



[2022] 1 F.C.R. D-13

## FEDERAL COURT JURISDICTION

*Related subject: Citizenship and Immigration*

Motion pursuant to *Federal Courts Rules*, SOR/98-106, r. 51 seeking appeal from Associate Judge's order relating to documents respondent required to produce in Certified Tribunal Record (CTR) — Applicant, permanent resident, seeking judicial review of decision of respondent not to select her application to sponsor her parents for processing — Also challenging lottery scheme established through ministerial instructions made under *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (IRPA), s. 87.3 — In May 2021, leave for judicial review granted, respondent ordered to file CTR — Respondent refused to include in CTR all seven categories of documents argued by applicant to be relevant to judicial review — Case Management Judge granted applicant's motion in part to compel respondent to provide two categories of documents in accordance with *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22, r. 17 — Applicant arguing Court herein having jurisdiction to hear appeal of order of associate judge (formerly known as prothonotary) under r. 51 — Issue whether Court having jurisdiction to hear appeal — R. 51 applying to applications for leave, for judicial review — Key issue in dispute whether right in r. 51 to appeal associate judge's decision to judge of Federal Court inconsistent with IRPA, s. 72(2)(e) which prohibits appealing certain interlocutory decisions — Case Management Judge's decision is interlocutory — Whether IRPA, s. 72(2)(e) applying to interlocutory decisions made after leave granted — Text of provision, scheme of statute clear: s. 72(2)(e) applying to application for leave stage, is part of s. 72 that deals with applications for leave — Text of s. 72(2)(e) confirming that provision deals with applications for leave — Structure of IRPA also confirming that s. 72(2)(e) dealing with applications for leave — S. 72(2)(e) cannot be read in isolation — Legislation not providing for "in between" stage after leave granted but before judicial review commences — No basis to find that after leave granted, provisions that govern applications for leave in s. 72(2) should continue to apply — Given that leave granted in this case, Court having jurisdiction under r. 51 to decide applicant's appeal of Case Management Judge's order — Turning to that appeal, no basis for applicant's assertion that documents overlooked — No palpable, overriding error in Case Management Judge's approach — Appeal dismissed.

WONG V. CANADA (IMMIGRATION, REFUGEES AND CITIZENSHIP) (IMM-319-21, 2022 FC 1515, Sadrehashemi J., reasons for judgment dated November 7, 2022, 29 pp.)