

Federal Court



Cour fédérale

Date: 20230901

Docket: IMM-5621-22

Citation: 2023 FC 1190

Ottawa, Ontario, September 1, 2023

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

DIVJOT SHARMA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ms. Sharma applied for a study permit. Her application was refused for misrepresentation. In support of her application, Ms. Sharma provided a guaranteed income certificate [GIC] purportedly issued by Scotiabank. The visa officer found that this GIC was fraudulent, based on a verification with Scotiabank.

[2] Ms. Sharma now seeks judicial review of this decision. She argues that the process was unfair, because the procedural fairness letter [PFL] she received did not alert her to the specific reasons why the officer suspected that the GIC was fraudulent. She does not challenge the reasonableness of the decision per se.

[3] Officers who suspect that a document submitted by an applicant is fraudulent must send a PFL and give the applicant an opportunity to respond to their concerns. For this to be effective, the PFL “must state the decision maker’s concerns with sufficient clarity and particularity so that the affected party has a meaningful opportunity to address them”: *Kaur v Canada (Citizenship and Immigration)*, 2020 FC 809 at paragraph 42 [*Kaur*].

[4] Ms. Sharma argues that the PFL in her case did not contain sufficient information because it did not disclose that the source of the officer’s concerns was a verification with Scotiabank. Had she known this, she might have answered the PFL differently. I disagree with Ms. Sharma, for two separate reasons.

[5] First, the officer’s concern with the authenticity of the GIC was clearly stated. While brief, the PFL was sufficient to enable Ms. Sharma to respond meaningfully. As Scotiabank is a Canadian institution, Ms. Sharma could reasonably be expected to understand that the concerns originated from a verification with it. In other cases, similarly worded PFLs were found to be sufficient to alert applicants to similar concerns arising from similar verifications: *Kong v Canada (Citizenship and Immigration)*, 2017 FC 1183; *Suri v Canada (Citizenship and Immigration)*, 2020 FC 86. Cases such as *Kaur* or *Singh v Canada (Citizenship and*

Immigration), 2023 FC 904, involved somewhat different concerns that were not fully disclosed by a mere statement that a document was fraudulent.

[6] Second, Ms. Sharma has not established how her response to the PFL would have been different had she known that the officer's concerns were based on Scotiabank's verification.

[7] When one is suspected of providing a fraudulent document, the normal reaction is to communicate with the issuer of the document to obtain confirmation of its authenticity. Ms. Sharma did not do this. Instead, the only thing she did in response to the PFL was to upload two documents to IRCC's website. One appears to be a screenshot of instructions for an international transfer of funds. The other is a Scotiabank GIC in Ms. Sharma's name, bearing the same account number as the one provided with her application, but a different date, address, amount and name of Scotiabank representative. She did not provide the officer with any explanation of the meaning of these documents.

[8] In her affidavit in support of this application for judicial review, Ms. Sharma simply states that she obtained the second GIC from Scotiabank's portal. She did not file a further affidavit after receiving the certified tribunal record that disclosed the source of the officer's concerns.

[9] In these circumstances, there is simply no evidence that Ms. Sharma was deprived of an opportunity to meaningfully respond to the officer's concerns. There was no breach of the duty of procedural fairness.

[10] For these reasons, the application for judicial review is dismissed.

JUDGMENT in IMM-5621-22

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. No question is certified.

"Sébastien Grammond"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5621-22

STYLE OF CAUSE: DIVJOT SHARMA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: AUGUST 31, 2023

JUDGMENT AND REASONS: GRAMMOND J.

DATED: SEPTEMBER 1, 2023

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