

# REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

*Under s 486O of the Migration Act 1958*

*Personal identifier: 091/06*

## **Principal facts**

### *Personal details*

1. Mr X is an Indian citizen aged 36. His family remains in India, with the exception of one sister who resides in the UK.

### *Detention history*

2. Mr X has been detained on three separate occasions under s 189(1) of the *Migration Act 1958*. DIMA advises that Mr X was twice detained for periods less than two weeks (over November-December 2001) for breaching the conditions of his visa, by engaging in employment on the first occasion and changing his place of residence without notice on the second.
3. Mr X was detained a third time after being found residing unlawfully in the community between April 2002 and March 2004, and he has been in detention continuously since that time. Initially detained at the Villawood Immigration Detention Centre, he was transferred to the Baxter Immigration Detention Facility (IDF) in March 2005, where he remains.

### *Visa applications*

4. Mr X arrived in Australia on a short-term business visa in March 2000. After his arrival, he made two applications for a Protection Visa (PV) and was granted a Bridging Visa (BV) (April 2000); one PV application found to be invalid (June 2000); applied for review of that decision (July 2000); BV cancelled (February 2001); Migration Review Tribunal (MRT) set aside original decision, substituted decision to grant BV (December 2001); Refugee Review Tribunal (RRT) affirmed June 2000 refusal (March 2002); granted further BV with reporting requirements (June 2002); BV expired (August 2002); BV application submitted and rejected (April 2004).
5. Mr X then filed application in Federal Magistrates Court (FMC) for review of the March 2002 RRT decision (April 2004); second BV application submitted (June 2004); rejected application affirmed by MRT (July 2004); FMC application dismissed (October 2004); filed appeal to Full Federal Court (October 2004); appeal dismissed (December 2004); filed appeal to the High Court (May 2005); appeal withdrawn (June 2005).
6. Mr X has made four s 417 applications to the Minister, dated March 2002, July 2005, April 2006 and September 2006. The first three were assessed as not meeting appropriate guidelines on July 2002, January 2006 and June 2006 respectively; the fourth remains outstanding. Requests under s 48B were submitted in February 2006 and September 2006; the former was found not to meet the guidelines in March 2006, the latter remains outstanding.

### *Current immigration status*

7. Mr X is detained at the Baxter IDF.

## **Ombudsman consideration**

8. Two reports from DIMA to the Ombudsman under s 486N of the *Migration Act* are dated 23 May 2006 and 14 September 2006.
9. DIMA file records.