HIGH COURT OF AUSTRALIA

11 November 2026

HATEWAR v MINISTER FOR IMMIGRATION AND CITIZENSHIP
[2026] HCA 45

Today, the High Court unanimously dismissed an application for a constitutional or other writ concerning a decision of a delegate of the Minister for Immigration and Citizenship to refuse the plaintiff's application for a Return (Residence) (Class BB) visa ("return visa") under s 501(1) of the *Migration Act 1958* (Cth).

The plaintiff, a citizen of India, travelled to Australia with his wife and two children in 2017 on a permanent visa. In 2020, the plaintiff pleaded guilty to two counts of common assault arising from an incident of family violence. In February 2022, the plaintiff travelled to India and subsequently applied for a return visa. That application was refused by a delegate of the Minister on 21 February 2025. Following the quashing of that decision by consent, the application was refused by a different delegate on 26 May 2026 under s 501(1) of the *Migration Act*. The delegate found that the plaintiff represented an unacceptable risk of harm to the Australian community and that the considerations favouring refusal outweighed the considerations favouring the grant of the visa, including the effect of the plaintiff's absence on his family and the best interests of his daughter.

By the application for a constitutional or other writ, the plaintiff sought writs of certiorari and mandamus quashing the delegate's decision and requiring the visa application to be determined according to law. The plaintiff contended that the delegate had misunderstood or misapplied the principle in para 5.2(2) of *Direction no 110 – Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA* ("Direction 110") that the safety of the Australian community is the highest priority of the Australian Government. The plaintiff also contended that the delegate's decision was illogical and legally unreasonable and that the delegate had failed to consider medical evidence concerning the effect of the plaintiff's wife's medical conditions on her capacity to care for their daughter as a sole parent.

The High Court rejected each ground. The Court held that the delegate did not misunderstand or misapply para 5.2(2), which did not require that the delegate's evaluation of the primary considerations be framed by reference to the safety of the plaintiff's family. The Court also held that the decision was not illogical or legally unreasonable and that it could not be inferred that the delegate failed, in considering the best interests of the plaintiff's daughter, to take into account the adverse effect of the plaintiff's continued absence from Australia on his wife's capacity to care for their family. Accordingly, the Court dismissed the application with costs.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.

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