

Federal Court



Cour fédérale

Date: 20200113

Docket: IMM-2192-19

Citation: 2020 FC 37

Ottawa, Ontario, January 13, 2020

PRESENT: Madam Justice Simpson

BETWEEN:

MD MAHBUBUR RAHMAN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered orally from the Bench in Toronto, Ontario on December 12, 2019)

I. The Proceeding

[1] This application is for judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board dated March 14, 2019 [the Decision], in which the panel member [the Member] dismissed the Applicant's appeal, finding that the Applicant's claim for refugee protection, which was based on a fear of persecution in Bangladesh for being gay,

was not credible. This application was brought pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA].

[2] The Applicant is a 47-year-old male citizen of Bangladesh. In February 2001, he flew to New York hoping to settle there. He got a one month visa, overstayed it, and started working as a sales representative. He lived in New York City for 17 years and described his gay lifestyle there. Yet he made a fraudulent claim for asylum in the US based only on an alleged political opinion.

[3] The RPD rejected his identity as a gay man and in the Decision, the RAD upheld that finding.

II. The Issue

[4] The Applicant says that the Decision is internally inconsistent in that it appears to say in paragraphs 35 and 37 that the RAD accepts that the Applicant is gay and yet concludes otherwise in paragraph 54. However, I am not persuaded that there is an inconsistency. In paragraphs 36 and 37 the RAD is relating the Applicant's evidence about his lifestyle in New York. The RAD provided this description to meet its obligation under the Sexual Orientation and Gender Guidelines to consider the Applicant's cultural background.

[5] It is clear that the RAD did not make a finding that the Applicant led a gay lifestyle in New York because it does not use the word "finding". When the RAD makes findings throughout the Decision it does so in clear terms using the word "finding".

[6] No question was posed for certification for appeal.

JUDGMENT IN IMM-2192-19

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

"Sandra J. Simpson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2192-19

STYLE OF CAUSE: MD MAHBUBUR RAHMAN v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 12, 2019

JUDGMENT AND REASONS: SIMPSON J.

DATED: JANUARY 13, 2020

APPEARANCES:

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