



IAD File No. / N° de dossier de la SAI : VA6-00212  
Client ID no. / N° ID client : 2834-1757

## Reasons and Decision – Motifs et décision

### *Sponsorship*

**Appellant(s)**

**PARAMJIT SINGH**

**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**

February 14, 2007  
Vancouver, BC

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

**Videoconferencing held in**

Calgary, Alberta

**Fait par videoconference à**

**Date of Decision**

February 14, 2007

**Date de la Décision**

**Panel**

Deborah Lamont

**Tribunal**

**Appellant's Counsel**

Massood Joomratty

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

**Minister's Counsel**

Rick Brummer

**Conseil de l'intimé**

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## Oral Reasons for Decision

[1] Paramjit SINGH (the “appellant”), appeals the decision of an immigration officer overseas not to issue a Canadian permanent resident visa to his spouse, Kulwinder Kaur KOONER (the “applicant”) from India. The application was refused pursuant to section 4 of the *Immigration and Refugee Protection Regulations* (the “*Regulations*”).<sup>1</sup> The details of the refusal are set out in the refusal letter and the CAIPS notes.

[2] In order for a foreign national to be caught by section 4 of the *Regulations*, the preponderance of reliable evidence must determine that the marriage is not genuine and was entered into primarily for the purpose of acquiring a status or privilege under the *Immigration and Refugee Protection Act* (“*Act*”). The onus is on an appellant to demonstrate that the applicant is not caught by the excluding section of the *Regulations*.

[3] As brief background, the appellant is 50-years-old. He was born in India and was landed in Canada on 16 September 1992. He is a Canadian citizen. He was previously married in 1995 and divorced on 6 November 2004. He sponsored his first wife to Canada.

[4] The applicant is 29-years-old. She was born in India and continues to live there today with her mother. The appellant and applicant married on 16 March 2005.

[5] I have heard the testimony of the appellant and the applicant, reviewed the documentary evidence in the Record, as well as the additional documentary evidence that was submitted, and I considered submissions of counsel. I determined the visa officer’s concerns were not adequately addressed.

[6] The appellant and applicant are compatible in the following ways: their religion; social background; and language. However I considered the visa officer’s concerns that the couple is not compatible in terms of age, education, or marital background. The appellant is approximately 20-years older than the applicant. Further the appellant only has ten years of formal education while the applicant has a Bachelor’s of Art’s degree. In addition, the appellant was previously married and divorced and this is the applicant’s first marriage. The appellant

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<sup>1</sup> *Immigration and Refugee Protection Regulations*, SOR/2002 – 227.

testified he wanted “a well-educated nice girl to marry.” The applicant claimed in her sponsorship application<sup>2</sup> that the appellant did not physically look his age and therefore she gave her consent. Notably she did not mention any other aspects that she considered when deciding to marry the appellant. Further the fact the appellant may not look his age does not satisfactorily dismiss their age differences. At the interview the applicant was asked to explain why she would agree to such a match and she claimed the appellant was a nice man, fine looking, and he told her everything. I found the explanations were unsatisfactory for the following reasons. The applicant was asked to clarify what was nice about the appellant however she simply repeated he was nice. Further she was asked to explain how she knew the appellant told her everything and she stated he did. At interview no further explanation was proffered to explain why the applicant and her family would agree to a match under these circumstances including why the applicant’s family would arrange a match to a much older, previously married and less educated person.

[7] In addition, further differences between the appellant and applicant came to light today. The appellant is “a drinker, smoker, and he is not very religious”. The applicant does not drink, or smoke, and she is “very religious”, attending the temple twice a day. The applicant explained the differences by stating “their thinking is the same.” Clearly their thinking is not the same in regards to the above habits or religious beliefs.

[8] I also noted today the applicant clarified why she agreed to the match by testifying the appellant did not make any demands and he told her the truth. However the appellant testified he stills drinks alcohol on the weekends and yet the applicant claimed the appellant does not drink anymore, he stopped at New Years 2006. Further the applicant testified the appellant told her he stopped drinking then and “he always tells the truth.” Clearly this is not the truth, the appellant continues to drink alcohol. He has not been completely honest with the applicant and I am reminded the applicant claimed his honesty was a reason why she agreed to their marriage despite the incompatibilities. As a result of the evidence before me I found that the explanations proffered as to why the applicant agreed to such a match, not satisfactory. This put in doubt the genuineness of the marriage. I also noted the appellant’s response when he was asked why would the applicant marry him, and he testified that people like him when they talk to him and as

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<sup>2</sup> The Record, page 35

he lives in Canada, and Canada is a good country, there is a “chance to go there.” Clearly the appellant acknowledges the attractiveness of immigrating to Canada.

[9] These compatibility concerns were further troubling as the applicant acknowledged no background checks were done on the appellant, stating that her family relied on the middleman. Even if the appellant and applicant were highly recommended as suitable matrimonial partners by an intermediary, one would assume the families would still investigate the perspective partner independently to confirm whether or not they are compatible and the match desirable, especially in light of the significant incompatibilities and after noting the following. Again I am reminded of the appellant’s evidence that two or three weeks after the marriage, he got “drunk”, after fighting with his family, and the applicant was upset as a result. Further the appellant acknowledged in 2002 he was charged with impaired driving and he did not drive a vehicle for eighteen months afterwards. The applicant testified after their marriage she told the appellant “so many times” to stop drinking, and yet according to the appellant he stills drinks every weekend. With independent investigation perhaps the appellant’s drinking could have come to light before marriage. I am concerned that the applicant and her family showed indifference by not investigating the appellant, and no satisfactory explanation has been provided to alleviate this concern. As a result, due to the lack of an investigation including into the appellant’s previous marriage and divorce, I am not satisfied this marriage was meant to be a long lasting relationship.

[10] I also noted the discrepancies in the applicant’s evidence concerning previous matches. Initially at her interview, she stated there were a lot of previous matches proposed however she claimed they all had some kind of demand for dowry, they all wanted too much dowry, and her family could not afford the demands. However later in the interview the applicant changed her answer stating she was opposed to the custom of paying a dowry and therefore the matches were refused. No explanation was offered to explain this discrepancy. This undermined the applicant’s credibility.

[11] Further I noted at interview the applicant had limited knowledge of the appellant’s life in Canada despite her assertions they speak on the phone almost daily. She was not able to answer the following questions: why the appellant did not have any children in his previous relationship; what his previous jobs were in Canada; who are his friends; what he does in his spare time; and

she could not recall a memorable moment from the wedding or since the wedding. Her lack of knowledge further undermined their commitment to one another as spouses. Further I noted the applicant contradicted the appellant's testimony when she claimed she told the appellant to stop drinking and she never told him to stop smoking. The appellant claimed the applicant told him to stop smoking and she never mentioned for him to stop drinking after he returned to Canada. Further the appellant testified he forbid the applicant to substitute teach in India after their marriage citing the pay was not enough and there was not enough work. The applicant testified she has not been called to substitute after their marriage but if she was called, the appellant would be happy as he likes her teaching. I recognized the appellant and applicant knew more about each other today, however this does not explain the initial concerns or other serious discrepancies noted today. I am not satisfied that the appellant and applicant have made efforts to develop a genuine spousal relationship which is intended to last long-term.

[12] The appellant and applicant testified with respect to contact and communication with each other since the marriage. Documentary evidence was provided in this regard. After considering all the evidence I found on a balance of probabilities the evidence tendered was more likely produced for immigration purposes rather than a reflection of genuine communication between spouses. In light of all the circumstances of this appeal I am not satisfied the appellant's marriage is genuine.

[13] I also noted the applicant applied for a study visa twice in 2004 for England. She claimed she wanted to study English. The visa officer expressed concern as the applicant graduated with a BA in 2000, and she was unable to explain why she wanted to learn English, why she waited to apply to study English, why she did not study English in India, and how she would have paid for her studies in England. Further after noting the applicant's earlier statements that her family could not afford to pay a dowry, and after considering her brothers' salaries, the visa officer's concerns that the applicant would have been unable to fund her studies in England, is reasonable. The appellant testified her aunt in England would pay for her studies and that the same aunt sends the applicant's family money in India as support. Notably the applicant did not mention her aunt or that she offered to pay for her studies. Further I noted the applicant testified her brothers look after the family expenses. Therefore her reasons for applying to the U.K. to study in 2004 have not been reasonably explained. As a result, I found on a balance of probabilities

the applicant was simply looking for an opportunity to leave India and that this marriage was a similar attempt.

[14] There was insufficient credible evidence submitted to rebut the immigration officer's assessment that this marriage was entered into for immigration purposes. After considering all the evidence in this appeal, and since this is a *de novo* hearing, for the reasons already set out, I found the appellant failed to establish that the marriage was not entered into primarily for immigration purposes.

### Conclusion

[15] I find that the appellant has not met the onus of proof. On a balance of probabilities, based on the evidence before me, I find this marriage is not genuine and was entered into primarily to gain a status or privilege under the *Act*. Therefore, the appeal is dismissed.

[Edited for clarity, spelling, grammar and syntax]

## NOTICE OF DECISION

The appeal is dismissed.

“Deborah Lamont”

Deborah Lamont

15 February 2007

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.