

CANADA / JUDGMENT

Mehra v. Canada (Citizenship and Immigration)

2025 FC 592

COURT

Federal Court

DECIDED

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Mehra v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2025-04-01 Neutral citation 2025 FC 592 File numbers IMM-13884-23 Decision Content Date: 20250401 Docket: IMM-13884-23 Citation: 2025 FC 592 Vancouver, British Columbia, April 1, 2025 PRESENT: Madam Justice Azmudeh BETWEEN: PARISHA MEHRA Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview [1] The Applicant, Parisha Mehra, is a citizen of India and has filed an Application for Judicial Review against the decision of a Visa Officer [Officer] rendered on September 4, 2023, at the High Commission of Canada in New Delhi. The Officer had refused the Applicant's application for study permit on the basis that she was inadmissible to Canada for misrepresentation under paragraph 40(1)(a) of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]. The Officer found that the Applicant was inadmissible to Canada because she had misrepresented her bank account.

- [2] By way of background, in support of her application, the Applicant had provided certain details about her financial situation which included bank accounts from ICICI Bank. In the Global Case Management [GCMS] notes, there is a notation by officer SS01413 that on that on July 20, 2023, they sent an email to ICICI Bank to verify the applicant's bank statement. The same officer notes that a "Bank Official contacted on phone and informed that this account does not exist". There is no evidence of the actual email sent, transcript of conversation, or who from the bank called. The account number in question on the officer's notes was 231601000974 [the Problematic Account].
- [3] As expected, the conversation prompted the officer to send a procedural fairness letter [PFL], reminding the Applicant of her legal obligation to be truthful under s 16(1) of IRPA, explaining the legal consequences of misrepresentation under s 40(1), the consequences of inadmissibility, and allowing her an opportunity to explain within 15 days: Specifically, upon review of your application, I have reasonable grounds to believe that that you misrepresented the evidence of funds by providing a non genuine bank statement issued by the ICICI Bank. This document has been verified and found to be fraudulent. I am concerned that this misrepresentation was liable to induce an error in the administration of

the Immigration and Refugee Protection Act.

- [4] Within the time limit, the Applicant provided her submissions which included a detailed letter explaining her finances, a balance certificate dated July 25, 2023, by the bank on several bank accounts at ICCI bank, statements of transactions in savings accounts, a fixed deposit receipt, a statement summary, transaction summaries, etc. Even though, the PFL was silent on concerns about any one of the bank accounts, the Applicant's response included detailed information, totalling 54 pages, that included the summary of account, statement of transactions, and account details for the Problematic Account. The Applicant's submissions also included evidence of money transfer, including with the Swift Code in April 2023 on the Problematic Account. On the Bank's official letterhead, the bank also confirmed that the Applicant had maintained the Problematic Account since July 2021. The Applicant had provided extensive evidence of her banking with ICCI which included several accounts, including the Problematic Account, even though she did not know that the Canadian immigration officials' specific concern was with the existence of the Problematic Account.
- [5] In the GCMS notes, it is marked that officer LR20173 reviewed the response to the PFL and made recommendations to the unit manager who decided the case [Officer]. The Officer notes that the "Previous officer [is] no longer available therefore I am taking carriage of the application." They then summarize the content of the file and conclude the following: A PFL letter was sent to the applicant providing them with an opportunity to respond to the concerns that they had misrepresented the availability of funds in their application. In response, the applicant has provided all bank statements and transaction history for the accounts provided. I note that the GIC Payment is stated to be coming directly from the account – 231601000974. Though I note that the applicant has provided an updated certificate for this account dated 2023-07-25 as well as the transaction history already provided on the application, I attribute little weight to these updated documents as confirmation was received that this account does not exist. In review, the applicant has failed to satisfy me that the updated documents provide dare genuine. The applicant appears to have misrepresented a material fact, in this case that the non-genuine account provided, funded a GIC certificate which is a requirement of the SDS /Study permit program. Applicant sent to Unit Manager for review and decision on the case.
- [6] The next reviewer, HD64834, decided as follows: Concerns was identified with regards to the submitted ICICI Bank statements, after verification with the Bank in question, it was confirmed that the account presented did not exist. PFL was issued to provide the applicant with an opportunity to address our concerns. Applicant responded to the PFL by provide 54 pages of documents, given the voluminous size of the material in question, this note will focus on summarizing the response rather than a page by page review. Applicant stated that the account is real, listed the transaction outlined from various ICICI bank accounts. Applicant provided copies of statements, transaction history from multiple ICICI from family members. However, this note will concentrate on only the applicant was identified as

fraudulent which belonged to the applicant and is where the GIC amount was transferred to the ICICI Bank account in Canada. Verification indicated that this account did not exist and the response provided did not alleviate our concerns as more weight is assigned to the verification results with the bank. Banking documents indicating funds available or in this case the source of funding for the GIC form a crucial component of assessing an applicant's eligibility in obtaining a study permit to Canada under the SDS program. A source of funding to support an applicant's study in Canada is a pre-requisite for a SP application and is material to the assessment on hand. By providing fraudulent banking documents, applicant could have misled an Officer into believing that the applicant is eligible for a SP and has sufficient funding thus inducing an error in the administration of the Act. As such, on balance and after review of the information on file, the documents before me and weighing the factors as outlined by my notes, I am satisfied that that the applicant has committed misrepresentation as described in A40 (1) (a) of IRPA and that, the misrepresentation could have induced an error in the administration of the Act. Refused per A40 of this Act, 5-year prohibition imposed by operation of statute. II. Decision [7] I grant the Applicant's judicial review application because I find the decision made by the Officer was unreasonable. III. The Issues and Standard of Review [8] I summarize the issues articulated by the Applicants as follows: Was the Officer's decision unreasonable? Did the Officer breach the principles of procedural fairness by not specifically spelling out their concerns on the PFL?

- [9] The standard of review applicable to visa decisions is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [Vavilov]; *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1645 at para 13; *Shah v Canada (Citizenship and Immigration)*, 2022 FC 1741 at para 15). 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 para 85). The reviewing court must ensure that the decision is justifiable, intelligible, and transparent (Vavilov at para 95). Justifiable and transparent decisions account for central issues and concerns raised in the parties' submissions to the decision maker (Vavilov at para 127).
- [10] In addition, in assessing the reasonableness of the decision, the Court recognizes that the high volume of visa decisions are such that extensive reasons are not required (see Vavilov at paras 88, 91; see also *Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at para 13; *Yuzer v Canada (Citizenship and Immigration)*, 2019 FC 781 at paras 9, 16 [Yuzer]; *Wang v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1298 at paras 19-20). Nonetheless, the reasons given by the Officer must, when read in the context of the record, adequately explain and justify why the application was refused (Yuzer at paras 9, 20; *Hashemi v Canada (Citizenship and Immigration)*, 2022 FC 1562 at para 35 [Hashemi]; Vavilov at paras 86, 93–98).

- [11] The principle of responsive justification outlined in *Vavilov* at para 133 requires that when a decision has harsh consequences, the reasons provided must reflect the stakes. Harsh consequences and high stakes are present here, given that misrepresentation carries a five-year inadmissibility which bars the Applicant from reapplying.
- [12] The issue of procedural fairness is to be reviewed on the correctness standard (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 37–56 [CPR]; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35). The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances, including the factors enumerated in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC) at paras 21-28 (CPR at para 54).
- [13] Regarding questions of procedural fairness, as Justice Régimbald recently wrote in *Nguyen v Canada (Citizenship and Immigration)*, 2023 FC 1617 at para 11: the reviewing court must be satisfied of the fairness of the procedure with regard to the circumstances (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 215 at para 6; *Do v Canada (Citizenship and Immigration)*, 2022 FC 927 at para 4; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [Canadian Pacific Railway]). In *Canadian Pacific Railway*, the Federal Court of Appeal noted that trying to “shoehorn the question of procedural fairness into a standard of review analysis is... an unprofitable exercise” (at para 55). Instead, the Court must ask itself whether the party was given a right to be heard and the opportunity to know the case against them, and that “[p]rocedural fairness is not sacrificed on the altar of deference” (CPR at para 56). IV. Analysis A. Legal Framework: the applicable provisions of the IRPA [14] The following is the applicable legislation to this case: Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA] Application before entering Canada 11 (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act. [...] Visa et documents 11 (1) L'étranger doit, préalablement à son entrée au Canada, demander à l'agent les visa et autres documents requis par règlement. L'agent peut les délivrer sur preuve, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi. [...] Obligation — answer truthfully 16 (1) A person who makes an application must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and documents that the officer reasonably requires. [...] Obligation du demandeur 16 (1) L'auteur d'une demande au titre de la présente loi doit répondre véridiquement aux questions qui lui sont posées lors du contrôle, donner les renseignements et tous éléments de preuve pertinents et présenter les visa et documents requis. [...]

- [15] Under section 40(1)(a) of the IPRA, a person is inadmissible to Canada if he or she “withholds material facts relating to a relevant matter that induces or could induce an error in the administration” of the Act: Misrepresentation 40 (1) A permanent resident or a foreign national is inadmissible for misrepresentation
- (a) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act; [...] Fausses déclarations 40 (1) Empovent interdiction de territoire pour fausses déclarations les faits suivants :
- a) directement ou indirectement, faire une présentation erronée sur un fait important quant à un objet pertinent, ou une réticence sur ce fait, ce qui entraîne ou risque d'entraîner une erreur dans l'application de la présente loi; [...] B. Issue 1: Was the Officer's decision unreasonable? [16] The Applicant does not take issue with the fact that an accurate representation of her finances is material to the determination of her study permit application. However, she objects to the Officer's lack of engagement with her response to the PFL.
- [17] In this case, the GCSMS notes demonstrate that someone from the bank called the Officer SS01413 to say that the Problematic Account did not exist. It is unclear from the notes who this person was, on what basis they had made the statement, and whether the notes are verbatim or Officer SS01413's interpretation of the caller's response. What is clear is that there was never a request for written confirmation.
- [18] The Officer assessing the response to the PFL, and the ultimate decision maker, relied on Officer SS01413's note on his phone conversation with someone at the bank and largely discounted the Applicant's 54-page detailed response to the PFL. Neither officer was the recipient of the call, and it is hard to understand from the record, who from the bank provided the information the account was non-existent. IRCC officers never followed up in writing. The Officer listed a brief summary of what the Applicant presented in their response, and they concluded that they did not give it any weight without explaining why. The Officer wrote, “I attribute little weight to these updated documents as confirmation was received that this account does not exist. In review, the applicant has failed to satisfy me that the updated documents provided are genuine.” The Officer then also highlights the importance that the source of funds is genuine and explains the seriousness of submitting a fraudulent document. Both these factors are undisputed.
- [19] In conducting a reasonableness review, the focus is on the decision the officer actually made and the justification offered for it (Vavilov at para 14). The Officer, in this case, does not engage with any of the Applicant's submissions, and provides no justification, transparency nor intelligible reasoning that would shed light on to what extent, if any, they grappled with the Applicant's submissions. I do not find the Officer's mechanical summarization of the submission, without any analysis or showing how the evidence was assessed, amounts to engagement with the evidence.

- [20] I find that the Officer's lack of engagement with the Applicant's response to the PFL in the reasons breaks a chain of reasoning that would provide an understanding how they weighed the evidence to come to their decision. This lack of transparency makes the decision unreasonable.
- [21] After finding the decision unreasonable, I do not need to analyse the Applicant's submissions on procedural fairness. V. Conclusion [22] The Application for Judicial Review is granted.
- [23] There is no question to be certified. JUDGMENT IN IMM-13884-23 THIS COURT'S JUDGMENT is that The application for Judicial Review is granted. The decision is set aside and this matter is remitted to the Visa Post to be decided by another decision-maker. There is no question for certification. blank "Negar Azmudeh" blank Judge FEDERAL COURT SOLICITORS OF RECORD Docket: IMM-13884-23 STYLE OF CAUSE: PARISHA MEHRA V THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: Vancouver, british columbia DATE OF HEARING: february 6, 2025 REASONS FOR JUDGMENT AND JUDGMENT: AZMUDEH J. DATED: april 1, 2025 APPEARANCES: Madhur Goyal For The Applicant Ezra Park For The Respondent SOLICITORS OF RECORD: Raj Gill Law Corporation Vancouver, BC For The Applicant Department of Justice Canada Vancouver, BC For The Respondent

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