



IAD File No. / N° de dossier de la SAI : VA3-03169  
Client ID no. / N° ID client : 5278-1822

## Reasons and Decision – Motifs et décision

### *Sponsorship*

**Appellant(s)**

**PARAMJIT KAUR GILL**

**Appelant(s)**

**Respondent**

**The Minister of Citizenship and Immigration  
Le Ministre de la Citoyenneté et de l'Immigration**

**Intimé**

**Date(s) and Place  
of Hearing**

June 1, 2004  
Vancouver, BC

**Date(s) et Lieu de  
l'audience**

**Date of Decision**

June 1, 2004

**Date de la Décision**

**Panel**

Anita Boscariol

**Tribunal**

**Appellant's Counsel**

Massood Joomratty  
Barrister & Solicitor

**Conseil de l'appelant(s)**

**Minister's Counsel**

Judy Milne

**Conseil de l'intimé**

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## Oral Reasons for Decision

[1] Paramjit Kaur Gill appeals the refusal to issue a Canadian permanent resident visa to Dharam Pal Shergill from India. The application for the visa was refused because, in the opinion of the visa officer, the applicant cannot be considered the appellant's spouse as their marriage is not genuine and was entered into primarily to gain status or privilege under the *Immigration and Refugee Protection Act*.<sup>1</sup>

[2] In coming to this conclusion the visa officer considered the following factors:

- the appellant and applicants are not compatible in that the appellant is considerably more educated than the applicant;
- though the applicant claimed that marriage discussions began prior to the appellant's immigration to Canada in the year 2000, the marriage between them did not take place for a further three years;
- the appellant's mother and younger siblings did not travel to India for her marriage;
- evidence of telephone communication between the appellant and the applicant consists of the applicant's brother's telephone bills, therefore, not necessarily representative of communication between the appellant and the applicant;
- at his interview the applicant demonstrated only a general knowledge of the appellant's employment, education, family members and her spare time activities which was less than the visa officer expected of a spouse.

[3] At issue in this case is whether the applicant is excluded from consideration as the appellant's spouse, pursuant to section 4 of the *Immigration and Refugee Protection Regulations*.<sup>2</sup>

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<sup>1</sup> *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

<sup>2</sup> *Immigration Regulations*, SOR/2002 – 227.

[4] Having considered the information contained in the record, the documentary evidence filed and the testimony of the appellant and the applicant I believe the concerns expressed by the visa officer have been adequately addressed. The appellant is far better educated than the applicant. However, it appears that they are otherwise generally compatible.

[5] It was explained that the marriage between them was suggested and arranged by the appellant's eldest sister who is married to the applicant's eldest brother. The families of each were well acquainted with each other. The applicant was found suitable as a sober, hardworking and religious young man and the match between the appellant and applicant was concluded despite the difference in their education.

[6] The appellant's mother, her brother and younger siblings did not attend her marriage because her family had been in Canada only a matter of months when the appellant returned to India to marry the applicant. It was confirmed her family could not afford the cost of the whole family's travel. However, the appellant was accompanied to India by her father and her eldest sister and her family. The appellant and applicant explained they did not marry prior to the appellant's immigration to Canada when discussions of an arranged marriage was first raised, both because the appellant was in school at the time and, more importantly, because her family was already planning their immigration to Canada. The appellant confirmed she wished to immigrate with her family rather than to be left behind in India.

[7] As noted by counsel for the respondent, the appellant and applicant claimed to communicate very frequently by telephone, as often as several times per week, a frequency not reflected in the telephone bills provided. As previously noted by the visa officer, the telephone bills reflected calls made to the applicant's telephone number which is shared by his parents. They also reflect calls made at different times from the hours the appellant and applicant testified the appellant habitually calls the applicant.

[8] I note the visa officer's notes reflect the fact that the applicant informed her that he and the appellant telephone each other three to four times per month, an estimate more in line with the number of telephone calls to India which appear in the telephone bills provided.

[9] I agree that as the appellant and her parents live in a joint family setting with her older sister and her brother-in-law, who is the appellant's brother, it is likely that the appellant's brother also places calls to his parents in India. The appellant and applicant have exaggerated the frequency of their telephone communication in their testimony. However, I do not find this to be fatal to their case in the circumstances.

[10] I note that the appellant and applicant were married in a large, well-attended ceremony and celebration. The appellant spent several weeks in India with the applicant following her marriage and later returned to India for a further visit. The documentary evidence provided of their time together demonstrates that the appellant and applicant are a couple and the evidence is in keeping with what one would expect of a couple in a genuine marriage. Though his marriage to the appellant will also reunite the applicant with his brother in Canada, I do not believe this marriage was entered into primarily for this purpose.

## Conclusion

[11] I believe that the appellant has established, on a balance of probabilities, that her marriage to the applicant is genuine and that section 4 of the *Regulations* does not apply.

[12] The appeal of Paramjit Kaur Gill is allowed.

*[Edited for clarity, spelling, grammar and syntax.]*

## NOTICE OF DECISION

The appeal is allowed. The officer's decision to refuse a permanent resident visa is set aside, and the officer must continue to process the application in accordance with the reasons of the Immigration Appeal Division.

“Anita Boscarior”

\_\_\_\_\_  
Anita Boscarior

9 June 2004

\_\_\_\_\_  
Date (day/month/year)

**Judicial review** – Under section 72 of the *Immigration and Refugee Protection Act*, you may make an application to the Federal Court for judicial review of this decision, with leave of that Court. You may wish to get advice from counsel as soon as possible, since there are time limits for this application.