



IAD File No / No. Dossier de la SAI : MB0-02166  
Client ID / No ID Client : 5594-4808

**Reasons and Decision – Motifs et décision**  
**Sponsorship Appeal**

**Appellant(s)**

**Appelant(s)**

**Harbans Singh MATHARU**

**Respondent**

**Intimé**

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

**Date(s) of Hearing**

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

July 15, 2010 / March 21, 2011

**Place of Hearing**

**Lieu de l'audience**

Toronto, Ontario

**Videoconferencing heard in**

**Fait par vidéoconférence à**

Montréal, Québec

**Date of decision**

**Date de la décision**

March 30, 2011

**Panel**

**Tribunal**

Mariam S. Pal

**Appellant's Counsel**

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

Gurpreet Khaira

**Minister's Counsel**

**Conseil de l'intimé**

Hrnjez Millie

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Greiffier—Registrar

## Oral Reasons for Decision

[1] These are the reasons for file MB0-02166. I have considered your testimony and the other evidence in the case and I am ready to render my decision orally. I wish to add that written reasons will be issued and may be edited for syntax and grammar and references to the applicable case law.

[2] These are the oral reasons in the decision of the appeal of Harbans Singh MATHARU (the Appellant) who appeals the refusal to approve the permanent resident application made by his spouse Sukhwant Kayr TAK (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 IRPA).<sup>1</sup>

## Issue

[3] At 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 for consideration as a member of the family class. The Minister's counsel has made a positive recommendation in this case.

[4] After careful consideration of the testimony and the disclosed documents that were filed in this case, I have come to the conclusion that the Applicant has established that section 4.1 of *Regulations* does not apply to his case. The appeal is therefore allowed for the following reasons.

## Analysis

[5] The Appellant is 28 years of age. The Applicant is 26 years of age and lives in India. The Appellant was landed in Canada in May of 2007. He works in Canada as a labourer. The Applicant and the Appellant were married in India on January 27, 2008 and their son was born on January 4, 2011. The visa officer interviewed the Applicant in New Delhi on November 6, 2008. Among the concerns the visa officer addressed in the interview, as shown in the interview notes and in the letter of refusal of March 12, 2009, were the following:

- a. The marriage was arranged in haste and there was no engagement ceremony organized or held;
- b. The wedding ceremony was small;
- c. There was no honeymoon;
- d. There had been no visits between the couple since their marriage;
- e. There was no evidence of correspondence or communication;
- f. No gifts had been exchanged and there was minimal provision of financial support; and,
- g. The visa officer noticed that the Applicant's sister in Canada was sponsored by his sponsor's brother.

[6] The genuineness of the marriage can be affected by a number of different factors which can vary from appeal to appeal. It can include but are not limited to factors such as the following: compatibility, development of the relationship, communication between the Appellant and Applicant, financial support, knowledge of each other, visits by the Appellant to see the Applicant; existence of family of Applicant in Canada and the birth of a child.

[7] The Appellant testified under oath with the assistance of an interpreter. The Applicant did not testify in this case. The Panel is of the view that the majority of the concerns expressed by the visa officer were addressed by the Appellant's testimony in the course of this morning at his hearing and the hearing in July of 2010:

- a. With respect to the quickly arranged marriage, in fact, there was no engagement party. The Appellant explained that he and his family in India were looking for a bride and that he was on leave from his job in Canada. He also testified that a ring ceremony was held although no engagement's ceremony was arranged.

- b. With respect to the fact that the wedding was a modest affair, a small wedding, the Appellant explained that the Applicant's family did not have the means necessary to organize a large and lavish wedding.

- c. With respect to the fact that no honeymoon was arranged, the Appellant testified that they did not have time to go on a honeymoon and they felt they needed to give priority to visiting religious sites;

- d. At the time of the interview in November 2008, there had been no visit between the Appellant and the Applicant but since this time, the Appellant not only testified but filed written documentation as to the fact that he had visited his wife in India three times; the most recent was in December and January 2010-2011 for the birth of his son;

- e. As for whether or not gifts were exchanged or there was any financial support, the Appellant testified and provided documentary evidence of proof of financial support. Lastly regarding the fact that two brothers had married two sisters, the Panel's view is the same as the one expressed by the Minister's representative that these things do happen. It looks unusual on paper but the Appellant's testimony amply explained the whole circumstances of the marriage. I find that the evidence given orally under oath was credible. There were no contradictions in the Appellant's testimony and no gaps in it.

[8] I therefore find that the marriage between the Appellant and the Applicant is a genuine one and it was not entered into for immigration purposes.

**Conclusion**

[9] In conclusion, I conclude that the Appellant has shown that his marriage to the Applicant is a genuine one and was not entered into primarily for the purpose of acquiring any status or privilege under the IRPA. The appeal is therefore allowed.

## 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.

*Mariam S. Pal*

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**Mariam S. Pal**

**March 30, 2011**

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**Date**

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**NOTE - 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.

