



IAD File No./Dossier: TA6-04029

Reasons and Decision – Motifs et décision

Sponsorship

Appellant(s)

JASMAIL KAUR TATLA

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

**January 2, 2007
May 9, 2007
Toronto, Ontario**

Date(s) et Lieu de l'audience

Date of Decision

May 9, 2007

Date de la Décision

Panel

Lawrence E. Leonoff

Tribunal

Appellant's Counsel

Harinder Gahir

Conseil de l'appelant(s)

Minister's Counsel

Harry Adamidis

Conseil de l'intimé

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Oral Reasons for Decision

[1] I am prepared to give an oral decision concerning the appeal by Jasmal Kaur TATLA (the appellant), who appeals a decision from the Canadian Consulate General in Chandigarh on February 22, 2006, refusing the permanent resident visa application of Dilbagh Singh Mutti (the applicant), her husband.

[2] The visa officer in her letter of refusal has as number of concerns mainly around compatibility, indicating that there was an age difference between the appellant and the applicant, an educational background difference and the fact that the appellant was previously divorced. She also indicated in the refusal letter that the photographs presented looked staged and there was some concern about the number of people who attended the ceremony. She further indicated that the applicant had little knowledge of the appellant's life in Canada and therefore refused the visa application.

[3] The evidence before me indicates that the appellant trusted the religious leader to indicate that this was a proper match. There are a number of pictures put forth in evidence and the panel, looking at these pictures, does not find these pictures to be out of the ordinary. Therefore the opinion of the visa officer that these pictures are staged, in the panel's opinion based on the probability, is not accepted. Further, the panel notes that there is evidence in Exhibit A-4 that the appellant is pregnant and there is no reason to believe that the applicant is not the father of her child. While pregnancy is not definitive in determining that the marriage is *bona fide*, it nevertheless is persuasive and the panel accepts it in this light. There is also a letter (Exhibit A-4) from the Punjabi Community Health Centre indicating that the executive director of this program tried to mediate between the appellant and her first husband and that no reconciliation was possible. This is in support of evidence given at the last sitting as to the circumstances of the appellant's first marriage and how it ended.

[4] Minister's counsel, while not consenting in so many words, says on the record that he is not opposed to granting of this appeal. Given his position and this new evidence that is before me, there is no reason for me to take a contrary position and therefore, I find that this marriage is *bona fide* and was not entered into primarily for the purpose of gaining status or privilege under the *Immigration and Refugee Protection Act*. I am therefore allowing this appeal.

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.

“Lawrence E. Leonoff”
Lawrence E. Leonoff

June 12, 2007
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

Contrôle judiciaire – Aux termes de l'article 72 de la Loi sur l'immigration et la protection des réfugiés, vous pouvez, avec l'autorisation de la Cour fédérale, présenter une demande de contrôle judiciaire de la décision rendue. Veuillez consulter un conseil sans tarder car cette demande doit être faite dans un délai précis.