Federal Court  Cour fédérale

Date: 20220119

Docket: IMM-1366-20

Citation: 2022 FC 65

Ottawa, Ontario, January 19, 2022

PRESENT: Mr. Justice Gascon

BETWEEN:

RAJNI RAJPUT
ANIRUDRA RAJPUT
AYUSH RAJPUT

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicants, Ms. Rajni Rajput and her two minor children Anirudra Rajput and Ayush Rajput, are seeking judicial review of a decision rendered in January 2020 by the Refugee Protection Division [RPD] of the Immigration and Refugee Board of Canada [Decision]. In the

Decision, the RPD rejected their application to reinstate the refugee claims they had withdrawn on November 13, 2019. Ms. Rajput's application for reinstatement was submitted on November 28, 2019. The RPD rejected Ms. Rajput's application on the basis that it failed to meet the requirements of section 60 of the *Refugee Protection Division Rules*, SOR/2012-256 [RPD Rules].

[2] Ms. Rajput asks the Court to quash the Decision and to refer her case back for redetermination by a differently constituted panel. She argues that the Decision is unreasonable due to an erroneous application of subsection 60(3) of the RPD Rules and to an absence of sufficient reasons.

[3] For the following reasons, Ms. Rajput's application for judicial review will be granted. Having considered the evidence before the RPD and the applicable law, I am not satisfied that the RPD's refusal to reinstate the refugee claims of Ms. Rajput and her two children meets the standard of reasonableness. In my view, the Decision failed to reasonably consider the "interests of justice" requirement expressly contemplated by subsection 60(3) of the RPD Rules. Moreover, the Decision does not explain how the RPD's conclusion is justified in light of the evidence before the panel, and the reasons do not allow me to understand the rational basis for the refusal. This justifies this Court's intervention. I must therefore send the matter back for redetermination.

II. Background

A. *The factual context*

[4] Ms. Rajput and her two minor children are a family from India who arrived in Canada in June 2019. They filed refugee protection claims upon their arrival.

[5] The Rajputs allege to have fled India due to the harassment, attacks and threats they experienced at the hands of the local police. Ms. Rajput claims that she has been wrongfully accused of being a terrorist and that she has been subsequently detained, raped multiple times and tortured by the local police. Ms. Rajput maintains that her entire family has been subject to persecution, including her sister-in-law. She believes she has been targeted by the local Indian police after she sought justice for the detention and mistreatment of her sister-in-law.

[6] The refugee protection claims of Ms. Rajput and her two minor children were referred to the RPD on June 20, 2019. Ms. Rajput alleges that her brother then contacted her to inform her that the local police in India was apparently willing to settle the conflict between the police and her family. In light of that information, Ms. Rajput, who was not represented by counsel, submitted a notice of withdrawal of her refugee claims to the RPD on November 13, 2019. The withdrawal was confirmed by the RPD on November 18, 2019. However, Ms. Rajput later learned that the local police was asking for a significant bribe to settle the matter. Unable to provide the requested sum, Ms. Rajput quickly applied to the RPD to reinstate her refugee claims. She made that request on November 28, 2019, two weeks after her withdrawal.

[7] The RPD dismissed the application for reinstatement on January 31, 2020.

B. *The RPD Decision*

[8] The RPD Decision is short and only contains 11 paragraphs. The RPD started its analysis of Ms. Rajput's application by stating that section 60 of the RPD Rules provides the framework to allow a reinstatement application to proceed. Further to that provision, said the RPD, the right to obtain a reinstatement is limited to two situations: when there was a failure to observe natural justice, or when it is otherwise in the interests of justice to allow the application.

[9] The RPD recognized that Ms. Rajput had made her application to reinstate her refugee claims within two weeks of the withdrawal of her claims, which is a reasonable delay. The RPD however noted that Ms. Rajput did not allege that there was a breach of natural justice in her case, and that she appeared to have simply changed her mind about the withdrawal, due to new circumstances. The RPD characterized Ms. Rajput's application for reinstatement as being a "strategic decision" based on information obtained from her brother.

[10] Turning to the interests of justice, the RPD referred to this Court's decision in *Ohanyan v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1078 [*Ohanyan*] and observed that Ms. Rajput had not included submissions about whether there were interests of justice weighing in favour of reinstating her refugee claim and those of her children. The RPD again found that, based on the evidence before the panel, Ms. Rajput had simply changed her mind and made a "strategic decision" that did not work out to her advantage. In light of all the circumstances, the RPD determined that there were no interests of justice weighing in favour of a reinstatement.

C. *The relevant provisions*

[11] The relevant statutory provision is section 60 of the RPD Rules. It reads as follows:

Application to reinstate withdrawn claim	**Demande de rétablissement d'une demande d'asile retirée**
60 (1) A person may make an application to the Division to reinstate a claim that was made by the person and was withdrawn.	**60 (1)** Toute personne peut demander à la Section de rétablir une demande d'asile qu'elle a faite et ensuite retirée.
Form and content of application	**Forme et contenu de la demande**
(2) The person must make the application in accordance with rule 50, include in the application their contact information and, if represented by counsel, their counsel's contact information and any limitations on counsel's retainer, and provide a copy of the application to the Minister.	**(2)** La personne fait sa demande conformément à la règle 50, elle y indique ses coordonnées et, si elle est représentée par un conseil, les coordonnées de celui-ci et toute restriction à son mandat et en transmet une copie au ministre.
Factors	**Éléments à considérer**
(3) The Division must not allow the application unless it is established that there was a failure to observe a principle of natural justice or it is otherwise in the interests of justice to allow the application.	**(3)** La Section ne peut accueillir la demande que si un manquement à un principe de justice naturelle est établi ou qu'il est par ailleurs dans l'intérêt de la justice de le faire.
Factors	**Éléments à considérer**
(4) In deciding the application, the Division must	**(4)** Pour statuer sur la demande, la Section prend en

consider any relevant factors, including whether the application was made in a timely manner and the justification for any delay.	considération tout élément pertinent, notamment le fait que la demande a été faite en temps opportun et, le cas échéant, la justification du retard.
Subsequent application	**Demande subséquente**
(5) If the person made a previous application to reinstate that was denied, the Division must consider the reasons for the denial and must not allow the subsequent application unless there are exceptional circumstances supported by new evidence.	**(5)** Si la personne a déjà présenté une demande de rétablissement qui a été refusée, la Section prend en considération les motifs du refus et ne peut accueillir la demande subséquente, sauf en cas de circonstances exceptionnelles fondées sur l'existence de nouveaux éléments de preuve.

D. *The standard of review*

[12] The parties agree that the presumptive standard of reasonableness applies to this case (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 25). There is no reason to conclude otherwise, as the circumstances do not lend themselves to the application of any of the exceptions to the presumption of reasonableness identified by the Supreme Court of Canada (*Vavilov* at para 17). Additionally, the standard of reasonableness has already been applied by this Court in cases where applicants were seeking judicial review of RPD decisions denying the reinstatement of withdrawn refugee claims (*Dadashpourlangeroudi v Canada (Citizenship and Immigration)*, 2020 FC 424 at paras 25–26; *Dabo v Canada (Citizenship and Immigration)*, 2019 FC 269 at para 14).

[13] When applying the standard of reasonableness, the Court must consider the outcome of the decision maker's reasoning process in order to ensure that the decision as a whole is transparent, intelligible and justified (*Vavilov* at paras 15, 95, 136). The Court should refrain from supplementing its own reasons to justify the outcome of a decision when the reasons contain a "fundamental gap" or "an unreasonable chain of analysis" (*Vavilov* at paras 87, 96). The Court may therefore not "disregard the flawed basis for a decision and substitute its own justification for the outcome" (*Vavilov* at para 96; *Delta Air Lines Inc v Lukács*, 2018 SCC 2 at paras 26–28).

[14] Regarding the actual content of the reasonableness standard, the *Vavilov* framework does not represent a marked departure from the Supreme Court's previous approach, as set out in *Dunsmuir v New Brunswick*, 2008 SCC 9 and its progeny, which was based on the "hallmarks of reasonableness," namely, justification, transparency and intelligibility (*Vavilov* at para 99). The reviewing court must consider "the decision actually made by the decision maker, including both the decision maker's reasoning process and the outcome," to determine whether the decision is "based on an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at paras 83, 85; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 [*Canada Post*] at paras 2, 31).

[15] *Vavilov*'s revised framework for reasonableness requires the reviewing court to take a "reasons first" approach to judicial review (*Canada Post* at para 26). Where a decision maker has provided reasons, the reviewing court must begin its inquiry into the reasonableness of the decision "by examining the reasons provided with 'respectful attention' and seeking to

understand the reasoning process followed by the decision maker to arrive at its conclusion" (*Vavilov* at para 84). The reasons must be read holistically and contextually in light of the record as a whole and with due sensitivity to the administrative setting in which they were given (*Vavilov* at paras 91-94, 97). However, "it is not enough for the outcome of a decision to be *justifiable* […], the decision must also be *justified*" [Emphasis in original.] (*Vavilov* at para 86). Before a decision can be set aside on the basis that it is unreasonable, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

III. Analysis

[16] Ms. Rajput submits that she made a "mistake" in withdrawing her claims for refugee protection, and that her application for reinstatement should have been assessed by the RPD using a contextual approach. Ms. Rajput claims that the Decision is based on a rigorist approach to procedural requirements, which fails to account for her particular circumstances and for the consequences that her "mistake" will have on her life and that of her children. In other words, the fundamental rights at stake are more important than the procedural error she committed. Ms. Rajput contends that, when all the circumstances and evidence are properly taken into account, it was clearly in the "interests of justice" to grant her application, and that the RPD unreasonably applied the notion of "interests of justice" contemplated in subsection 60(3) of the RPD Rules. Ms. Rajput relies notably on *Crudu v Canada (Citizenship and Immigration)*, 2019 FC 834 and *Huseen v Canada (Citizenship and Immigration)*, 2015 FC 845 [*Huseen*] to support her position.

Ms. Rajput further argues that the RPD offered insufficient reasons to explain and justify its Decision.

[17] I agree with Ms. Rajput on both fronts.

[18] I do not dispute that the reinstatement of a withdrawn refugee claim is the exception rather than the norm (*Ohanyan* at para 13). As is expressly set out in subsection 60(3) of the RPD Rules, the RPD must not allow such an application for reinstatement of a refugee claim to proceed unless: (i) there was a failure to observe a principle of natural justice; or (ii) it is otherwise in the interests of justice to allow the application (*Orsa v Canada (Citizenship and Immigration)*, 2014 FC 1163 at para 31). I also accept that the standard set by subsection 60(3) of the RPD Rules is high and "highly prescriptive" (*Huseen* at para 14). I further adopt the approach set out by the Court in *Ohanyan* with respect to the concept of "interests of justice" used in subsection 60(3) of the RPD Rules: "[t]he term [*sic*] 'otherwise in the interests of justice' are broad words giving the Board a wide discretion to reinstate but which requires the Board to weigh all the circumstances of a case – not just from the vantage point of an applicant's interests" (*Ohanyan* at para 13). Indeed, subsection 60(4) of the RPD Rules expressly directs the RPD to "consider any relevant factors."

[19] In the Decision, the RPD mentioned that it had analyzed the evidence provided by Ms. Rajput and was not convinced that it gave rise to a situation making it otherwise in the interests of justice to allow the application. The RPD claimed that, in the absence of specific submissions of Ms. Rajput on the "interests of justice," it nonetheless took into account the

evidence on file and concluded that Ms. Rajput had simply changed her mind about her decision to withdraw her refugee claim and those of her two minor children. Twice, the RPD referred to Ms. Rajput having made a "strategic decision" with respect to the withdrawal. The RPD also referred to a medical letter provided by Ms. Rajput which, according to the RPD, did not demonstrate that the withdrawal of the refugee claims was made "due to duress, lack of information or a mistake."

[20] With respect, I am not convinced that, in this case, the RPD's application of the "interests of justice" requirement and its analysis of the evidence meets the standard of reasonableness. Three main reasons lead me to that conclusion.

[21] First, I find that the RPD failed to reasonably consider the "interests of justice" contemplated by subsection 60(3) of the RPD Rules. I point out that subsection 60(3) of the RPD Rules provides that the RPD must not allow an application for reinstatement "unless it is established that there was a failure to observe a principle of natural justice" or unless "it is otherwise in the interests of justice to allow the application" ([TRADUCTION] « si un manquement à un principe de justice naturelle est établi ou qu'il est par ailleurs dans l'intérêt de la justice de le faire »). I pause to note that this provision relating to the reinstatement of "withdrawn" refugee claims differs from applications to reopen a refugee claim that has been "decided" or "declared abandoned." For those types of applications, subsection 62(6) of the RPD Rules only provides that the application must not be allowed unless "it is established that there was a failure to observe a principle of natural justice." Contrary to applications to reinstate withdrawn refugee claims, the

RPD is not required to consider whether it is “in the interests of justice” to allow an application to reopen a refugee claim that has been declared abandoned.

[22] Given the principle of statutory interpretation that Parliament avoids superfluous or meaningless words (*Canada (Attorney General) v Ward*, [1993] 2 SCR 689 at para 61; *R v Kelly*, [1992] 2 SCR 170 at 188), it is obvious that subsection 60(3) of the RPD Rules requires a separate consideration of each specific ground referred to in the provision, namely, a failure to observe a principle of natural justice and the interests of justice. Moreover, with respect to the “interests of justice,” subsection 60(3) of the RPD Rules does not use the language “unless it is established” that applies to a failure to observe a principle of natural justice. The provision rather requires the RPD to determine if “it is otherwise in the interests of justice” to allow the reinstatement application. In my view, the different wording used by Parliament in the provision vests the RPD with a specific obligation to consider, on its own and in light of the particular circumstances of each case, the “interests of justice” at stake, whether or not specific submissions on the issue have been made by an applicant.

[23] It was therefore the RPD’s duty, as a decision maker, to assess and determine whether it was in the interests of justice to allow Ms. Rajput’s application for reinstatement, considering all the relevant factors and the evidence before the panel. I agree with Ms. Rajput that, in conducting this assessment, the RPD had to take a holistic and contextual approach, considering all of the circumstances before it, and that the panel could not simply ask itself whether Ms. Rajput had provided evidence and made submissions on the interests of justice at play.

[24] The terms “interests of justice” are not defined in the RPD Rules and, with one exception at subsection 61(3) of the Rules in cases where the Minister is seeking an application to reinstate a withdrawn application to vacate or cease refugee protection, it appears that they are not used elsewhere in the RPD Rules or in the *Immigration and Refugee Protection Act*, SC 2001, c 27. Be that as it may, the terms “interests of justice” are broad words (*Ohanyan* at para 13) and, in my view, they require the decision makers to consider basic notions of fairness and common sense, and to have a general concern and interest that justice be done. If the concept of “interests of justice” is to have any meaning in subsection 60(3) of the RPD Rules, it certainly must encompass a flexible approach aimed at protecting the interest of a just, fair and efficient resolution of an application for reinstatement, while remaining alert and sensitive to the particular factual circumstances of each case. Of course, the “interests of justice” language used at subsection 60(3) does not call for a given result. But, at a minimum, it necessitates a certain mindset, approach and disposition on the part of the RPD, and it dictates a certain path to be followed in its analysis of the evidence in order to echo the overarching objective of fairness contained in the provision. In my view, this is not what transpires from the RPD’s consideration of the interests of justice in Ms. Rajput’s case, and I am not satisfied that this concern for fairness which is inherent to the notion of “interests of justice” is reflected in the decision maker’s reasons.

[25] Second, as was the case in *De Lourdes Diaz Ordaz Castillo v Canada (Citizenship and Immigration)*, 2010 FC 1185, I am not persuaded that the RPD had regard to all of the evidence before it. I agree with the Minister that, in general, the RPD is presumed to have weighed and considered all of the evidence, and has no obligation to refer to every document in the record

(*Kanagendren v Canada (Citizenship and Immigration)*, 2015 FCA 86 at para 36; *Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 598 (FCA) (QL) at para 1). A failure to mention a particular piece of evidence in a decision does not mean that it was ignored (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 16). However, conversely, it is not always sufficient to refer baldly to all the evidence submitted, and contradictory evidence should not be overlooked. This is particularly the case with respect to key elements relied upon by a decision maker to reach his or her conclusion (*Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1999] 1 FC 53 [*Cepeda-Gutierrez*] at paras 16–17). When an administrative decision maker is silent on evidence squarely contradicting his or her findings of fact, the Court may intervene and infer that the decision maker ignored the contradictory evidence when making the decision (*Ozdemir v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331 at paras 9–10; *Cepeda-Gutierrez* at para 17). When omitted evidence is relevant to the disputed facts and contradicts some key findings of facts, the burden that lies upon the decision maker to explain why it was omitted increases. In such cases, a mere blanket statement by the decision maker that all evidence was considered cannot suffice (*Cepeda-Gutierrez* at para 17).

[26] In this case, the RPD appears to have remained blind to the underlying refugee claims that had been submitted by Ms. Rajput and her children, and did not deal with the particular circumstances of their case. I understand that the whole refugee protection claim may not have been technically part of Ms. Rajput's application for reinstatement before the RPD, but the context of Ms. Rajput's asylum claim certainly formed part of the reinstatement request. According to the materials that were in the Certified Tribunal Record, the RPD had before it a medical expertise

stating that Ms. Rajput experienced problems with the Indian police as a result of false allegations against her husband and her family, that she had filed a complaint against the police in India, and that she was molested by the local police. The record also contained Ms. Rajput's Basis of Claim Form and her narrative. In those documents, Ms. Rajput alleged that she had been detained for two days, tortured and raped, that she fears being detained, abused or killed if returned to India, that she feels unsafe in India due to her gender, and that she is traumatized and depressed. Her narrative further referred to her history of abuse at the hands of the local police, which includes abuse of her family members, illegal detention and rape by police officers. Ms. Rajput had also provided evidence stating that her decision to withdraw her and her family's refugee claims was a mistake, and indicating that her mental state did not allow her to make an informed decision on the withdrawal.

[27] Further to my review of the Decision, I am left with the impression that the RPD ignored that context, and the particular circumstances of Ms. Rajput, in its assessment of the interests of justice at stake in her application for reinstatement.

[28] More specifically, I can find no evidence to support the RPD's conclusion (which was repeated twice) that the withdrawal of Ms. Rajput's refugee claims was a "strategic decision" that did not turn out as she had expected. I fail to see on what basis the RPD could have qualified the withdrawal as a strategic one orchestrated by Ms. Rajput, who was self-represented and made the decision quickly based on discussions she had with her brother. It appears that the RPD simply borrowed the "strategic" language from the *Ohanyan* case, where the facts were fairly

different and where the applicant was represented by counsel throughout the refugee claim process.

[29] I further note that, in one of the letters she submitted to the RPD in support of her application for a reinstatement, Ms. Rajput expressly stated that she had committed a "mistake" in withdrawing the refugee protection claims. This important piece of evidence was apparently ignored by the RPD, which instead went on to observe that, based on the medical letter, Ms. Rajput's decision to withdraw the refugee claims was not made "due to duress, lack of information or a mistake."

[30] In my view, the RPD did not properly consider the positive and negative aspects of reinstating Ms. Rajput's refugee protection claims, in a context where the Minister did not oppose Ms. Rajput's application for reinstatement. In short, the RPD did little beyond examining the narrow circumstances under which Ms. Rajput decided to withdraw her refugee claims. There was no analysis of the other "relevant factors" that the RPD had to consider under the RPD Rules, which clearly had an impact on considerations of fairness inherent to the "interests of justice," and which could have weighed in favour of allowing Ms. Rajput's application to reinstate her refugee claims.

[31] Third, the RPD's unreasonable assessment of the "interests of justice" is compounded by the fact that the reasons provided in the Decision do not allow me to understand how the Decision can be justified. I am mindful of the fact that a reviewing court should show significant deference to administrative decision makers when the standard of reasonableness applies, and

that the court should only intervene when a decision does not bear the hallmarks of reasonableness, which are justification, transparency and intelligibility (*Vavilov* at para 99). "Respectful attention" is to be paid to decision makers' reasons due to their institutional expertise (*Vavilov* at para 93). However, administrative decisions need to be justified, and the reasons must be sufficient to allow the reviewing court to understand how the decision was reached.

[32] In this case, the RPD's analysis of the "interests of justice" is limited to two short paragraphs at the end of the Decision, which essentially borrow the language used by this Court in *Ohanyan* regarding the meaning of these words in section 60 of the RPD Rules. While the RPD generally refers to "the evidence before me," it provides no detail to support its statement that Ms. Rajput's change of mind about her refugee claims was "a strategic decision which may not have worked out to her advantage."

[33] In my view, the RPD's summary analysis does not constitute sufficient reasons. I recognize that the written reasons given by an administrative body must not be assessed against a standard of perfection (*Vavilov* at para 91). An administrative decision maker's reasons do not need to be comprehensive or perfect. However, they still need to be comprehensible and justified. The failure to meaningfully grapple with key issues or central arguments raised by a party may call into question whether the decision maker was actually alert and sensitive to matters before it and whether the decision exhibits the required degree of justification, transparency and intelligibility (*Vavilov* at paras 127–128). Here, we have a situation where the RPD's shortcomings on the refusal of Ms. Rajput's request are sufficiently central or significant

to render the Decision unreasonable (*Vavilov* at paras 96–97, 100). In other words, it cannot be said that the Decision exhibits the requisite degree of justification, intelligibility and transparency. Even reading the reasons holistically and contextually, I fail to understand how the RPD reached its conclusion that the interests of justice did not support the reinstatement of Ms. Rajput's refugee claims, and that her withdrawal amounted to a "strategic decision." The reasons provided by the RPD are unable to convince me that the Decision on Ms. Rajput's application for reinstatement was based on an internally coherent and rational chain of analysis, and that it is conform to the relevant legal and factual constraints that bear on the RPD and the issue at hand (*Canada Post* at para 30; *Vavilov* at paras 105–107).

[34] An administrative decision maker has a responsibility "to justify to the affected party, in a manner that is transparent and intelligible, the basis on which it arrived at a particular conclusion" (*Vavilov* at para 96). A decision will not be reasonable if the reasons read in conjunction with the record do not make it possible to understand the decision maker's reasoning on a critical point (*Vavilov* at para 103). This is especially true where a decision has particularly harsh consequences for the affected individual, such as "decisions with consequences that threaten an individual's life, liberty, dignity or livelihood" (*Vavilov* at para 133). Here, the consequences of refusing the request for reinstatement are particularly severe and harsh for Ms. Rajput, her children and their refugee claims, and such a situation called for the RPD to "explain why [its] decision best reflects the legislature's intention" (*Vavilov* at para 133), and to demonstrate how, in the context of subsection 60(3) of the RPD Rules and the "interests of justice," the Decision was a just and fair one. I find that, in the particular circumstances of this case, the RPD has not done so. To echo the language of the Supreme Court in *Vavilov*, the

omitted aspects of the analysis on the refusal of Ms. Rajput's request cause me "to lose confidence in the outcome reached" by the RPD (*Vavilov* at para 122; *Canada Post* at paras 52–53).

IV. Conclusion

[35] For the reasons stated above, the application for judicial review of Ms. Rajput and her two children is granted. Under the reasonableness standard, the reasons detailed in the Decision had to demonstrate that the RPD's conclusion was based on an internally coherent and rational chain of analysis and that it was justified in relation to the facts and law that constrain the decision maker. This is not the case here. Therefore, I must allow the application for judicial review and return the Decision to the RPD for redetermination by a differently constituted panel, in accordance with the Court's reasons.

[36] Neither party has proposed a question of general importance for me to certify. I agree there is none.

JUDGMENT in IMM-1366-20

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted, without costs.

2. The January 31, 2020 decision of the Refugee Protection Division rejecting the application to reinstate the refugee claims of Ms. Rajni Rajput and her two minor children Anirudra Rajput and Ayush Rajput is set aside.

3. The matter is referred back to the Refugee Protection Division for redetermination by a differently constituted panel.

4. No question of general importance is certified.

"Denis Gascon"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1366-20
STYLE OF CAUSE:	RAJNI RAJPUT, ANIRUDRA RAJPUT AND AYUSH RAJPUT v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HELD BY VIDEOCONFERENCE
DATE OF HEARING:	SEPTEMBER 15, 2021
JUDGMENT AND REASONS:	GASCON J.
DATED:	JANUARY 19, 2022

APPEARANCES:

Stewart Istvanffy	FOR THE APPLICANTS
Simone Truong	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Étude Légale Stewart Istvanffy	FOR THE APPLICANTS
Attorney General of Canada Montréal, Quebec	FOR THE RESPONDENT