

Federal Court



Cour fédérale

Date: 20130523

Docket: IMM-6976-12

Citation: 2013 FC 538

Toronto, Ontario, May 23, 2013

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

RIZWAN HAIDER BANGASH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER

[1] The present Application concerns a challenge to a decision rejecting the Applicant's request for a temporary resident visa to enter Canada from Pakistan for the purpose of attending a business meeting in May 2012. The filing requirements in making the visa request is a key feature of the rejection decision under review.

[2] The Applicant is a citizen of Pakistan who resides in Kuratchi and is the co-owner and managing director of a company that trades in timber and wood products from Canada for distribution of various markets in the Middle East. In April 2012, the Applicant received an

invitation letter from the Canadian High Commission to participate in an investment business visit to Canada from approximately May 30 to June 8, 2012. The invitation was signed by Canada's Senior Trade Commissioner, and, accordingly, the Applicant submitted his visa application package, along with all supporting company documentation, directly to the Commissioner. As a result of statements made by the Commissioner to the Applicant, it was the Applicant's understanding that his entire application package would subsequently be forwarded to the visa section of the High Commission for processing (see Applicant's Affidavit, dated August 29, 2012, filed in support of the present Application, paras. 1 to 5).

[3] In the result, the Applicant's request for a temporary resident visa was rejected by a Visa Officer on the basis of three concerns expressed in the decision under review: the Applicant did not comply with his expected travel plans on a previous multiple entry visa granted to him in 2010, although he did travel to Canada and returned to Pakistan; the Applicant has two brothers residing in Canada who have been granted refugee status; and, with particular importance to the present Application, the Visa Officer found that "the Applicant has not submitted any business documents or other supporting documents that would indicate [his] presence in Canada is necessary".

[4] With respect to the decision under review the Applicant's principal argument is that, had he been afforded the opportunity to do so, he could have addressed the Visa Officer's concerns. In particular, the Applicant argues that he had a legitimate expectation that his business records would be internally transferred to the Visa Officer prior to a decision being made, and because the transfer did not take place, the rejection decision was rendered in breach of a duty of fairness owed to him. I agree with this argument.

[5] Because the hearing of the present Application has occurred approximately a year after the Applicant's intention to visit Canada, an issue arises as to whether the Applicant's Application is now moot. In my opinion it is not. I find that it is very important for the Applicant's visa record with the Canadian Government to be clear and accurate with respect to the rejection decision presently under consideration. In this respect a continuing controversy exists. It might very well be that, had the documentation been transferred as expected, all of the Visa Officer's concerns might have been allayed, thus resulting in the approval of the visa request.

[6] Given the breach of the duty of fairness found, I find that the decision under review is unreasonable.

ORDER

THIS COURT ORDERS that:

The decision under review is set aside.

There is no question to certify.

“Douglas R. Campbell”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-6976-12

STYLE OF CAUSE: RIZWAN HAIDER BANGASH V THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 22, 2013

**REASONS FOR ORDER
AND ORDER BY:** CAMPBELL J.

DATED: MAY 23, 2013

APPEARANCES:

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