

Federal Court



Cour fédérale

Date: 20250501

Docket: IMM-13812-24

Citation: 2025 FC 796

Toronto, Ontario, May 1, 2025

PRESENT: The Honourable Justice Battista

BETWEEN:

SURINDER MOHAN SHARMA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS
(rendered orally from the bench on May 1, 2025)

[1] The Applicant requests a writ of *mandamus* requiring a decision on his temporary resident visa application, which has been in process for over three years, since March 31, 2022.

[2] The criteria for a writ of *mandamus* were confirmed by the Federal Court of Appeal in *Apotex Inc v Canada (Attorney General)* (CA), 1993 CanLII 3004 (FCA), [1994] 1 FC 742. I am satisfied that these criteria are met in this case.

[3] The parties in this application disagree about whether the delay has been unreasonable. In addition, Respondent submits that the Applicant needs to demonstrate significant prejudice as a result of the delay, and has not done so.

[4] I agree with the Applicant that there has been an unreasonable delay in processing his application. The current average processing time for temporary resident visas in India is approximately 18 days. The Applicant has been waiting over 60 times longer than this average processing time. This is *prima facie* longer than the process requires.

[5] The Respondent has attempted to justify the delay by first referring to the lengthy security background check. However, the security screening results were received on March 11, 2025. Moreover, even if there were security concerns arising from this background check, nothing in the *Immigration and Refugee Protection Act*, SC 2001, c 27, prevents the Respondent from taking appropriate steps to address this concern after the Applicant's application is finalized.

[6] The Respondent also states that the Applicant has failed to demonstrate "significant prejudice" as a result of this delay. For the reasons provided by my colleague Justice Anne Turley, I disagree that "significant prejudice" should be incorporated into the *mandamus* test (*Tousi v Canada (Citizenship and Immigration)*, 2025 FC 671 at paras 11-17). As stated by my colleague Justice Angus Grant, incorporating this criterion into the test for *mandamus* "would, perversely, require a level of hardship that mandamus is specifically intended to prevent" (*Majidi v Canada (Citizenship and Immigration)*, 2025 FC 680 at para 31 [emphasis in original]).

JUDGMENT in IMM-13812-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. A decision will be rendered on the Applicant's application for a temporary resident visa within 30 days of the date of this order.
3. There is no question of general importance for certification and no order regarding costs.

"Michael Battista"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-13812-24

STYLE OF CAUSE: SURINDER MOHAN SHARMA v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: TORONTO, ONTARIO

JUDGMENT AND REASONS: BATTISTA J.

DATED: MAY 1, 2025

APPEARANCES:

Ramandeep Singh Virk	FOR THE APPLICANT
Nicholas Dodokin	FOR THE RESPONDENT

SOLICITORS OF RECORD:

RSV Law Professional Corporation Mississauga, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT