



IAD File No. / N° de dossier de la SAI: VB6-02711

Client ID no. / N° ID client: 4516-7386

## Reasons and Decision – Motifs et décision

### SPONSORSHIP

<b>Appellant(s)</b>	Baljit SINGH	<b>Appelant(e)(s)</b>
<b>and</b>		<b>et</b>
<b>Respondent</b>	The Minister of Citizenship and Immigration	<b>Intimé(e)</b>
<b>Date(s) of Hearing</b>	October 30, 2017	<b>Date(s) de l'audience</b>
<b>Place of Hearing</b>	Vancouver, BC	<b>Lieu de l'audience</b>
<b>Date of Decision</b>	December 8, 2017	<b>Date de la décision</b>
<b>Panel</b>	Judith Boer	<b>Tribunal</b>
<b>Counsel for the Appellant(s)</b>	Massood Joomratty Barrister and Solicitor	<b>Conseil(s) de l'appelant(e) / des appelant(e)(s)</b>
<b>Designated Representative(s)</b>	N/A	<b>Représentant(e)(s) désigné(e)(s)</b>
<b>Counsel for the Minister</b>	Kevin Hatch	<b>Conseil du ministre</b>

## REASONS FOR DECISION

[1] These are the reasons for the decision in the appeal of Baljit SINGH (the “appellant”) who appeals the refusal to approve the permanent resident application made by his spouse, Amanjot (the “applicant”). The sponsored application for a visa was refused because the visa officer found the applicant to be inadmissible to Canada in that she did not meet the requirements of the *Immigration and Refugee Protection Act* (the “Act”).<sup>1</sup>

### ISSUE

[2] The issue in this appeal is whether section 4(1) of the *Immigration and Refugee Protection Regulations* (the “Regulations”)<sup>2</sup> applies, thereby excluding the applicant from consideration as a member of the family class.

[3] Section 4(1) of the *Regulations* has two tests. To succeed on appeal the appellant must prove on a balance of probabilities that the marriage to the applicant was not entered into primarily for the purpose of acquiring status under the *Act* and that it is genuine. To dismiss the appeal, I must find that the marriage was entered into primarily for the purpose of acquiring any status or privilege under the *Act* or that it is not genuine.

### DECISION

[4] I conclude that the appellant has not established that section 4(1) of the *Regulations* does not apply. The appeal is dismissed for the following reasons.

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

<sup>2</sup> *Immigration and Refugee Protection Regulations*, SOR/2010-208, s. 1.

## BACKGROUND

[5] The appellant is 39 years of age. The applicant is 22 years of age and lives in India. The appellant was previously married and is divorced. The applicant has never been married. Neither the appellant nor the applicant have any children.

## ANALYSIS

[6] A visa officer interviewed the applicant. Among the concerns the visa officer addressed at the interview regarding the genuineness of the relationship (as shown in the interview notes and in the letter of refusal of July 19, 2016)<sup>3</sup> were the lack of compatibility between the appellant and the applicant in terms of age, marital status, and social backgrounds; the applicant's lack of knowledge of the appellant; and the photos submitted with the application appear to be staged. The genesis and development of the relationship was also identified as an issue at the beginning of the hearing.

[7] The genuineness of a marriage can be affected by a number of different factors which can vary from appeal to appeal. The second test articulated in section 4(1)(a) of the *Regulations* – whether the relationship was entered into primarily for the purpose of acquiring any status or privilege under the *Act* – is self-explanatory. The advantage sought in spousal appeals is generally entry to Canada and the granting to the applicant of permanent resident status as a member of the family class.

[8] The appellant was born and raised in Canada, as was his mother. His father had been sponsored by his mother from India. The appellant testified that he travelled to Dadyal, India in April 2013 to check on the construction of a temple being built by a family friend, whom he refers to as Babaji. The appellant's father had financially contributed to this project and had

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<sup>3</sup> Record, pp. 49-50; pp. 234-235.

asked the appellant to travel to India. This was the appellant's second trip to India (his first trip had been for his first marriage) and he remained in India for about one month.

[9] During this trip, the appellant stayed at the home of Babaji and met his current wife Amanjot at Babaji's home. The applicant is Babaji's niece and was residing at the house to assist with household chores. The appellant and applicant started talking to each other and fell in love. About three or four days before leaving India, the appellant told the applicant that he would like to marry her and she agreed. At the time, the appellant was 35 years old and the applicant was 18 years old.

[10] Based on the evidence before me, I find the evidence does not, on a balance of probabilities, indicate a genuine spousal relationship between the appellant and the applicant. There were numerous and significant discrepancies and inconsistencies in the evidence and gaps in knowledge demonstrated by the witnesses for which satisfactory explanations were not provided. This undermined the credibility of the witnesses and the alleged genuineness of this relationship.

[11] The appellant was not able to provide a lot of detail on the temple which Babaji was constructing or the reason it was being build. He explained that he did not know because he is not a very religious person himself. He did state that it was a Sikh Punjabi temple. When the applicant testified, she stated that the temple being built was a Hindu temple (*Baba Balak Mandir*). I find the appellant's lack of knowledge about the temple to be a credibility concern as he traveled to India for the purpose of overseeing the construction of the temple. He stayed at Babaji's home for a month, he visited other temples with Babaji, his father was a religious man who contributed financially to the temple, and his wife is the niece of Babaji. I find that the appellant does not need to be personally religious in order to be aware of his host's religion and his wife's religion, given the circumstances and his reasons for being in India. His lack of knowledge raises doubt about his reasons for travelling to India and ultimately the genesis of the relationship.

[12] The appellant testified that he proposed marriage to the applicant about three or four days before he left India, and that the conversation took place at the home of the applicant's parents. He stated that her parents were not at home at the time and that he had wanted to be alone with her to have this conversation. He also stated that he spoke with her mother either that same day or the next day. The applicant's father was working abroad at that time and the appellant spoke with the applicant's father over the phone when he was back in Canada. The applicant, on the other hand, stated the discussion happened two days before the appellant left for Canada and it took place at Babaji's house. She stated that the two of them were never alone at her house (before marriage) and that her mother was always home when they were there. She also testified that the appellant first talked to her mother about the proposal after he returned to Canada. She added that Babaji had exchanged the phone numbers and that her mother called together with her brother about a week after the appellant left India. Marriage talks are significant and I would not have expected there to be such discrepancies on this issue.

[13] The appellant's father passed away in April 2014. His death and the stress this caused meant that his mother did not attend the wedding of the appellant and the applicant which happened in November 2014. However, both the appellant and applicant testified that the applicant met her mother-in-law when the appellant's mother travelled to India to perform the last rites of her late husband. However, the testimony about this event also had significant contradictions. The appellant's mother travelled to India, along with her son Harjit, at the end of April 2015 for about 10 days.<sup>4</sup> According to the appellant, the meeting between his wife and his mother occurred before his father's last rites were performed. However, there was no discussion between the two families regarding the applicant's attendance or participation at the last rites. The appellant did not provide a clear explanation on the reason his wife and parents-in-law were not part of his father's last rites. The applicant, on the other hand, testified that she did not attend because her mother-in-law and brother-in-law went to the place to perform the last rites directly

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<sup>4</sup> Exhibit A1, pp. 57-62.

from the airport. She then stated that as a newly married girl she is to only participate in happy events and that she still had the colour of henna on her. Later she stated that her mother-in-law came to India a year after the marriage, which is incorrect as she came five months after the wedding. No details (or photos) were provided of this meeting between the appellant's mother and the applicant. Thus, the contradictory testimonies combined with a lack of documentary evidence undermine the witnesses' credibility on this meeting.

[14] During cross-examination, the appellant was questioned on why he did not postpone the wedding giving his father's recent death. The appellant went ahead with the wedding even though his mother, brothers, and relatives in the UK choose not to attend because of his father's death. The appellant testified that he choose not to postpone the wedding because he had already planned for the time off, and the applicant stated that there was already a one-year delay after the engagement and she was concerned that the postponement could go on-and-on. The reasons provided by the appellant and the applicant did not adequately explain their decision to go ahead with the ceremony without the participation of the appellant's family.

[15] In addition to these major concerns, there were several other inconsistencies between the testimonies of the appellant and applicant.

[16] The appellant testified that the other people living at the house were Babaji, Babaji's wife, and Babaji's mother. The applicant testified that the other people residing in the house also included Babaji's aunt, another aunt and the aunt's daughter.

[17] The appellant testified that the applicant learned about his age during his visit to India; sometime during the month they were getting to know each other. The applicant testified that she was informed prior to the engagement by telephone after he had returned to Canada.

[18] The appellant testified that the applicant had recently completed an on-the-job training program at a beauty parlor in a nearby village. The applicant, on the other hand, testified that she is pursuing a sewing and stitching course at a centre in her village.

[19] Overall, the evidence revealed a lack of knowledge about each other's lives, and discrepancies were in areas where consistency is to be expected, specifically the genesis of their relationship, their wedding talks, and family matters.

[20] I recognize that the appellant has visited the applicant since the marriage, that he provides financial support, and that they were able to demonstrate consistent testimony in some areas. However, these were outweighed by the contradictory evidence and absence of knowledge in significant areas. The lack of effort to learn, share or remember important information about each other is indicative that this is not intended to be a lasting spousal relationship.

[21] I find that the areas of inconsistency are significant and are not consistent with the claimed levels of ongoing communication and the existence of a genuine relationship. I have little confidence in the reliability of the appellant and applicant and do not consider their evidence to be credible. This lack of credibility on significant issues causes me to give less weight to the consistent areas of testimony demonstrated on direct examination and to the documentary evidence. I find the appellant has not met his onus to establish on the balance of probabilities that the marriage is genuine and was not entered into for immigration purposes.

[22] The appeal is dismissed.

**NOTICE OF DECISION**

The appeal is dismissed.

(signed)

**“Judith Boer”**

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**Judith Boer**

**December 8, 2017**

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**Date**

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.