

Federal Court



Cour fédérale

Date: 20190522

Docket: IMM-5272-18

Citation: 2019 FC 727

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Montréal, Quebec, May 22, 2019

PRESENT: The Honourable Madam Justice Roussel

BETWEEN:

GURDISH SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

Delivered from the bench at Montréal, Quebec, on May 22, 2019

(Edited for syntax and grammar with added references to the relevant case law)

[1] The applicant, Gurdish Singh, is seeking judicial review of a decision rendered by the Refugee Appeal Division [RAD], on October 4, 2018, dismissing his appeal and confirming the decision rendered by the Refugee Protection Division [RPD] under subsection 111(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c.27 [IRPA], that he is neither a Convention refugee nor a person in need of protection.

[2] The applicant is a citizen of India from the Punjab region. In support of his refugee protection claim, filed in September 2016, the applicant alleged that he was a supporter of the Congress Party in Punjab and that he had been targeted by members of the rival party, Shiromani Akali Dal-Badal [SAD].

[3] On December 12, 2016, the RPD denied his refugee protection claim on the grounds that the applicant's conduct was not consistent with someone who feared persecution and because his testimony was not credible. The RPD also found that there was an Internal Flight Alternative [IFA] elsewhere in India.

[4] The applicant appealed that decision to the RAD. The RAD found that the RPD had erred in its assessment of the applicant's credibility, because it believed that the applicant had provided sufficient explanations during the hearing before the RPD. The RAD also found that the RPD had made a number of errors in its assessment of the IFA. Nevertheless, for different reasons, it upheld the RPD'S finding that the applicant had IFAs elsewhere, in two (2) cities in India.

[5] In making this finding, it notably pointed out that the Congress Party was voted into power following the February 2017 elections in Punjab, that the applicant had been a supporter of that party for over twenty (20) years, that the police in Punjab now work for the Congress Party and that even if there are still clashes between members of the Congress Party and the opposition parties, it was primarily members of the Congress Party who were targeting members of the SAD party. Even though it accepted the fact that there was a mandatory tenant verification system in the two (2) cities where it deemed that an IFA existed and the fact that law

enforcement authorities have more modern means of communication, the RAD deemed that the police in Punjab would no longer be interested in chasing him all over India, or have the means to do so, since the influence of the SAD party was largely limited to the State of Punjab. With respect to the second part of the analysis concerning an IFA, the RAD found that the RPD had not erred in its assessment of the reasonableness of the proposed IFAs and that the applicant had not submitted any argument to challenge the analysis conducted by the RPD.

[6] The applicant maintains that the RAD's finding concerning the existence of an IFA was unreasonable and contrary to the evidence. According to the applicant, the RAD could not reasonably conclude that he would not be found by the SAD party in the two (2) cities identified as IFAs while also recognizing the effectiveness or the existence of the tenant registration and verification system. Furthermore, he claimed that the documentary evidence upon which the RAD based its decision failed to establish that the SAD party no longer had any ties to police or that the Congress Party exercised such control over the police that the SAD party would not be able to find him using the tenant verification system in the two (2) cities where an IFA exists.

[7] The standard of review applicable to a decision concerning the existence of an IFA is that of reasonableness (*Brahim c Canada (Citizenship and Immigration)*, 2019 FC 503 at para 13; *Verma c Canada (Citizenship and Immigration)*, 2016 FC 404 at para 14).

[8] When the reasonableness standard applies, the role of the Court is to determine whether the decision falls within the range of "possible, acceptable outcomes which are defensible in respect of the facts and law". As long as "the process and the outcome fit comfortably with the

principles of justification, transparency and intelligibility”, it is not open to this Court to substitute its own preferred outcome (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47 [*Dunsmuir*]; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59 [*Khosa*]).

[9] After reviewing the documentary evidence in question, the Court cannot support the applicant’s arguments. Even though the applicant was invited to comment specifically on the IFA in the two (2) cities in question and on the sections of the National Documentation Package that had served as the basis for the RAD’s findings, the applicant did not satisfactorily demonstrate that police authorities are still controlled by the SAD party. On the contrary, the evidence instead demonstrates that the police authorities work with the party in power, the Congress Party, that the influence of the SAD party is to a large extent limited to the State of Punjab and that it was now the Congress Party that was primarily targeting members of the SAD party. In the absence of evidence to the contrary, the RAD could reasonably conclude that, based on a balance of probabilities, the applicant would not be persecuted in the two (2) cities in question and would not be a person of interest for the police in Punjab.

[10] While the applicant may not agree with the RAD’s findings, it is not up to this Court to reassess and reweigh the evidence to reach a conclusion that is favourable to the applicant (*Khosa* at para 59).

[11] In conclusion, the Court is of the view that the RAD’s decision was reasonable because it falls within “a range of possible, acceptable outcomes which are defensible in respect of the facts

and law” and because it is justified in a manner that meets the criteria of transparency and intelligibility within the decision-making process (*Dunsmuir* at para 47).

[12] The application for judicial review is dismissed. No question of general importance is certified.

JUDGMENT in Docket IMM-5272-18

THIS COURT ORDERS AND ADJUDGES that:

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

“Sylvie E. Rousset”

Judge

Certified true translation
This 29th day of May, 2019.

Francie Gow, BCL, LLB

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5272-18

STYLE OF CAUSE: GURDISH SINGH v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

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JUDGMENT AND REASONS: ROUSSEL J.

DATED: MAY 22, 2019

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