

Federal Court



Cour fédérale

Date: 20250820

Docket: IMM-14130-23

Citation: 2025 FC 1398

Ottawa, Ontario, August 20, 2025

PRESENT: Madam Justice Pallotta

BETWEEN:

SATHUSTHIKA AMALRAJ

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] On this application for judicial review, the applicant, Sathusthika Amalraj, challenges an immigration officer's October 2023 decision that refused her application for a permanent resident visa. She alleges that the officer's decision was unreasonable and asks the Court to set it aside.

[2] I am dismissing this application. For the reasons below, Ms. Amalraj has not established that the officer's decision was unreasonable.

[3] Ms. Amalraj lives in Sri Lanka. In 2019 she applied to become a permanent resident of Canada as a member of the family class. The sponsor was Ms. Amalraj's spouse, Mr. Thambithurai, who is a Canadian citizen. Mr. Thambithurai came to Canada in June 2011. He was sponsored for permanent residence as a dependent child of his brother, which meant he had to be under 22 years of age and unmarried to qualify. However, just before Mr. Thambithurai moved to Canada, he married Ms. Amalraj in a civil ceremony.

[4] Mr. Thambithurai did not disclose his marriage or declare Ms. Amalraj as a non-accompanying family member when he landed in Canada and became a permanent resident. As a result, Ms. Amalraj was not eligible to apply for permanent residence as a family class member: *Immigration and Refugee Protection Regulations*, SOR/2002-227, s 117(9)(d) [IRPR]. In response to a procedural fairness letter, Ms. Amalraj resubmitted her application in 2021 with a request under s 25 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] for an exemption from the requirements of IRPR s 117(9)(d), based on humanitarian and compassionate (H&C) grounds.

[5] In support of the request for an H&C exemption, Mr. Thambithurai provided an affidavit explaining that he made an honest mistake. His family took care of the immigration process and he did not tell them about the marriage registration because they disapproved of the relationship. He did not remember signing documents or speaking to Canadian officials and did not know that

marital status was an issue. Mr. Thambithurai explained that in Sri Lanka, the religious (Thali) wedding and the civil registration are seen as totally separate, and he did not consider himself to be married without a Thali ceremony. He thought of a civil marriage registration as a promise akin to an engagement. Mr. Thambithurai stated in his affidavit that he wanted to marry Ms. Amalraj in a Thali ceremony, but he did not do so until 2018 because he was dependent on his parents who strongly disapproved of the relationship. His father was so distressed by the relationship that he took his own life. Realizing he would have to be self-sufficient, it was only after Mr. Thambithurai had bought a house and found stable work in Canada that he married Ms. Amalraj in a Thali ceremony and then filed a sponsorship application. Mr. Thambithurai's affidavit explained that he and Ms. Amalraj had been living apart for a prolonged period and this was difficult. He stated he could not live in Sri Lanka because of health, safety, and weather-related risks, as well as financial instability.

[6] The officer who examined the application was not satisfied that an H&C exemption was warranted.

[7] Ms. Amalraj submits the officer's decision to refuse the H&C request was unreasonable. She alleges the officer did not take into account the compelling equitable factors of her case and the reasons why the couple waited several years to have a Thali ceremony—including Mr. Thambithurai's evidence about his family's opposition to the relationship and his father's suicide. She contends the officer fixated on Mr. Thambithurai's non-disclosure without balancing it against positive H&C factors, and fettered discretion by discounting concerns about hardships and risks because they would be faced by Sri Lankans generally and were not personal

to him: *Shah v Canada (Citizenship and Immigration)*, 2011 FC 1269 at para 73. She states this Court has set aside H&C decisions refusing exemptions from family class requirements in circumstances that were similar to her own, pointing to *Safi v Canada (Citizenship and Immigration)*, 2021 FC 816, *Alameddine v Canada (Citizenship and Immigration)*, 2019 FC 1285, *Odicho v Canada (Citizenship and Immigration)*, 2008 FC 1039, *Phung v Canada (Citizenship and Immigration)*, 2012 FC 585, *Obi v Canada (Citizenship and Immigration)*, 2013 FC 833, and *Kamran v Canada (Citizenship and Immigration)*, 2023 FC 588, among other decisions.

[8] Furthermore, Ms. Amalraj states the officer merely acknowledged some of the H&C submissions without explaining why they were insufficient—the officer did not provide responsive reasons to justify the decision in view of the stakes (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paragraph 133), particularly since the genuineness of her marriage was not in question.

[9] Finally, Ms. Amalraj submits the officer unreasonably drew an adverse inference based on a delay in filing the sponsorship application without considering the explanation for why her spouse did not sponsor her earlier.

[10] The respondent states that Mr. Thambithurai's misrepresentation was significant—he obtained permanent resident status because of it. The respondent states the officer considered the H&C factors that were raised and did not err by weighing those factors against Mr. Thambithurai's negative immigration history. Furthermore, the reasons must be read in light of

the evidence Ms. Amalraj filed to support her exemption request. The respondent contends that much of the evidence was about the genuineness of the marriage. There was little evidence of hardship that would warrant H&C relief, and the officer reasonably found that the evidence did not tie the general country conditions in Sri Lanka to Ms. Amalraj or her spouse. The respondent submits that Ms. Amalraj disagrees with the weight the officer gave to the H&C factors, but she has not established a reviewable error.

[11] An officer's decision to refuse an H&C exemption is reviewable on a standard of reasonableness. This is a deferential but robust form of review that considers whether the decision—both the outcome and the reasoning process that led to the outcome—is transparent, intelligible, and justified: *Vavilov* at paras 13-15, 82-87. The reviewing court's role is to examine the officer's reasons and determine whether the decision is based on an internally coherent and rational chain of analysis and whether it is justified in relation to the facts and law that constrain the decision maker: *Vavilov* at para 99.

[12] I agree with the respondent that the officer considered the reasons Mr. Thambithurai gave for not disclosing his marriage, including his belief that the civil ceremony was like an engagement and the family's opposition. The officer also considered the couple's long separation (noting that the period of separation was due "in large part" to Mr. Thambithurai's decision to wait to sponsor Ms. Amalraj) as well as the hardships Mr. Thambithurai said he would face in Sri Lanka, such as difficulty finding employment. I do not agree with Ms. Amalraj that the officer disregarded the equitable factors of her case or fixated on Mr. Thambithurai's non-disclosure without balancing the breach against positive H&C factors. The reasons show that the

officer considered the couple's circumstances but was not satisfied that they warranted an exemption from *IRPA*'s requirements.

[13] I am not persuaded that the officer fettered discretion by adopting an erroneous approach to hardship. As I read the reasons, the officer did not dismiss Mr. Thambithurai's evidence of hardship on the basis that he failed to establish risks beyond those generally experienced by other Sri Lankans. Rather, the officer found that the hardships Mr. Thambithurai said he would face were hypothetical or had "no significant bearing" on his ability to live there. I agree with the respondent that the concern was that Mr. Thambithurai's evidence did not show that he (or Ms. Amalraj) would face hardship due to health, safety, and weather-related conditions in Sri Lanka that would warrant a s 25 exemption. Considered in the context of the evidentiary record, the officer's findings were reasonable.

[14] Ms. Amalraj contends the officer drew an adverse inference from the delay in filing the sponsorship application, but she does not explain what the adverse inference was. Ms. Amalraj relied on the lengthy period that she and her spouse have lived in separate countries to support her request for H&C relief. I agree with the respondent that it was not unreasonable for the officer to consider the couple's own contribution to the period of separation in weighing that factor.

[15] Ms. Amalraj argues that this Court has overturned decisions that refused an H&C exemption from family class requirements in circumstances that were similar to her own. By this she means that the Court has overturned H&C decisions in circumstances where an officer failed

to consider evidence, failed to address arguments, did not engage with an applicant's reasons for failing to declare a family member, fixated on a breach without adequately considering the H&C factors, or provided inadequate reasons that did not justify the decision. It is true that a reviewing court can lose confidence in the reasonableness of an officer's decision for any of these reasons, but the cases Ms. Amalraj relies were based on different factual records. Each judicial review application must be decided on its own facts, and Ms. Amalraj has not persuaded me that the officer's decision was unreasonable in light of the record in this case. The officer's reasons for refusing Ms. Amalraj's request for H&C relief, while brief, were sufficiently responsive to her arguments, and the decision was sufficiently transparent, intelligible, and justified to withstand reasonableness review.

[16] There is no question for certification.

JUDGMENT in IMM-14130-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question for certification.

" Christine M. Pallotta "

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-14130-23

STYLE OF CAUSE: SATHUSTHIKA AMALRAJ v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD VIA VIDEOCONFERENCE

DATE OF HEARING: FEBRUARY 3, 2025

JUDGMENT AND REASONS: PALLOTTA J.

DATED: AUGUST 20, 2025

APPEARANCES:

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