

Federal Court



Cour fédérale

Date: 20210209

Docket: IMM-7067-19

Citation: 2021 FC 133

Vancouver, British Columbia, February 9, 2021

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

**AMARJIT SINGH, NEELAM RANI,
DEEPAK BHATOE, MANISHA**

Applicants

and

**THE MINISTER OF CITIZENSHIP
& IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. PROCEEDING

[1] This application is for judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board of Canada, dated November 1, 2019, dismissing the Applicants' appeal because they have a viable internal flight alternative [IFA] in Mumbai.

II. BACKGROUND

[2] The Applicants are a family of four, all citizens of India. The father (the Principal Applicant) is 42 years old, and his wife is 44. The children are aged 18 and 15. The Applicants are members of the lowest caste in India known as the Dalits or Untouchables.

[3] Before coming to Canada, the family lived in the Punjab region of India. The Principal Applicant operated a grocery stall in the village, and performed manual labour for a wealthy local landowner (the Landowner).

[4] The Landowner refused to pay the Principal Applicant for his labour and threatened the Principal Applicant when he insisted on being paid his wages.

[5] The Principal Applicant went to the Village Council and asked for help to collect his unpaid wages. The Council refused. Two days later, the Landowner came to the Principal Applicant's home with two men and beat the Principal Applicant and his wife. They also threatened to kill him and kidnap his wife.

[6] The Principal Applicant went to the police station to report the attack but the police refused to take his report. The following day the police raided the Principal Applicant's home and arrested him. He was taken to the police station and beaten and threatened with false charges and a lengthy prison term. He was released on payment of a bribe.

[7] Three weeks after his release, the Principal Applicant encountered the Landowner. He threatened to have the Principal Applicant killed if he ever saw him again. After this threat the Applicants decided to leave India.

III. THE DECISION OF THE REFUGEE PROTECTION DIVISION [RPD]

[8] The RPD found that while the Applicants had faced discrimination on the basis of their caste, it did not rise to the level of persecution. The RPD also found that the Applicants had a viable IFA in Mumbai.

IV. THE RAD DECISION – DISCUSSION AND CONCLUSIONS

[9] The RAD initially dealt with the Applicants' concerns about the quality of the interpretation provided at their hearing before the RPD.

[10] The RAD found that counsel had not objected at the first opportunity. As well, when he eventually did object, counsel cautioned the interpreter and thereafter appeared satisfied with the interpreter's work. No further errors occurred. The RAD Member reviewed the alleged errors. They were all corrected in a timely manner. Further, they did not arise during evidence on material matters. For these reasons I have determined that the RAD's conclusion that no breach of natural justice had occurred was reasonable.

[11] On the issue of the risk of caste-based persecution in Mumbai, the Applicants submit that the country condition evidence shows that the discriminatory treatment of Dalits in India

amounts cumulatively to persecution. In this regard they rely on information from Amnesty International in 2016 which speaks of India generally.

[12] However, the RAD relied on other materials including:

- a 2015 United Kingdom Home Office Report on internal relocation; and
- a U.S. Department of State Report for 2018.

These reports showed that caste-based discrimination is not consistent throughout India. They indicated that although discrimination against Dalits exists in urban areas, it is less prevalent than in rural areas.

[13] The RAD concluded that “[u]ltimately, the documentary evidence does not lead to the conclusion that simply belonging to the Dalit caste is categorically equivalent to an inability to find adequate housing, an inability to find appropriate work and a lack of access to public education”.

[14] For this reason Mumbai was found to be an IFA where the Applicants did not face a serious risk of persecution. In my view, based on the documents before the RAD, this was a reasonable conclusion.

V. OVERALL CONCLUSION

[15] The Application for Judicial Review will be dismissed.

VI. CERTIFICATION

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

JUDGMENT in IMM-7067-19

THIS COURT'S JUDGMENT is that this Application for Judicial Review is hereby dismissed.

"Sandra J. Simpson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7067-19

STYLE OF CAUSE: AMARJIT SINGH AND OTHERS v THE MINISTER
OF CITIZENSHIP & IMMIGRATION

**HEARING HELD BY VIDEOCONFERENCE ON FEBRUARY 4, 2021
AT VANCOUVER, BRITISH COLUMBIA**

JUDGMENT AND REASONS: SIMPSON J.

DATED: FEBRUARY 9, 2021

APPEARANCES:

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