

Federal Court



Cour fédérale

Date: 20230524

Docket: IMM-4380-23

Citation: 2024 FC 793

Vancouver, British Columbia, May 24, 2024

PRESENT: Madam Justice St-Louis

BETWEEN:

**KAMALPREET SINGH, HARJEET KAUR,
SATKARAN SINGH, JASKARAN SINGH**

Applicants

and

**THE MINISTER OF CITIZENSHIP
& IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] Mr. Kamalpreet Singh, Mrs. Harjeet Kaur and their two children, [collectively, the Applicants], all Indian citizens, seek judicial review of the decision rendered by the Refugee Appeal Division [RAD] on March 9, 2023, [the Decision] dismissing their appeal of a decision by the Refugee Protection Division [RPD].

[2] As context, in June 2018, the Applicants, holding multiple entry temporary resident visas, were admitted to Canada. In September 2019, the Applicants claimed refugee protection pursuant to sections 96 and 97 of *the Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act]. They alleged that, due to their support of Shiromani Akali Dal-Amritsar [SAD-A], they feared the Punjabi police and members of the Bharatiya Janata Party [BJP], the Indian National Congress Party [Congress] and Shiromani Akali Dal-Badal [SAD-B].

[3] The RAD confirmed the RPD decision rejecting the Applicants' claim for refugee protection; it agreed with the RPD that the Applicants have a viable internal flight alternative [IFA] in New Delhi and Kolkata, India.

[4] In its analysis using the two-prong test for a viable IFA, the RAD found, on the first prong, that the Applicants had not establish the agents of persecution had the motivation to find them in New Delhi or Kolkata. The RAD stated it was consequently not necessary to address the question of the agents of persecution's means to locate the Applicants in the IFAs. On the second prong of the test, the RAD found it was reasonable for the Applicants to relocate to New Delhi or Kolkata.

[5] Before the Court, the Applicants submit that the RAD erred as it failed to consider (1) the objective evidence, and specifically Document 12.8 of the National Documentation Package [NDP], updated after the RPD issued its decision and raised in their submissions before the RAD; and (2) the risk of persecution they faced from Hindu nationalist parties, which was explicitly stated before the RAD.

[6] For the reasons that follow, the application for judicial review will be dismissed.

The RAD did not ignore Document 12.8 nor did it ignore the allegation of risks raised by the Applicants.

II. Analysis

[7] The RAD's conclusions regarding the existence of a viable IFA must be reviewed on the reasonableness standard (*Djeddi v Canada (Citizenship and Immigration)*, 2022 FC 1580 at para 16; *Valencia v Canada (Citizenship and Immigration)*, 2022 FC 386 at para 19; *Adeleye v Canada (Citizenship and Immigration)*, 2022 FC 81 at para 14; *Ambroise v Canada (Citizenship and Immigration)*, 2021 FC 62 at para 6; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 350 at para 17; *Tariq v Canada (Citizenship and Immigration)*, 2017 FC 1017 at para 14; *Kaisar v Canada (Citizenship and Immigration)*, 2017 FC 789 at para 11).

[8] The Court must therefore determine whether the Decision is based on an “internally coherent and rational chain of analysis” that is justified in light of the legal and factual constraints (*Canada (MCI) v Vavilov*, 2019 SCC 65 at para 85 [*Vavilov*]).

[9] Any deficiencies in a decision must be “sufficiently central or significant to render the decision unreasonable.” (*Vavilov* at para 100). Reasons should be considered as a whole and within the context of the record, including the issues raised by the parties.

[10] Regarding the Applicants' first argument, it is clear, on a plain reading of the Decision, that the RAD did consider Document 12.8 of the NDP. The specific document the Applicants

refer to, the updated version of Document 12.8 of the NDP, was in fact referenced by the RAD at paragraph 41 of the Decision and cited at footnote 18. Although the document was cited as part of the assessment on the second prong of the test, to say that almost every major Indian city has a Sikh community, it does not fail the principles established in *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC), 157 FTR 35 or *Lingeswaran v Canada (Minister of Citizenship and Immigration)*, 2004 FC 1061 at para 9 on the impact of a decision maker omitting any mention of evidence central to an applicant's claim, since the evidence was indeed mentioned.

[11] In addition, the RAD referred to the country conditions at paragraph 19 of the Decision, when assessing the first prong of the applicable IFA test, and referred, even more on point, specifically to the "updated National Documentation Package", i.e. Document 12.8, at paragraph 25 of the Decision.

[12] Regarding the Applicants' second argument, I am equally satisfied the RAD included the Hindu nationalists in its consideration of the agents of harm and the allegation the Applicants raised in that regard. First, the RAD clearly identified the multiple agents of harm alleged by the Applicants, at paragraph 17 of the Decision, which included "members of opposition political parties, Hindu nationalists, and the Punjabi police" (emphasis added). The RAD found the Punjabi police were not agents of harm and did consider the threat of persecution from the other two agents of harm at paragraphs 25 to 33 of the Decision.

[13] The RAD therefore did take into consideration the other agents of harm identified, which included the Hindu nationalists, before ultimately coming to the conclusion that the Applicants have failed to establish that these groups have continued interest in them.

[14] Ultimately, the RAD reasonably came to the conclusion that the Applicants did not meet the very high burden required to establish that an IFA is unreasonable.

III. Conclusions

[15] The Applicants have not raised any reviewable error. The Applicants' concerns in regards to the two arguments they raised were considered by the RAD, who has shown it was alert and sensitive to the matters before it (*Canada (Justice) v DV*, 2022 FCA 181 at paras 13-18, citing *Vavilov* at para 128). I am satisfied the Decision is based on an internally coherent and rational chain of analysis that is justified in light of the legal and factual constraints (*Vavilov* at para 85); the application for judicial review will consequently be dismissed.

JUDGMENT in IMM-4380-23

THIS COURT'S JUDGMENT is that:

1. The Application for judicial review is dismissed.
2. No question is certified.
3. No costs are awarded.

"Martine St-Louis"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4380-23

STYLE OF CAUSE: KAMALPREET SINGH, HARJEET KAUR,
SATKARAN SINGH, JASKARAN SINGH v THE
MINISTER OF CITIZENSHIP & IMMIGRATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: MAY 16, 2024

JUDGMENT AND REASONS: ST-LOUIS J.

DATED: MAY 24, 2024

APPEARANCES:

Aman Sandhu FOR THE APPLICANT

Benjamin Bertram FOR THE RESPONDENT

SOLICITORS OF RECORD:

Sandhu Law Office FOR THE APPLICANT
Surrey, British Columbia

The Attorney General of Canada FOR THE RESPONDENT
Vancouver, British Columbia