

T-479-23

FEDERAL COURT COURT FÉDÉRALE	
MAR 10 2023	
M. KOWALCHUK	
FILED	RECEIVED
HALIFAX, NS	/

FEDERAL COURT OF CANADA

Between:

Zulfiqar Ali
(Applicant)

&

Office of the Information Commissioner Canada
(Respondent)

Application for Judicial Review under section 18.1 of Federal Courts Act
(R.S.C. 1985, c. F-7)

NOTICE OF APPLICATION

TO THE RESPONDENT: A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Fredericton, NB (or a place where Federal court ordinarily sits).

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

(Dated) 10 Feb 2023

Issued by:

ORIGINAL SIGNED BY
MICHAEL KOWALCHUK
ORIGINAL SIGNÉ PAR

Address of local office:

82 Westmorland Street
Suite 100
Fredericton, New Brunswick
E3B 3L3

To:

Office of the Information Commissioner of Canada

Allison Knight (Senior Director of Investigations Central Agencies, Security and Immigration)

30 Victoria Gatineau, Quebec

K1A 1H3

Application

This is an application for judicial review in respect of the decision of Office of the Information Commissioner of Canada / IRCC, issued 15-02-2023, by Office of Information Commissioner refused to provide me with the information of my family members (son and wife) that they carry on my immigration records. This information was provided on Permanent Residence application between 2007 and 2011. After the ATIP requests beginning in 2020, I was provided with the wrong records of other individuals with similar nationality, name and date of birth as mine (including their family information) and now they are withholding the essential information to confirm my identity related to my family in Canada. This is important for me to verify since all the mistakes were pointed out by me after the release of wrong records and because my son and wife are Canadian Citizens by birth, while my citizenship application is still in the process with unknown delays.

The applicant makes application for: Issue the requested records or confirm to me in a certified letter that the information the institution has of my family members is the same as it was provided to them and was not changed or used for any adverse purposes and no other individuals have a claim to that information. Some information regarding my siblings and parents was also provided which should be included.

The grounds for the application are: The concern for consent is not essential, as the biological and functional parent of the child, I provided this information to the Immigration Department and have a right to confirm that this information still exists accordingly without a consent from the mother or the child, child has been my dependent since birth, mother supported the applications when they were filed and processed. Application of the sub sec10(1) of Information act provides a discretion to the department, but it does not prevent them to reasonably release this information under the Section 19(2) Access to Information Act (, 1985, c. A-1) of the act in accordance with section 8(2) of Privacy Act (R.S.C., 1985, c. P-21), for the purpose of administration of law, since this directly affects my situation and being a permanent resident, my rights in becoming a Citizen or carrying my duties to my family and as per following sections of the same clause, the interest maybe personal or public but does not carry any adversity to any one.

(m) (i) the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure, or (ii) disclosure would clearly benefit the individual to whom the information relates.

The recent decisions for the custody of my son has been challenged in the courts several times since 2017, the mental health of my ex-wife and discrimination from her community is a serious concern. I get to know about him through the school, he has been my dependent naturally since the birth and on-wards, the escalated personal issues brought by the mother to the court in 2017 led to a court order of no contact with my son, but these requested records are from 2007 and 2011 and do not pertain to any of the ongoing court issues, the child or the mother did not apply for immigration status at any point, these records exist under my file with the immigration department. It is not clear that why this information is being withheld, and due to the unknown delays in the processing of my Citizenship application, IRCC shall confirm the existence of these records.

This application will be supported by the following material:

(1) OIC's report Date: 2023-02-15,

(2) OIC's report Date: 2021-08-17,

(3) OIC Email Tue, Jun 22, 2021 9:02 AM

(4) OIC Email Wed, Apr 21, 2021 at 4:58 PM (5) Email Wed, Jul 20, 2022 at 4:27 PM (6) Letter ATIP Dated: January 21st 2020,

(7) ATIP Issued information (PDF File names as the document numbers, includes information of other

individuals not related to me, along with my information)

(Other relevant documents can be filed at a later date)

The applicant requests Office of the Information Commissioner / IRCC to send a certified copy of the following material that is not in the possession of the applicant but is in the possession of the IRCC to the applicant and to the Registry:

1): All the documents requested through the ATIP request or pertaining to the request that were given to OIC during the course of their investigation of the complaint.

20: A Letter to confirm that IRCC only carries verified information under any of my records, this includes information of my parents, siblings, child and spouse.



(Signature of Applicant)

Zulfiqar Ali

641 Valleyview Crt., Fredericton NB, E3B 2B2

Ph: 343-585-2653 , Email : zeelink79@gmail.com

I HEREBY CERTIFY that the above document is a true copy of the original issued out of / filed in the Court on the 10

day of MARCH A.D. 2023

Dated this 10 day of MARCH 2023

SOR/2021-151, s. 22

