

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

*Under s 486O of the Migration Act 1958*

*Personal identifier: 100/06*

## **Principal facts**

### *Personal details*

1. Mr X is a male from India aged 29. He is married to an Australian citizen, Mrs X and they have one child, Y, aged 5. Mrs X also has three boys from a previous relationship, aged 14, 19, and 20.

### *Detention history*

2. Mr X came to Australia in October 1998 and was on a Student Visa (SV) until November 2000. He was in gaol from November 2002 to November 2003. He was released from gaol and the Department (DIMA) placed him in immigration detention pursuant to s 189(1) of the *Migration Act 1958*. He was initially at Parklea Correction Centre and he was transferred to Villawood Immigration Detention Centre (IDC) (June 2004). He was transferred to the Pacific International Hotel (April 2006), while Villawood IDC was temporarily closed, and then back to Villawood IDC (April 2006).

### *Visa applications*

3. Mr X arrived in Australia (October 1998) on a SV; SV expired (November 2000); applied for a Protection Visa (PV) (March 2004); DIMA refused (April 2004); appeal to the Refugee Review Tribunal (RRT) dismissed (June 2004); application for judicial review to the Federal Magistrates Court (FMC) (December 2004) unsuccessful (June 2005); appeal to the Full Federal Court (FFC) dismissed (September 2005).
4. Applied to the Minister under s 417 (April 2004); refused (April 2004); applied again (June 2004); refused (November 2004); applied again (July 2005, referred to the Minister January 2006); pending; the Minister is also considering using her detention intervention powers (December 2005, updated May 2006).
5. Applied for Bridging Visas (BV) (June and July 2004, July 2005, March 2006); refused, except for the March 2006 application which was withdrawn; applied for merits review at the Migration Review Tribunal (MRT) but withdrew application (July 2004); unsuccessfully sought merits review at the MRT (September 2004, August 2005); unsuccessfully applied for judicial review at the FMC (November 2005).

### *Current immigration status*

6. Mr X is an unlawful non-citizen in immigration detention.

### *Removal details*

7. DIMA advises that Mr X refuses to sign an application for the issue of an Indian travel document. He did however indicate to the RRT in 2004 he would be prepared to return to India if he could gain money through employment to offset the difficulty of relocation to a region in India where he would not be at threat. Mr X has been ineligible for removal because of his various visa applications, appeals, and Ministerial intervention requests.

## **Ombudsman consideration**

6. DIMA reports to the Ombudsman under s 486N are dated 12 December 2005 and 5 June 2006.