

IN THE CITIZENSHIP APPEALS TRIBUNAL
AT SUVA

CITIZENSHIP APPEALS TRIBUNAL CASE NO: HIM 3 OF 2021

IN THE MATTER of an appeal under section 21 of the
Citizenship of Fiji Act 2009 from the decision of the Minister for
Immigration.

BETWEEN : **GUANGXIN YANG** *Appellant*

AND : **MINISTER FOR IMMIGRATION** *Respondent*

Coram : *Anjala Wati, Judge* - *Chair of the Tribunal*
S. Qica, as RM then - *Member of the Tribunal*
T. Bainivalu, as RM then - *Member of the Tribunal*

Counsel : *Appellant in Person.*
Ms. S. Taukei for the Respondent.

Date of Judgment : *12 April 2024*

DECISION

Wati, J; Chair of the Tribunal

Cause and Background

[1] Mr. Guangxin Yang (“*Yang*”) applied to the Fiji Immigration Department for citizenship by naturalization. His application was refused by the Minister by a letter dated 21 December 2020.

[2] The reason for refusal of the application is identified in paragraph 2 of the letter which reads as follows:

“You have failed to satisfy the Honourable Minister that you have adequate knowledge of the English language. Thus, you do not qualify for the grant of a certificate of naturalization under s. 13(2) (b) of the Citizenship of Fiji Act, 2009...”

[3] Yang appeals that decision on 2 grounds as follows:

(1) It is more important to follow the law of Fiji than to speak good English.

(2) The Immigration Department is wrong in saying that he did not have any understanding of the English language.

[4] Before I deal with the appeal, let me identify how Yang came to Fiji.

[5] Yang is a Chinese national. He first entered Fiji on 14 June 2014 to take up employment as Manager for Ocean Star Company Limited on a Work Permit valid until 2 June 2015.

[6] He then ventured into Investment, holding 50% shares in Fukumi Company Limited.

[7] Fukumi carries on business of import and export of wholesale and retail of food items. Yang was issued an Investor Permit valid from 25 May 2015 to 25 May 2018.

[8] The Investor Permit was extended for another 3 years until 20 May 2022.

[9] On 18 October 2019, Yang applied for Fiji Citizenship pursuant to s.11 (2) of the Citizenship Act of Fiji.

[10] On 1 October 2020 the appellant underwent an assessment to establish adequacy of his knowledge of English Language and the responsibilities of a citizen of Fiji. It was noted

that Yang was not able to understand spoken English. He needed an interpreter to answer questions that were asked in English.

- [11] Yang could not write English, was not able to read English and unable to answer questions related to responsibilities of a citizen of Fiji and required the questions to be translated. His application was therefore refused.

Law and Analysis

- [12] Section 13(2) of the Citizenship of Fiji Act 2009 states that the Minister may refuse to grant a certificate of naturalization if the applicant fails to satisfy the Minister that the applicant is of good character, has adequate knowledge of the English language and of the responsibilities of a citizen of Fiji and intends to continue to reside in Fiji.
- [13] The applicant Yang could not even communicate to the court in English. He needed assistance of an interpreter. He could not satisfy the Tribunal that the Minister was wrong in arriving at a finding that he does not have adequate knowledge of English language.
- [14] He says that he has been in Fiji for over 7 years. He is able to communicate in the business sector and was able to carry on business for quite some time. He asserts that he could understand enough English to operate his business. He contends that there are so many ways in this world to communicate. Why is it that he was to be failed on English language adequacy?
- [15] To have adequate English knowledge is a requirement of the law. The Tribunal cannot challenge that law. In most countries, it is a requirement to know English language for migration purposes. In those countries, the applicants have to sit for English test and if they do not pass the test, they do not qualify for migration. Fiji has its own law. Anyone who wishes to be a citizen of this country has to meet the requirements of the law.
- [16] The applicant cannot meet the requirements of the law of this country. He cannot ask us to go behind that requirement.

[17] How he operated the business in Fiji is not relevant in determining the appeal. He would have definitely used assistance to communicate in the business sector. He may have the business acumen. However to be a citizen by naturalization, he has to satisfy the Minister and this Tribunal that he has adequate knowledge of the English Language and the civil responsibilities of a citizen. He could not satisfy the Minister on that requirement. The Minister was therefore not wrong in refusing his application for citizenship by naturalization.

Result

[18] The appeal is dismissed. The applicant is to pay costs of \$3,500 to the respondent within 21 days.

Oica, J; Member of the Tribunal

[19] I agree with the findings and orders of Wati, J. I too am convinced that Yang does not meet the requirement of having adequate knowledge of English language as required by the law to be granted the citizenship.

[20] It is not for the Tribunal to question the validity of the legal requirements. It is for the Tribunal to determine whether the Minister has acted in accordance with the law. There is no doubt in my mind that the applicant could not satisfy the Minister that he has met all the requirements of the law. The appeal should be dismissed with costs.

Bainivalu, T; Member of the Tribunal

[21] I have read the judgment of Justice Wati. I have also had the opportunity to see Yang in court. I agree with the findings of her Ladyship that Yang could not demonstrate to the Tribunal that the Minister was wrong in coming to a finding that he does not have adequate knowledge of English Language.

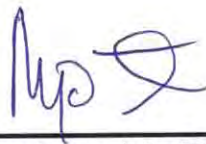
[22] The appeal ought to be dismissed with costs.

Orders

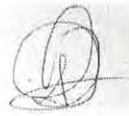
[23] The orders of the Tribunal are:

- (i) *The appeal is dismissed.*

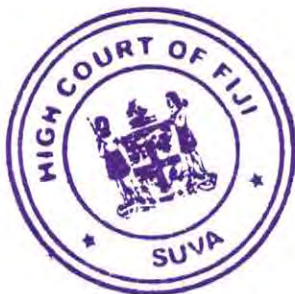
- (ii) *The appellant is to pay to the respondent costs of the appeal proceedings in the sum of \$3,500 within 21 days.*



Hon. Justice Anjala Wati
CHAIR, CITIZENSHIP APPEALS TRIBUNAL



Hon. Justice Samuela Qica
MEMBER



Mr. Tomasi Bainivalu
MEMBER

Solicitors:

Appellant in Person.
Office of the Attorney General for the Respondent.
File: HIM 3 of 2021

