Administrative Appeals Tribunal – Migration & Refugee Division

Submission on Behalf of: Mr Sonjoy Dey

AAT Reference: [to be allocated]

Department File No.: [not provided]

Application ID: APP567890123

TRN: TRX9087654321

Visa: Student (Subclass 500)

Departmental Decision Date: 29 August 2025

Refusal Ground: Clause 500.212 – Genuine Temporary Entrant (GTE), having regard to Ministerial Direction No. 108

Representative: Sarah Williams, Authorised Representative

For service: [Insert representative’s contact details]

Applicant’s Details: Name: Sonjoy Dey; DOB: 7 August 2000; Address: 45 Greenfield Avenue, Dhaka, Bangladesh

Relief Sought

- That the Tribunal set aside the decision dated 29 August 2025 and substitute a decision to grant the Subclass 500 visa.

Overview

- We act for Mr Dey in his application for review of the refusal of his Student visa (Subclass 500) application lodged on 1 January 2025.

- The delegate refused the application on the basis that Mr Dey did not satisfy the Genuine Temporary Entrant criterion in cl 500.212, assessed in accordance with Ministerial Direction No. 108.

- For the reasons below, the correct and preferable decision (Migration Act 1958, s 353) is that Mr Dey satisfies cl 500.212 and all other criteria, and his visa should be granted.

Applicable Law

- Migration Act 1958 (Cth), s 65: the decision-maker must grant the visa if satisfied that the prescribed criteria are met.

- Migration Regulations 1994 (Cth), Sch 2, cl 500.212: the applicant is a genuine temporary entrant.

- Ministerial Direction No. 108: assessment of genuineness, requiring consideration of (a) circumstances in home country; (b) potential circumstances in Australia; (c) value of the course; (d) immigration history; and (e) any other relevant matters.

- Procedural and reasoning standards: Dhillon v MIBP [2016] FCA 1312; Singh v Minister for Home Affairs [2019] FCAFC 33 (requirement to consider relevant evidence and provide intelligible reasons).

Note on framework changes

- To the extent any subsequent amendments require assessment under a “genuine student” framework, the same factual matters addressed below demonstrate the applicant’s genuineness and temporary intent.

Factual Background (summary)

- Proposed studies: Master of Data Science, University of Melbourne. Corresponding Confirmation of Enrolment (CoE) and course details will be provided.

- Prior background: Bachelor-level study in Computer Science (Bangladesh). Transcripts and degree certificate to be provided.

- Post-study plans: Return to Bangladesh to take up a data analyst role with TechSolutions Ltd., Dhaka (employment guarantee letter provided) and to manage family assets.

- Family and economic ties: Parents and siblings reside in Bangladesh. The family owns land and businesses; certain matters require the applicant’s ongoing involvement and return.

- Accommodation in Australia: Arrangements made for accommodation proximate to the University; details to be provided.

Submissions on GTE – Direction 108 Factors

1. Applicant’s circumstances in the home country

- Family ties and obligations: The applicant’s parents and siblings reside in Dhaka and are financially and emotionally connected to him. Evidence includes family composition documents, letters from parents, and any dependency evidence.

- Economic ties: The family’s landholdings and business interests in Bangladesh require the applicant’s involvement upon completion of studies. Documentary evidence (title records, business registrations, accountant’s letters) will be provided.

- Incentive to return: The guaranteed employment at TechSolutions Ltd. provides a clear and compelling reason to return. The position is contingent upon completion of the Master of Data Science, with remuneration and career progression prospects consistent with Bangladesh’s growing ICT sector.

- Stability and security: The applicant has no intention to migrate permanently to Australia; his social, cultural, and economic connections remain in Bangladesh.

2. Potential circumstances in Australia

- Genuine study intentions: The chosen program is academically rigorous and directly builds on the applicant’s existing Computer Science foundation. The applicant intends to comply with visa conditions, including work limitations and attendance requirements.

- Suitable support environment: Accommodation is arranged; the applicant has a support network of university services (academic advisors, international student support, career services). There is no evidence of factors that would divert the applicant from genuine study (e.g., no dependent family in Australia; no history of extended unlawful presence).

- Compliance history and plan: The applicant understands and accepts the temporary nature of the visa and the requirement to depart on completion of studies.

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

- Academic alignment: The Master of Data Science logically advances the applicant’s prior Computer Science studies, providing advanced competencies in machine learning, big data analytics, and applied statistics.

- Labour market relevance: Data science skills are in high demand in Bangladesh’s expanding ICT, finance, and telecom sectors. The TechSolutions Ltd. offer links the course outcomes to a specific role on return. The qualification will materially enhance the applicant’s employability and earning capacity in Bangladesh, supporting the conclusion that study in Australia is purposeful and time-bound.

- Proportionality: The cost and duration of study are proportionate to the anticipated career benefits in the home country.

4. Immigration history

- The applicant will provide a sworn statement addressing all prior visa applications, grants, travel history, and compliance (Australia and elsewhere), and any adverse matters (if any). On current instructions, there is no adverse immigration history. Supporting documents: passport movement records, prior visas, and compliance evidence.

- If the delegate’s decision relied on any perceived inconsistency or gap, the applicant will address and clarify those matters by statutory declaration and documentary evidence.

5. Financial capacity

- The applicant will provide evidence of capacity to meet tuition, living costs, and travel, including:

- Bank statements (applicant and, if applicable, sponsor) showing readily available funds.

- Proof of income (employment letters, salary slips, tax returns) and/or education loan approval.

- Evidence of payment of initial tuition deposit, OSHC policy, and accommodation arrangements.

- The financial plan covers the full course duration with contingency for currency fluctuation and unforeseen expenses, mitigating any concern that the applicant would need to contravene visa conditions to support himself.

6. Any other relevant considerations

- Age, academic performance, English proficiency (IELTS/TOEFL) and coherent study plan support the genuineness of intent.

- A consistent personal statement (Statement of Purpose) details study rationale, course research, provider selection, and post-study pathway in Bangladesh.

- The applicant’s return obligations arising from family assets and the TechSolutions Ltd. offer create strong “anchors” to return.

Response to Delegates’ Concerns (to the extent applicable)

- Weighting of ties: If the refusal discounted the strength of family and economic ties, the additional documentary evidence now provided (property, business, employment offer) should address that concern and be given significant weight.

- Course relevance: Any suggestion that the course is not aligned is refuted by the applicant’s prior degree, the course content, and the specific job offer requiring advanced data science competencies.

- Financial sufficiency: Updated bank evidence and loan approvals demonstrate clear capacity to fund the course and living costs without reliance on excessive onshore work.

- Risk indicators or generic assumptions: Dhillon and Singh caution against reliance on generalized risk profiles without engaging with the applicant’s specific evidence. The Tribunal should assess the applicant’s individual circumstances and the totality of evidence.

Why the GTE Criterion Is Met

- When all Direction 108 factors are considered cumulatively, they support a genuine, time-limited study purpose with compelling incentives to depart Australia at the end of the course. The applicant’s profile is that of a bona fide student whose primary intent is education and who has concrete prospects and obligations in Bangladesh.

Proposed Orders

- Set aside the decision dated 29 August 2025 and substitute a decision that the applicant satisfies cl 500.212 and is to be granted the Subclass 500 visa (subject to other criteria, which are met).

Evidence and Attachments (to be filed)

- Applicant’s statutory declaration addressing GTE factors and immigration history.

- University of Melbourne documents: offer letter, CoE, course outline, academic calendar.

- Academic records: Bachelor of Computer Science transcripts and degree certificate.

- Employment: TechSolutions Ltd. letter of offer/guarantee; position description; employer contact details.

- Family ties: birth certificates, family register, letters from parents; evidence of residence in Bangladesh.

- Property and business: title deeds, business registrations, financial statements, accountant’s letters.

- Financial capacity: bank statements (last 6–12 months), fixed deposits, income evidence, education loan approval (if any), tuition deposit receipt, OSHC policy, accommodation evidence.

- English proficiency test results.

- Passport biodata page and travel history records.

- Any correspondence from the Department and the delegate’s Statement of Reasons.

Witnesses (if required)

- The applicant, Mr Sonjoy Dey (to give oral evidence on intent, study plan, family and financial circumstances).

- Representative of TechSolutions Ltd. (by video or phone) to confirm the position and the need for Masters-level data science skills.

- Family member (limited evidence) to corroborate ties and obligations.

Hearing and Case Management

- We are content for the Tribunal to determine the matter on the papers if minded to set aside the decision on the strength of the filed material. Otherwise, we request a short oral hearing for limited cross-examination on GTE matters.

- We will file any further documents requested by the Tribunal within any timetable set.

Conclusion

- Properly applying cl 500.212 and Direction 108 to the specific facts and evidence, the applicant is a genuine temporary entrant. The refusal decision did not give proper weight to the applicant’s strong family and economic ties, the direct value of the course to his career in Bangladesh, and his financial capacity. The correct and preferable decision is to set aside the refusal and grant the visa.

Signed

Sarah Williams

Authorised Representative

Date: [insert date]