for permanent residency under the express entry stream. Her application had been rejected for being incomplete because she had provided a marriage licence, and not a marriage certificate. On reconsideration, IRCC confirmed that decision.

[2] The Applicant argues IRCC misapprehended her evidence. She contends that she filed a marriage certificate obtained on an emergency basis in order to meet her deadline. The Respondent argues that the matter is not justiciable and that, in the alternative, the document submitted was not sufficient to meet IRCC requirements.

[3] For the reasons that follow, I am allowing the application. I find that, in the circumstances of this case, the matter is justiciable. It is distinguishable from the jurisprudence relied upon by the Respondent. Furthermore, IRCC's decision is unreasonable as it does not engage with the Applicant's submissions that the document in question is, in fact, a marriage certificate.

II. Issues and Standard of Review

[4] With respect to the Respondent's justiciability argument, no standard of review applies: *Camara c Canada (Citoyenneté et Immigration)*, 2024 CF 1823 at para 15; *Zhou v Canada (Citizenship and Immigration)*, 2021 FC 1424 at para 23; *Sheikh v Canada (Citizenship and Immigration)*, 2020 FC 199 at para 17 [*Sheikh*].

[5] The relevant standard of review applicable to the merits of IRCC's reconsideration decision is that of reasonableness. 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": *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8 [*Mason*]. A decision should only be set aside if it fails to exhibit the requisite attributes of justification, intelligibility and transparency: *Vavilov* at para 100; *Mason* at paras 59–61.

III. Analysis

A. *The matter is justiciable*

[6] In support of their argument that IRCC's reconsideration decision is not justiciable, the Respondent relies on the Federal Court of Appeal's decision in *Gennai v Canada (Citizenship and Immigration)*, 2017 FCA 29 [*Gennai*], and this Court's decisions in *San Juan Valdelamar v Canada (Citizenship and Immigration)*, 2024 FC 1867 [*San Juan Valdelamar*], *Sadeghian v Canada (Citizenship and Immigration)*, 2024 FC 1144 [*Sadeghian*], *Sheikh*, and *Su v Canada (Citizenship and Immigration)*, 2016 FC 51 [*Su*]. Those cases are similar to the one at hand in that IRCC refused to process applications because they were incomplete.

[7] In those cases, the applicants acknowledged that their applications contained errors, omitted necessary information, or were missing required forms. Indeed, in *Gennai*, *San Juan Valdelamar*, *Sadeghian* and *Su*, the applicants sought to rectify this by resubmitting corrected versions of their applications. However, legislative requirements had changed in the period between when original and amended applications were submitted. Those cases were concerned with whether the amended applications submitted could be treated as a continuation of the originals, and thus were determined in accordance with original legislative requirements. This Court determined that IRCC reasonably treated the amended applications as new ones, subject to new legislative requirements. As Justice Strickland aptly put it, "any future submission would be *de novo*": *Su* at para 40.

[8] Here, by contrast, the Applicant challenges IRCC's determination that her application was incomplete. In requesting reconsideration of the decision, the Applicant disputed IRCC's finding that she had submitted a marriage licence as opposed to a marriage certificate. The Applicant's representative made the following submissions in their request to re-open:

> This is regarding the PR application of Nikita [*sic*] Goel. As per today's update on her application, her application is rejected as incomplete because of the missing marriage certificate. The marriage certificate we provided to IRCC is the original one as it is clearly visible from the certificate number and the signature of the Deputy Registrar General.
>
> Your kind office assumed it to be a marriage license, these types of certificates when obtained in urgency are printed this way and are valid as per law and the province of Ontario.
>
> To expedite the certificate the Registrar pastes the license copy on top of the certificate as done in many other cases. On contacting the registrar office today. [*sic*] we were told **"It has a certificate number and the registrar's signature, what else would you need, ask IRCC to call us, how can someone says its [*sic*] invalid when the registrar has signed"**
>
> This can be verified with the certificate number […]. Due to the reason that this is an expedited version which is why the marriage certificate is provided in this format. The original marriage certificate could take a long [*sic*] to be made that's why we have provided the expedited version of it. In past, as well lots of applications got approved with such letter formats. Furthermore, our submission date is in February, and subsequent to the initial request, no further clarification or additional documents were sought or a PFL
>
> We kindly request you to reconsider and reopen the file for processing. The client reached out to IRCC, and a request has been relayed to the officer to reconsider the file, with attached proof provided through this web form. Hence, our file satisfies the requirements under R10.
>
> [Emphasis in original]

[9] In my view, this case is distinguishable from the cases relied upon by the Respondent. The Applicant does not concede that her application was incomplete. She challenges that very finding made by IRCC. I am not persuaded that, in the circumstances, IRCC's reconsideration decision is not justiciable. Decisions to reject an application for incompleteness cannot be immune from judicial review where an applicant disputes the determination that it is indeed incomplete.

B. *IRCC's reconsideration decision is unreasonable*

[10] In refusing to re-open its decision, IRCC did not engage with the comprehensive submissions made by the Applicant's representative. As set out in paragraph 8 above, the Applicant disputed IRCC's determination that she had submitted a marriage licence. Her representative explained that the document she submitted was a marriage certificate obtained on an emergency basis. However, IRCC did not address these submissions, simply reiterating that "[t]he document you provided is a marriage licence".

[11] As the Supreme Court has made clear, decision-makers are not expected to respond to every argument raised, but "a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it": *Vavilov* at para 128. Here, there is simply no engagement with the central argument raised by the Applicant in challenging the decision that her application was incomplete.

[12] Before this Court, both parties made submissions addressing the merits of IRCC's decision that the document provided is a marriage licence, and not a marriage certificate. The Applicant

relied on Ontario's *Marriage Act*, RSO 1990, c M3, and the mandate of the Office of the Registrar General. The Respondent referred to Service Ontario's online instructions about obtaining a marriage certificate. This said, as I iterated at the hearing, it is not for this Court sitting in review to assess the document submitted by the Applicant: *Vavilov* at para 125.

IV. Conclusion

[13] For these reasons, I find that IRCC's refusal to re-open its January 23, 2024 decision finding that the Applicant's application was incomplete is unreasonable. IRCC's January 30, 2024 decision is set aside and the matter is remitted for reconsideration.

[14] The parties did not propose any certified questions and I agree that none arise.

JUDGMENT in IMM-1797-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed.

2. Immigration, Refugees and Citizenship Canada's decision dated January 30, 2024, is set aside and the matter is remitted for reconsideration.

3. There is no certified question.

"Anne M. Turley"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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