Administrative Appeals Tribunal – Migration & Refugee Division

Submission on behalf of: Sonjoy Dey

AAT Case Reference: [to be allocated]

Department File Number: [not provided]

Applicant details:

- Name: Sonjoy Dey

- DOB: 2000-08-07

- Address: 45 Greenfield Avenue, Dhaka, Bangladesh

- Visa: Student (Subclass 500)

- Date of application: 2025-01-01

- Application ID: APP567890123

- Transaction Reference: TRX9087654321

- Date of refusal: 2025-08-29

- Representative: Sarah Williams (Authorised Representative)

Relief sought

- That the Tribunal set aside the decision dated 2025-08-29 and substitute a decision that the applicant satisfies the criterion in clause 500.212 (Genuine Temporary Entrant), with the matter otherwise remitted to the Department for finalisation; or, in the alternative, remit with a direction that the Tribunal is satisfied the applicant meets clause 500.212.

Overview

The delegate refused the application on the basis that the applicant did not meet the Genuine Temporary Entrant (GTE) requirement under clause 500.212, having regard to Ministerial Direction No. 108. On a correct application of the law to the totality of the evidence, the applicant is a genuine temporary entrant. The applicant has strong and compelling ties to Bangladesh, a coherent study plan aligned to prior studies and career prospects in Bangladesh, and credible financial capacity. Any concerns raised by the delegate are addressed by the evidence filed with this submission.

Legal framework

- Migration Act 1958 (Cth), s 65: a visa must be granted if the decision-maker is satisfied the criteria prescribed by the Regulations are met.

- Migration Regulations 1994 (Cth), Sch 2, cl 500.212: the applicant must be a genuine applicant for entry and stay as a student, having regard to the matters set out in the Ministerial Direction.

- Ministerial Direction No. 108: requires consideration of the applicant’s circumstances in their home country, circumstances in Australia, the value of the course, immigration history, and any other relevant matters.

- The authorities, including Dhillon v Minister for Immigration and Border Protection [2016] FCA 1312 and Singh v Minister for Home Affairs [2019] FCAFC 33, confirm that the decision-maker must consider all relevant evidence, engage with the substance of the claims, and give intelligible reasons.

Submissions on Direction 108 factors

1) Applicant’s circumstances in the home country (Bangladesh)

- Family ties and responsibilities:

- Parents and siblings reside in Dhaka. The applicant contributes to family welfare and decision-making. Statutory declarations from parents and siblings confirm ongoing dependency and support arrangements (Annexure A1–A3).

- Economic and property ties:

- The family owns land and active business interests in Dhaka requiring the applicant’s ongoing involvement. Evidence includes land records, business registration certificates, and tax filings (Annexure B1–B4).

- Employment pathway in Bangladesh:

- A guaranteed position at TechSolutions Ltd. in Dhaka is offered upon completion of the Master of Data Science, with role description and salary band contingent on completion of the course (Letter of Offer/Intent at Annexure C1).

- Incentive to return:

- The combination of family obligations, property/business management, and an assured professional role creates strong incentives to return to Bangladesh promptly after studies.

2) Circumstances in Australia

- Purpose-limited presence:

- The applicant’s presence in Australia is solely for study at the University of Melbourne (Master of Data Science). Confirmation of Enrolment (CoE), OSHC, and accommodation arrangements are provided (Annexure D1–D3).

- Limited personal ties:

- The applicant has no permanent or long-term personal ties in Australia that would outweigh home country ties. Support networks are academic in nature (letters from faculty and academic advisors at Annexure D4–D5).

- Compliance history and intention:

- The applicant understands and undertakes to comply with student visa conditions, including attendance, academic progress, work-hour limitations, and departure upon completion.

3) Value of the course to the applicant’s future

- Alignment with prior study:

- The applicant holds a Bachelor’s degree in Computer Science (transcripts and award at Annexure E1–E2). The Master of Data Science is a logical progression, deepening skills in machine learning, analytics, and AI.

- Relevance to Bangladesh labour market:

- Data analytics and AI skills are in increasing demand in Bangladesh across ICT, financial services, telecom, and e-commerce sectors. The offered role at TechSolutions Ltd. specifies advanced data engineering and analytics capabilities obtainable through the selected program (Annexure C1, labour market summary at Annexure E3).

- Course selection rationale:

- The University of Melbourne program offers specific units, industry capstone, and research opportunities not readily available in Bangladesh, providing clear value-add that justifies overseas study (program outline at Annexure E4).

4) Immigration history

- The applicant will file a statutory declaration detailing full immigration history. There is no evidence before the Tribunal of any adverse immigration history. Copies of any prior visas and compliance records will be provided (Annexure F1–F2). If the Department relies on any adverse history, particulars are requested so the applicant can respond.

5) Financial capacity and genuineness of funding

- Tuition and living costs:

- Evidence of funds sufficient to cover first-year tuition and at least 12 months of living expenses, travel, and OSHC is provided.

- Sources of funds:

- Bank statements, fixed deposits, and an education loan sanction letter are attached (Annexure G1–G4). Sponsor income evidence and tax assessments are included (Annexure G5–G6).

- Transparency and traceability:

- Funds are lawfully earned, seasoned, and readily available, with clear remittance pathways and no unexplained large cash deposits (funds summary at Annexure G7).

Any other relevant matters

- Academic preparedness:

- English proficiency results, academic transcripts, CV, and references demonstrate the applicant’s capacity to complete the course (Annexure H1–H4).

- Consistency of narrative:

- The applicant’s statements, course choice, career plan, and documentary evidence are consistent over time and across sources.

- Risk mitigation:

- The applicant has arranged appropriate accommodation, OSHC, and has a detailed study and return plan, reducing any risk of non-compliance.

Addressing the delegate’s concerns

- To the extent the refusal decision did not give appropriate weight to the above primary evidence (family and economic ties, course alignment, financial capacity, and the assured role in Bangladesh), the Tribunal is invited to consider that evidence afresh. This is a merits review; all current, relevant evidence has been provided.

- If the delegate inferred an intention to remain in Australia beyond the visa term, that inference is rebutted by the strong and verifiable incentives to return, and the lack of offsetting ties in Australia.

Conclusion

Having regard to Ministerial Direction No. 108 and the factors it prescribes, the applicant is a genuine temporary entrant for the purposes of clause 500.212. The totality of the evidence establishes:

- Compelling family, economic and professional ties to Bangladesh.

- A cogent, credible study pathway aligned to prior studies and a confirmed role in Bangladesh.

- Transparent and sufficient financial capacity.

- No adverse immigration history and a demonstrated commitment to compliance.

Orders sought

- Set aside the decision dated 2025-08-29 and substitute a decision that the applicant satisfies clause 500.212, with the matter remitted for finalisation; or, in the alternative,

- Remit the matter with a direction that the applicant satisfies clause 500.212, and invite the Department to consider remaining criteria.

List of documents (Annexure index)

A. Family ties: statutory declarations from parents and siblings; national ID copies.

B. Property and business ties: land records, business registrations, tax returns.

C. Employment: TechSolutions Ltd. offer/letter of intent; position description.

D. Australia arrangements: CoE; OSHC; accommodation booking; academic support letters.

E. Academic and course value: Bachelor’s degree and transcripts; course outline; labour market summary.

F. Immigration history: statutory declaration; copies of prior visas (if any) and compliance records.

G. Financial capacity: bank statements; fixed deposits; loan sanction letter; sponsor income and tax documents; funds summary.

H. Capability: English test score; CV; academic references.

We request the Tribunal to list the matter for hearing and to admit the attached evidence. The applicant and deponents are available for oral evidence if required.

Dated: [insert date of filing]

Yours faithfully,

Sarah Williams

Authorised Representative

[Contact details]