

Federal Court



Cour fédérale

**Date: 20150417**

**Docket: IMM-6345-14**

**Citation: 2015 FC 485**

**Montréal, Quebec, April 17, 2015**

**PRESENT: The Honourable Mr. Justice Locke**

**BETWEEN:**

**SURESHKUMAR THAVAPALAN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Background**

[1] This is an application for judicial review of a decision of a Pre-Removal Risk Assessment (PRRA) officer denying a PRRA application by the applicant, Sureshkumar Thavapalan, a Tamil citizen of Sri Lanka.

[2] The PRRA officer found that Tamils in Sri Lanka are not systematically targeted unless they have certain risk factors. These risks could include real or perceived links to the Liberation Tigers of Tamil Eelam (LTTE) (beyond prior residency within an area once controlled by the LTTE), working for Tamil separatism and to destabilize the unitary Sri Lankan state, links to Diaspora communities that provide support to the LTTE, having family members with links to the LTTE, or journalism. The officer also noted that Tamils face systematic discrimination in areas including government employment, university education, and access to justice. The officer found that the applicant fit none of the foregoing risk factors.

[1] The applicant argues principally that the impugned decision should be set aside because the PRRA officer (i) applied the incorrect test for assessment of risk in a PRRA, and (ii) failed to consider important evidence in his assessment of risk.

[2] For the reasons set out below, I have concluded that the impugned decision should stand and the present application should be dismissed.

## II. Analysis

### A. *Test for Risk Assessment*

[3] With regard to his assertion that the PRRA officer applied the incorrect test for assessment of risk, the applicant refers to an observation by the officer that there is no evidence that young Tamil males from the North of Sri Lanka are systematically apprehended by the authorities. The applicant argues, correctly, that systematic apprehension is not the correct test

for risk. However, in my view, this is not the test that the officer applied to assess risk. The reference to systematic apprehensions was merely an example of such risk. The officer was quite clear that risk could be established in other ways, including those listed in paragraph 2 above.

[4] I am not satisfied that the PRRA officer applied the wrong test for assessment of risk.

B. *Consideration of the Evidence*

[5] With regard to his assertion that the PRRA officer failed to consider important evidence in his assessment of risk, the applicant refers to many documentary sources that paint a much bleaker picture of the risks faced in Sri Lanka by young male Tamils from the North. The applicant argues that it was a reviewable error for the officer to fail to consider the many sources of information that differ so greatly from the few that the officer elected to rely on. The applicant asserts that it is not sufficient for the officer to simply state that he considered all of the references.

[6] In my view, the PRRA officer's assessment of the evidence was reasonable. Though the applicant asserts that the officer relied mainly on an *Operational Guidance Note on Sri Lanka* from the U.K. Home Office, the officer actually cited a number of other sources for his risk assessment:

1. US Department of State, *Country Reports on Human Rights Practices for 2013: Sri Lanka*, 27 February 2014
2. Human Rights Watch, *World Report 2014: Sri Lanka*, 31 January 2014
3. Freedom House, *Freedom in the World 2013: Sri Lanka*, 10 June 2013

4. UN High Commission for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*, 21 December 2012
5. US Department of State, *2012 Report on International Religious Freedom - Sri Lanka*, 20 May 2013

[7] It appears to be common ground that the available documentation contains conflicting information concerning risks for Tamils in Sri Lanka. This was acknowledged by the PRRA officer. He stated explicitly that he considered all of the sources, and he was entitled to prefer some sources of information over others, especially in light of the conflicting information. The usual requirement to refer to evidence that contradicts a tribunal's decision is relaxed where the evidence in issue is general country documentary evidence: *Canada (Citizenship and Immigration) v Kornienko*, 2015 FC 85 at paras 17-18.

[8] The applicant argued that a Swiss Report entitled *Sri Lanka: Current Situation – Update*, dated November 15, 2012, should have been addressed by the PRRA officer. While it was open to the officer to do so, I am not prepared to conclude that it was an error not to do so. The officer did not mention the Swiss Report, but I am not satisfied that the officer overlooked it.

[9] The applicant argues that the U.K. Home Office document referred to by the PRRA officer was an outlier which should not have been relied upon since it failed to acknowledge that Tamils in Sri Lanka could face risks for a mere perception of links with the LTTE. I disagree

with this description of the U.K. Home Office document. It clearly identifies perception of links with the LTTE as a risk factor: para 3.9.7.

C. *Other Issues*

[10] The applicant asserts that he does have perceived links with the LTTE. However, I am not satisfied that this assertion is supported by the evidence.

[11] The applicant also asserts that he faces risks upon return to Sri Lanka as a failed refugee claimant. The PRRA officer concluded that Sri Lankan authorities target returnees who have an existing risk factor, e.g. perceived links with the LTTE. The officer was not satisfied that returnees without such risk factors face risks as failed refugee claimants. In my view, this was a reasonable conclusion.

[12] Finally, I am not satisfied that the PRRA officer erred in finding that (i) the applicant is not at risk due to his ethnicity/religion, and (ii) there is insufficient information and evidence to support the allegation that members of his family were subject to an extortion attempt in Sri Lanka because of perceived links to the LTTE.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

1. The present application for judicial review is dismissed.
2. No serious question of general importance is certified.

“George R. Locke”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-6345-14

**STYLE OF CAUSE:** SURESHKUMAR THAVAPALAN v THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** MARCH 19, 2015

**JUDGMENT AND REASONS:** LOCKE J.

**DATED:** APRIL 17, 2015

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