



[2022] 4 F.C.R. D-9

CITIZENSHIP AND IMMIGRATION

STATUS IN CANADA

Persons with Temporary Status

Consolidated applications for judicial review of two decisions made by Immigration, Refugees, and Citizenship Canada (IRCC) officer (Officer), refusing principal applicant's (PA) request for study permit, application by PA's mother for visitor visa — PA is seven or eight year old girl; other applicant is her mother — Both are citizens of Iran — In 2022, PA applied for one-year study visa to attend Grade 2 at public school in Canada — Her mother applied for temporary visitor visa to accompany her daughter — PA's application was refused because: (1) Officer not satisfied there were sufficient or available funds for purposes given remaining family back in Iran; (2) because study plan, proposed studies insufficient given little girl's employment, education history, her "career plan" — In result, Officer not satisfied PA would return to Iran — Given this, Officer's assessment of mother's "socio-economic situation", Officer likewise refused mother's application — Whether decisions at issue reasonable — In terms of economic assessment, given record on file, Officer's decision unreasonable — Applicants had significantly more funds than required by respondent's guidelines — While Officer considered needs of remaining family members living situation back in Iran, such assessment not justified — No reasons provided — Also, Officer failing to assess father/husband in Iran — In terms of purpose of visit, Officer faulted PA's "study plan", "proposed studies" based on child's "employment and education history", "career plan" — Respondent stated there was no explanation why PA wished to study grade two at public school in Canada — Respondent provided examples of what reasonable study plan might be in a case like this — While example explanations could be satisfactory, respondent putting bar too high; could, if adopted, unreasonably limit access to study permit stream where respondent in relevant regulations, policies, guidelines, programs expresses no such limitation — Likewise, no such limitation found expressly or implicitly in decisions at hand — Decision in this respect, without more, lacked justification given record, applicable regulations, policies, guidelines — Foreign children may lawfully apply for Canadian study permits at grade two level without establishing very stringent, special conditions suggested — Canadian study permits are available to attend elementary school as well as colleges, universities — There is no requirement that they have special educational needs — More fundamentally, if such limitations are indeed intended, they should have been set out in decision maker's reasons: it is not Court's job to write reasons where, as here, none along lines suggested were provided — Decision with respect to mother set aside like PA's because relying in large part on PA being turned down — Both decisions remanded to different decision maker for redetermination — Applications allowed.

NAGHIANFESHARAKI V. CANADA (CITIZENSHIP AND IMMIGRATION) (IMM-7140-22, 2023 FC 1489, Brown J., reasons for judgment dated November 8, 2023, 8 pp.)