

Federal Court



Cour fédérale

Date: 20160919

Docket: IMM-1035-16

Citation: 2016 FC 1064

Toronto, Ontario, September 19, 2016

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

**ANUSHIYAMINI JEGAN,
AJANTH JEGAN,
ARUNETHRA JEGAN**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Rendered on the Bench at Toronto, Ontario on September 19, 2016)

I. Background and Analysis

[1] Upon arrival in Canada, the principal Applicant was a permanent resident of Italy and both of her minor dependants were citizens therein. The Refugee Protection Division of the IRB determined that the Applicants have the possibility of returning to Italy, recognizing that no

objective, nor subjective fear was deduced by it in that regard (*Minister of Citizenship and Immigration v Mahdi*, December 1, 1995, 32 Imm LR (2d) 1 (FCA)). The determination was based on an analysis of such status as per *Canada (Citizenship and Immigration) v Zeng* (FCA, A-275-09).

[2] This judgment is in response to the application for judicial review of the Pre-Removal Risk Assessment (PRRA) of a Senior Immigration Officer of Citizenship and Immigration Canada.

[3] The principal Applicant and her two children arrived in Canada on August 7, 2014. The Applicants claimed refugee status upon arrival.

[4] The principal Applicant, a citizen of Sri Lanka, alleges that her family, parents and siblings, in Sri Lanka, had been targeted due to Liberation Tigers of Tamil Eelam ties; she left Sri Lanka; had a relationship with an Italian gentleman with whom she had two children in Italy. The principal Applicant lived her life with the children in Italy until her relationship with her common law partner disintegrated.

[5] The Immigration and Refugee Board [IRB] refused to give refugee status to the Applicants on the basis that the principal Applicant and her two minor children were determined to be persons to whom Article 1E of the *Refugee Convention* applied.

[6] The onus was on the Applicant to demonstrate a need of protection. For such, evidence must be submitted to support allegations in this regard.

[7] As the principal Applicant is a permanent resident of Italy with her children who are citizens therein, they can return and remain in Italy, recognizing its inherent protection.

[8] For all the above reasons, the decision of the PRRA Officer is reasonable; and, therefore, the judicial review is dismissed.

JUDGMENT

THIS COURT’S JUDGMENT is that the application for judicial review be dismissed.

There is no serious question of general importance to be certified.

II. Obiter

It is presumed, if eventual removal is to be even considered in the case of the Applicants, it would be to Italy; if that were not the case, if, it were to Sri Lanka, a very different set of considerations would appear essential.

“Michel M.J. Shore”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1035-16

STYLE OF CAUSE: ANUSHIYAMINI JEGAN,
AJANTH JEGAN, ARUNETHRA
JEGAN v THE MINISTER OF
CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

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JUDGMENT AND REASONS: SHORE J.

DATED: SEPTEMBER 19, 2016

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