



IAD File No. / N° de dossier de la SAI: TB9-17841
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Reasons and Decision – Motifs et décision

SPONSORSHIP

Appellant(s)	NARINDER MULTANI	Appelant(e)(s)
and		et
Respondent	The Minister of Citizenship and Immigration Le ministre de la Citoyenneté et de l'Immigration	Intimé(e)
Date(s) of Hearing	February 12, 2020 March 4, 2020	Date(s) de l'audience
Place of Hearing	Toronto, Ontario	Lieu de l'audience
Date of Decision	May 11, 2020	Date de la décision
Panel	A. Jung	Tribunal
Counsel for the Appellant(s)	Gurpreet Khaira Barrister and Solicitor	Conseil(s) de l'appelant(e) / des appelant(e)(s)
Designated Representative(s)	N/A	Représentant(e)(s) désigné(e)(s)
Counsel for the Minister	Catterall, Ian	Conseil du ministre

REASONS FOR DECISION

INTRODUCTION

[1] On June 28, 2019, the Appellant, Narinder Multani, filed a Notice of Appeal against the refusal of the permanent resident visa application made by her spouse, Vikram Singh (the Applicant), which was refused pursuant to section 4(1) of the *Immigration and Refugee Protection Regulations*¹ (the *Regulations*). The visa officer was not satisfied that the Appellant's and Applicant's marriage is genuine and that it was not entered into primarily for the purpose of acquiring status or privilege under the *Immigration and Refugee Protection Act*² (the *Act*).

[2] The reasons for the refusal by the visa officer are set out in the Record.³ Exhibits include the Record and documentary evidence from the Appellant.⁴ The Appellant and the Applicant testified at the hearing.

[3] For the reasons set out below, the appeal is allowed.

BACKGROUND

[4] The Appellant is a 38-year-old citizen of Canada. The Applicant is a 33-year-old citizen of India. The Appellant and Applicant met in India on January 11, 2016, and were married on January 7, 2018. This is the third marriage for the Appellant and the first for the Applicant.

ANALYSIS

[5] The Appellant and the Applicant testified of their introduction which was facilitated through Raj Kaur who is the Applicant's paternal aunt's sister-in-law and the Appellant's father's cousin's sister. The Appellant was divorced from her second husband in November 2015 and in December 2015 Raj Kaur spoke with the Appellant's father and proposed the Applicant as a potential marriage partner for the Appellant. The Appellant and her mother travelled to India

where the Appellant and the Applicant met on January 11, 2016. The Appellant and the Applicant continued their communication by telephone following their initial meeting and met on two subsequent occasions: at a family dinner on February 19, 2016, and in March 2016 when the Applicant dropped the Appellant and her mother off at the airport to return to Canada. The Appellant and the Applicant maintained almost daily contact following the Appellant's return to Canada. Their relationship became romantic in June 2017. The Applicant proposed marriage in November 2017 and the couple married in January 2018.

[6] The Appellant and the Applicant testified of their introduction, the timeline of their relationship, and the progression of their relationship over the course of two years from introduction to marriage. No inconsistencies, discrepancies, or omissions arose in the evidence in this regard. The Appellant's and Applicant's oral testimony is supported by the documentary evidence which includes telephone bills dating from December 2016 to December 2019.⁵

[7] Concerns were raised with respect to why the introduction between the Appellant and the Applicant was proposed when both the Appellant and the Applicant testified they were not interested in getting married at the time they were introduced. The Appellant explained that following the finalization of her divorce from her second husband she was emotionally distraught and under a great deal of stress. It was under these circumstances that her parents repeatedly suggested that it would be better for the Appellant to have a companion to help relieve the Appellant's distress. The Appellant said that she consented to her parents' suggestion of meeting the Applicant with the mutual understanding that she was not ready to face marriage at that particular time. The Appellant's parents agreed that they would not push the Appellant to marry. The Applicant testified that his parents began looking for a marriage partner for him in 2015 and when Raj Kaur brought forth the suggestion of the Appellant as a marriage partner, he and his parents were informed that the Appellant came from a good, decent family. The Applicant explained that he was not ready to get married but out of respect for his parents, he agreed to meet the Appellant. The Applicant explained that the final decision to marry the Appellant rested with him and not his parents. Both the Appellant and the Applicant testified that no agreement was made with respect to marriage following the January 2016 meeting and instead they continued to communicate on a casual, friendly basis. The evidence from both the

Appellant and the Applicant is that while they were both not ready for marriage at the time of their introduction, they agreed to the introduction out of respect for their parents who proposed the meeting. While the purpose of the introduction was for marriage purposes, the evidence from the Appellant and the Applicant was that the decision whether or not to marry was left to the Appellant and the Applicant without pressure from their parents. Given the explanations provided, there is insufficient evidence establishing the introduction between the Appellant and the Applicant is a material credibility concern that reflects a lack of genuineness or an intent to enter into a marriage for immigration purposes.

[8] At the time of the first meeting, the Appellant was 34 years of age and twice divorced. The Applicant was 29 years of age and never married. Concerns were raised with respect to the incompatibility between the Appellant and the Applicant in age and marital history. In response, the Applicant stated he does not agree with the view that he and the Appellant are incompatible in age or marital history. The Applicant testified that he does not think this perspective is right and that he is not of the opinion that divorce is to be viewed disapprovingly. The Applicant added he does not care about society. There is no evidence before me that the Applicant's personal views about societal norms pertaining to divorce is lacking in credibility. The Applicant's actions in agreeing to meet the Appellant and eventually entering into a romantic relationship with the Applicant supports his testimony that he does not agree with societal or cultural norms in respect of age and divorce. Given the Applicant's explanation, there is insufficient evidence to find that the age difference between the Appellant and the Applicant and the marital history difference between the Appellant and the Applicant is reflective of a lack of genuineness or that the primary purpose of the marriage was to gain status in Canada.

[9] The Appellant and the Applicant consistently testified that they maintained regular communication with each other following their first meeting. This is supported by the documentary evidence of telephone records.⁶ Concerns were raised that as the telephone account is under the Appellant's mother's name the telephone records do not necessarily reflect communication between the Appellant and the Applicant. The Appellant and the Applicant testified of their communication with each other since 2016. Their testimony in this regard was consistent and without discrepancies. In this context, although the telephone account is in the

Appellant's mother's name, this evidence alone is not sufficiently persuasive to refute the Appellant's and Applicant's consistent sworn testimony that they were in regular telephone contact with each other since their meeting, nor is it sufficiently persuasive to diminish the evidentiary weight of the telephone records submitted. The Appellant resides with her parents and it is not unreasonable that the household telephone account would be listed under her mother's name. The Appellant and the Applicant testified of regular and ongoing communication with each other which is supported by the documentary evidence. Based on the Appellant's and Applicant's consistent sworn testimony and on a balance of probabilities, there is sufficient persuasive evidence to establish that the Appellant and the Applicant communicate on a regular, ongoing basis which is supportive of the genuineness of the marriage.

[10] The Appellant explained that she and the Applicant became very close. The Appellant and the Applicant consistently testified of the gradual progression of their relationship from the time of their meeting in January 2016, to June 2017 when their friendship evolved into a romantic relationship, to November 2017 when the proposal occurred. One of the visa officer's concerns was that the match between the Appellant and the Applicant was finalized in haste.⁷ The Appellant and the Applicant met in January 2016 and they were engaged in November 2017, nearly two years later. Their romantic relationship did not begin until approximately a year and half after their introduction. I do not find the evidence supports the concern of a hasty marriage. Given the consistent oral evidence before me of the development of the relationship, as well as the timeline of their relationship, there is sufficient credible evidence, on a balance of probabilities, of a development of a genuine relationship.

[11] Following the Appellant's trip to India in January 2016 when she met the Applicant, the Appellant subsequently returned to India in December 2017 for the wedding and again in August 2019 to visit the Applicant. This is supported by the documentary evidence.⁸ The Appellant travelled to India in December 2017 for the wedding and thereafter resided with the Applicant until March 11, 2018 when she returned to Canada. She began collecting documentation such as divorce certificates and police clearances in preparation for the sponsorship application which she testified was a time-consuming process. The lock-in-date of the application is September 4, 2018. The application was refused on June 24, 2019. The Appellant explained she did not return

to India to see the Applicant prior to the refusal due to financial constraints and in anticipation of the approval of the application upon which she planned to travel to India for a final time. The Applicant testified that the Appellant had little opportunity to return to India given her work commitments and financial concerns.

[12] Concerns were raised by the Minister's Counsel about the Appellant's lack of visits prior to the refusal of the application. The Minister's Counsel questioned why starting a family was not more important than financial constraints given the Appellant's advanced age. There is little persuasive evidence to conclude that the Appellant's decision not to remain in India until she became pregnant, and not to travel to India more frequently despite her financial difficulties, is because of a lack of genuineness in the marriage or of a goal to marry for immigration purposes. Given that the Appellant remained in India from December 2, 2017 to March 11, 2018, the Appellant's and Applicant's explanation that the Appellant faced pressing work commitments thereafter as well as financial difficulties which prevented her from returning to India until August 24, 2019 is not unreasonable. The Appellant has visited and resided with the Applicant every year since their marriage, including this year. The Appellant's trips to India to see the Applicant were for extended periods of time: three months from December 2, 2017 to March 11, 2018, and five months from August 24, 2019 to January 21, 2020, which were spent residing with the Applicant. The Appellant's efforts to visit the Applicant to the extent that she has is illustrative of a genuine marriage.

[13] Concerns were raised with respect to the absence of the Appellant's family members at the wedding. The Appellant testified that only her mother accompanied her to India for the wedding. The Appellant's father was ill with heart-related problems and advised by his physician not to travel. The Appellant's younger brother has three young children and could not afford the airfare to India. The Appellant's sister also has young children, was in an accident, and her husband, who is a physician, was unable to take time off during the busy holiday season. The Appellant's elder brother was estranged from the Appellant at the time and did not have any contact with the Appellant. While credibility concerns were noted with respect to the fact that the Appellant's father subsequently travelled to India in May 2018, the Appellant explained that he was medically cleared to travel by then. The Applicant did not provide these details at the time of

the visa officer interview which the Appellant stated was due to confusion. There is no evidence before me to undermine the credibility of the explanations provided by the Appellant for the absence of her siblings and father at the wedding. I find the Appellant's father's and siblings' absence at the wedding does not undermine the genuineness of the marriage.

[14] The Appellant described the Applicant as being very loyal to her, honest, understanding, and without greed. The Applicant testified he liked the Appellant as she was hard working, loyal, respectful to others, and good with family. The Appellant and the Applicant share the same cultural background and language and while the Applicant is now a nurse, they previously shared the same profession as personal support workers. While I acknowledge the difference in age and marital history, there is insufficient evidence that these factors were of concern to the Applicant at the time he entered into marriage with the Appellant. The Appellant testified that both she and the Applicant do not like to talk very much and are both very much involved with their family and in taking care of their parents. I find there is sufficient evidence of compatibility between the couple to support, on a balance of probabilities, the genuineness of the marriage.

[15] Both the Appellant and the Applicant testified in a consistent manner of their plans for the Applicant to settle in Canada, for the Applicant to obtain his nursing qualifications to further his career, and to start a family. The Appellant explained that she is now financially stable and they could reside with her parents in Canada or find a rental residence elsewhere. The Appellant and the Applicant also testified of their unsuccessful efforts to start a family which led them to seek a consultation with a fertility clinic which they provided documentary evidence of.⁹ The Appellant and Applicant stated that if the appeal were to be dismissed, the Appellant would return to India. The Appellant explained that they discussed such plans once the application was refused. I find there is sufficient persuasive evidence to establish that the Appellant and the Applicant have discussed and planned their future lives together which is indicative of a genuine marriage.

[16] The Applicant demonstrated knowledge of the Appellant's marital history, her employment, work location, salary, working hours, residence, and family composition. The

Appellant was knowledgeable of the Applicant's current living circumstances, employment, residence, and the Applicant's family. I find the Appellant's and Applicant's level of knowledge of each other is supportive of a genuine marriage.

[17] The Appellant provided many photographs taken during her visits to India.¹⁰ Many of the photographs depict the Appellant and the Applicant with family members. No concerns were raised with respect to the photographs and I find there is sufficient evidence to conclude that the photographs support the genuineness of the marriage.

[18] The Appellant testified that she supported the Applicant while he was studying for his nursing degree and in the purchase of his car. The Appellant stated she sent approximately \$300 a month to the Applicant following their marriage but now only sends money occasionally as the Applicant is employed as a nurse. The Appellant and the Applicant share a joint bank account in India of which they provided documentary evidence.¹¹ The Appellant testified she opened the bank account to facilitate currency exchange when she visits India and to withdraw money directly from a bank. The Appellant explained that she did not open a bank account directly after their marriage as she did not yet have the necessary paperwork in order to do so. While concerns were raised that the joint bank account was created simply to bolster the marriage, there is a lack of evidence to support this conclusion. I find the Appellant's financial support of the Applicant and their integrated financial affairs is evidence of a genuine marriage.

[19] Concerns were raised with respect to the previous temporary resident visa application made by the Applicant in June 2017 for the purpose of short-term studies at the Imperial Academy of Professional Training & Studies in the Canadian Caregiver review program.¹² The Minister's Counsel raised concerns that the Applicant did not mention his relationship with the Appellant in this application. At the time of the application, the Appellant and Applicant had just evolved from being friends to romantic partners. There is no evidence before me that the Applicant was obligated to provide details of the Appellant as his romantic partner in the visa application to study in Canada. The Applicant explained that the studies were in line with his profession as a personal support worker and nurse and that the program could further his career prospects in India. There is no evidence before me that the Applicant intentionally withheld

information about his relationship with the Appellant in the application. I do not find the Applicant's temporary resident visa application to undermine the genuineness of the relationship or to be persuasive evidence that the primary purpose of the marriage was to gain status in Canada.

[20] The Appellant and Applicant were credible witnesses. No serious inconsistencies, discrepancies, or omissions arose in the evidence. The Appellant and the Applicant were generally forthcoming in their testimony without evasiveness. Their oral testimony was corroborated, in part, by the documentary evidence. The Appellant and the Applicant provided evidence of: the genesis and development of their relationship, compatibility, future planning, family interaction, and the demonstration by the Appellant and the Applicant of continuing communication, care, and responsibility towards each other that in my view support the case that this is a genuine marriage. In weighing the Appellant's and Applicant's consistency of testimony and the explanations given by the Appellant and Applicant to address the areas of concern in conjunction with the corroborating materials submitted by the Appellant, I find that there is sufficient evidence, on a balance of probabilities, in favour of the genuineness of this marriage that supports the view that this is a genuine marriage for the Appellant and the Applicant. I further find, on a balance of probabilities, there is insufficient persuasive evidence establishing the marriage was entered into primarily for the purpose of acquiring any status or privilege under the *Act*.

CONCLUSION

[21] I find the Appellant has met her onus to demonstrate, on a balance of probabilities, the marriage is genuine and was not entered into primarily for the purpose of acquiring status or privilege under the *Act*.

[22] The appeal is allowed.

NOTICE OF DECISION

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

A. Jung

A. Jung

May 11, 2020

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.

¹ *Immigration and Refugee Protection Regulations*, SOR, 2002-227, as amended.

² *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, as amended.

³ Record, pp. 30-36.

⁴ Record, Exhibits A-1, A-2, A-3, A-4, A-5.

⁵ Exhibit A-5.

⁶ Exhibits A-1, pp. 17-87; A-3, A-5.

⁷ Record, p. 35.

⁸ Record, pp. 37-40; Exhibit A-1, pp. 1-16.

⁹ Exhibit A-4.

¹⁰ Record, pp. 161-177; Exhibit A-1 pp. 88-158.

¹¹ Exhibit A-2, pp. 1-10.

¹² Record, p. 221.



Immigration and
Refugee Board of Canada
**Immigration Appeal
Division**

Commission de l'immigration
et du statut de réfugié du Canada
**Section d'appel
de l'immigration**

IAD File No.: TB9-17841
UCI: 37610900

Statement that a document was provided

On May 11, 2020, I provided the following:

Notice of Decision and Reasons

By e-mail to the Appellant Narinder MULTANI c/o the Appellant's Counsel Gurpreet Khaira

At the following address: gurpreet@cwccanada.com

By e-mail to the Appellant's Counsel Gurpreet Khaira

At the following address: gurpreet@cwccanada.com

By e-mail to CBSA - Toronto - Hearings and Appeals Office

At the following address: cbsa.appealsont-appelsont.asfc@cbsa-asfc.gc.ca

Sara Huynh
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