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Immigration Appeal  
Division

Section d'appel  
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## Reasons and Decision – Motifs et décision

### *Sponsorship*

Appellant(s)

NARINDER KAUR PUREWAL

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

March 19, 2003  
May 14, 2003  
Vancouver, BC

Date(s) et Lieu de  
l'audience

Date of Decision

July 22, 2003

Date de la Décision

Panel

Lorenne Clark

Tribunal

Appellant's Counsel

Khushpal Taunk  
Barrister & Solicitor

Conseil de l'appelant(s)

Minister's Counsel

Judy Milne

Conseil de l'intimé

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## Reasons for Decision

[1] These are the reasons and decision in the section 63(1) appeal of NARINDER KAUR PUREWAL (appellant) from the refusal of the sponsored application for permanent residence made by her husband, SARBJIT SINGH PUREWAL (applicant), from India. The application was refused because a visa officer determined the applicant was a person described in section 4 of the *Regulations*<sup>1</sup> in that his marriage to the appellant in India was not genuine and he married the appellant primarily for the purpose of acquiring the status of a permanent resident in Canada. These are the only issues in the appeal. The appellant and the applicant were the only witnesses. The hearing of the appeal commenced on March 19, 2003, but could not complete due to lack of time and resumed and concluded on May 14, 2003.

### DECISION

[2] I find the marriage of the appellant and the applicant was a genuine marriage and that the applicant did not marry the appellant in India primarily for the purpose of acquiring the status of a permanent resident in Canada. Accordingly, the refusal is invalid in law and the applicant is a member of the family class. The appeal of NARINDER KAUR PUREWAL is allowed. The officer's decision to refuse a permanent resident visa is set aside, and the officer must reconsider the application in accordance with the reasons of the Immigration Appeal Division.

### REASONS

[3] As is evident from the CAIPS notes of the visa officer found at pages 145 to 154 of the record, and specifically at pages 149 and 150, the visa officer found the appellant and the applicant to be compatible in terms of their ages, education, and religious background. However, he was concerned about the fact the appellant's marriage to the applicant is her third marriage whereas it is a first marriage for the applicant. This fact is the primary reason for the visa officer's refusal of the application.

[4] The appellant testified she came to Canada on October 26, 1998, having been sponsored to Canada by her second husband, Tarsem Singh Baines. Her first husband was Joginder Singh Sidhu whom she married in her village on February 15, 1992. Asked if this was an arranged

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<sup>1</sup> *Immigration & Refugee Protection Regulations, SOR/2002 – 227 ('Regulations')*

marriage, she said it was and that it was arranged by a pundit from Village Raj. Approximately 100 to 150 guests attended the wedding. She said she and Joginder Singh lived together for about a month. Asked why she left him, she said she found out he had been previously married in Denmark and was still married to this wife. She said she went to the Danish Embassy. She called her husband at the number she had for him in Denmark and a woman answered the telephone and identified herself as Joginder Singh's wife.

[5] Asked if he lived in Denmark, she said he went to Denmark and returned six months later. She said her parents asked him if he wanted to divorce his first wife or the appellant. She also said he had lived in Denmark a long time and did not tell her he had been married before. Asked how that marriage was arranged, she said the pundit knew him and he was visiting India at the time she met him and the marriage was arranged. She said nobody knew he was married in Denmark. Asked if he got married in Denmark so he could live there, she said no, that he was already a permanent resident of Denmark. Asked if she ever found out why he married her, she said he never told her his heart or his secrets. Asked if his family offered her money or anything of that sort, she said no. She did confirm the marriage was consummated before Joginder Singh left her. Asked when she last saw him, she said he left March 15, a month after they were married on February 15, 1992. They were divorced on March 25, 1996. This is confirmed in her petition for divorce found at pages 1 to 5, tab 1, Exhibit A-1.

[6] While the visa officer makes no comment about this marriage, I find this must have been a very upsetting and traumatic experience for the appellant. There is no evidence she was not telling the truth about this marriage and in my view the visa officer is exceedingly hard-hearted and insensitive in not recognizing how this must have impacted on the appellant and her family. It certainly put a hold on her life for a number of years and I do not believe the fact she was duped into a sham and bigamous marriage should be held against her.

[7] She married her second husband, Tarsem Singh Baines, in her village gurdwara on November 28, 1996, eight months after her divorce from her first husband. Asked how many people were present at that wedding, she said 5 to 7. Asked why it was attended by such a small number of people, she said because it was a second marriage and this is entirely credible in the circumstances. She said this marriage was also an arranged marriage and was arranged by one, Harjit Singh, who owns a clothing store. Asked how long they spent together after the wedding, she said about a week, and he sponsored her to Canada. She was landed in Canada on October

26, 1998.<sup>2</sup> Asked why it took so long for her to get to Canada, she said Joginder Singh did not have a job at the time so he could not sponsor her until later. Asked if the visa officer thought this was not a genuine marriage, she said no. She said Joginder Singh came to visit her after the marriage and took her back to Canada with him in October 1998.

[8] Asked how long they lived together in Canada, she said until July 1999. Asked why they separated after so short a time, she said he would not come home at night and she thought he was having a relationship with another divorced woman. She said he moved out. Asked if he had relatives in Canada, she said he did, his sister, who sponsored him to Canada. Asked whether the rest of his family came to Canada, she said he sponsored them to Canada but they went back. Asked if he got any payment from her family, she said he did not. Asked when she divorced him, she said November, 2000. This is confirmed in the Certificate of Divorce found at page 58 of the record indicating the divorce was granted on November 26, 2000.

[9] Asked by counsel for the Minister why she took so long to get divorced, she said because she was hoping Tarsem Singh would reconcile with her but he did not. She testified in direct examination that she had a big well attended marriage to the applicant, with about 300 to 350 guests, which took place on February 4, 2001.<sup>3</sup> Asked why she had such a big wedding for the third marriage, she said her second marriage was in India but she learned no one in Canada minds about subsequent marriages and since it was a first marriage for Sarbjit Singh, she felt she should not "bury his dreams". Asked if her parents were not embarrassed by this, she said no, because the failure of her previous marriages was not her fault and people believed her about this. I find the appellant was an intelligent, straightforward and honest person who was direct and spontaneous in her testimony. The visa officer concluded the appellant's second marriage seemed to be a marriage of immigration convenience.<sup>4</sup>

[10] Asked if her trip to India in early 2001 was to get married again, she said yes. Asked if she knew about Sarbjit Singh before she left, she said she did not, and knew only that her father was looking at someone for her through a friend. Asked what she knew about the person her father was considering, she said he told her the person lived in Hakimpur and had a permanent injury to his leg. Asked if she talked to this person alone at their first meeting, she said they met on January 22<sup>nd</sup> and she told him this was her third marriage and he said he did not mind about

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<sup>2</sup> Page 2 of the record.

<sup>3</sup> Extract from Hindu Marriage Register, p.59 of the record.

<sup>4</sup> CAIPS notes of the visa officer, p.150 of the record.

that. Asked if he asked her for the reasons her other two marriages ended in divorce, she said not that day. She said he had already made inquiries about this from the go-between and other villagers. Asked if he asked her if she had any children, she said he asked her father's friend, the go-between, about this. Asked if he learned who her previous husbands were and why they divorced, she said yes.

[11] Asked why he did not know this information at the time of his interview, she said he was nervous. She said he had driven a long distance to get to the interview and was tired. He stood in line until 2:30 in the afternoon. As is evident from page 134 of the record, the visa officer asked the applicant if the appellant had any children from her first marriage and he said he did not know. She said he said he did not understand the visa officer's question. However, apart from that, he knew quite a lot about her first husband as is apparent from the CAIPS notes at pages 134 and following and despite the visa officer's conclusion that the applicant had "only basic knowledge about his sponsor's past". He then also commented that there is also, of course, the fact this is the appellant's third marriage. From my reading of the CAIPS notes between pages 134 and 137 of the record, I believe the visa officer is incorrect in saying the applicant had only a basic knowledge of the appellant's past.

[12] He knew the appellant's first husband was already married to someone else when he married the appellant, though he was wrong in thinking the first husband had married someone in Hong Kong rather than Denmark. He was honest and said he forgot to tell his friend who helped him fill out the Spousal Questionnaire that she had been married twice before his marriage to her, but when he was interviewed he did know she had married the first husband in 1992, that they stayed together for only a few days and that he left her and went back to the country he had come from and did not sponsor her. The visa officer asked why this person married her if he was already married, and the applicant said he did not know. And why should he? This was an inappropriate question to ask the applicant. It is doubtful whether even the appellant could answer that question and it is therefore unfair to chastise the applicant for failing to know this.

[13] Asked if she had any children from the first marriage, he said he did not know, but he did know they divorced and that the appellant asked for, and filed, the divorce. He knew all the pertinent details regarding the appellant's second marriage and why it failed. He knew the name of her second husband and the date of their marriage. He did not know the grounds of the divorce but he knew the date of the divorce and that there were no children born of the marriage.

And he knew the exact dates of her marriage to, and her divorce from, her second husband. He knew what she did for a living and how long she had been employed in the jobs she had. And he knew the exact date of when she got her last job. He knew her salary and her hourly rate of pay as well as her hours of work. The visa officer did comment that the applicant was honest. Despite these facts, the visa officer commented (at page 138 of the record) on the applicant's "blatant lack of knowledge of his sponsor" in his final comments on the interview.

[14] The applicant was well versed in the history of the appellant at the time of the hearing. The applicant suffers from a lasting injury to one of his legs which he sustained in a motor vehicle accident. He said he first met the appellant on January 22, 2001, at the go-between's house, Rashpal Singh, who is his father's brother's wife's brother. The appellant's father and the applicant's father are friends. The applicant said she told him about her two previous marriages and he told her about his injured leg. Both of them agreed to the match and so did their families. They had an engagement ceremony on January 23, 2001, and they married on February 4, 2001. He said his parents set the wedding date. It was held in the gurdwara in the Mahal Palace and there were 300 to 350 guests. He stated the marriage was consummated. He stayed with the appellant in India for three months after the marriage during which time they lived in his village of Hakimpur.

[15] He also went back to visit the appellant on November 12, 2001 and stayed for another three months during which time they did not use birth control and were hoping to start a family. During this stay, he was involved in a minor motorcycle accident which required hospitalization and surgery but he said he is now "perfectly okay". The appellant is in touch with the applicant's parents in the UK as well as with the applicant. Both families are happy about the marriage. Asked what they would do if the appeal is refused, the appellant said she would go back to India and they would live together there. The applicant also said they would live together in India if the appeal is refused.

**Conclusion**

[16] On the totality of the evidence, and on a balance of probabilities, I find the marriage of the appellant and the applicant is a genuine marriage and that the applicant did not marry the appellant in India primarily for the purpose of acquiring permanent resident status in Canada. Accordingly, the refusal is invalid in law.

**NOTICE OF DECISION**

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

**"Lorenne Clark"**

\_\_\_\_\_  
**Lorenne Clark**

**22 July 2003**

\_\_\_\_\_  
**Date (day/month/year)**

**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.