

Federal Court



Cour fédérale

**Date: 20240717**

**Docket: IMM-8948-23**

**Citation: 2024 FC 1117**

**Toronto, Ontario, July 17, 2024**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**SUMAN SHRESTHA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS AND JUDGMENT**

[1] Mr. Suman Shrestha (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”), allowing an application by the Minister of Public Safety and Emergency Preparedness (the “Minister”) to cease refugee protection.

[2] The Applicant is a citizen of Nepal. He arrived in Canada in 2015 and was granted Convention refugee status on January 17, 2018, on the basis of his fear of radical political persons in Nepal. They were not state agents or actors.

[3] On May 31, 2019, a Nepalese passport was issued to the Applicant by the Nepalese Embassy in Ottawa.

[4] On February 8, 2020, the Applicant obtained permanent resident status in Canada.

[5] The Applicant travelled to India, using his Nepalese passport, on March 6, 2020. He intended to visit his parents in that country, but upon the outbreak of COVID-19, the borders were closed and his parents were unable to enter, from Nepal.

[6] The Applicant travelled to Nepal, again using his Nepalese passport. He remained in Nepal for four (4) months before returning to Canada on August 19, 2020. Upon questioning by a Canada Border Services Agency officer, the Applicant said that he had no problems with the Nepalese authorities when entering and leaving the country.

[7] On April 14, 2021, the Minister applied to the RPD to cease refugee protection.

[8] The RPD applied the relevant test upon the cessation request. It considered the elements of voluntariness, intention and reavailment, as discussed in the decision in *Nsende v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 531.

[9] The RPD acknowledged the recent decision of the Federal Court of Appeal in *Canada (Citizenship and Immigration) v. Galindo Camayo*, 2022 FCA 50.

[10] The Applicant now argues that the RPD unreasonably assessed the involuntary nature of his travel and the impact of COVID-19 upon his ability to return to Canada.

[11] The Applicant also challenges the RPD's finding that he intended to rely on the diplomatic protection of Nepal by acquiring a passport from the country and using it for his travel to India and to Nepal.

[12] Further, the Applicant submits that the RPD unreasonably concluded that he actually received protection from Nepal, by travelling on a Nepalese passport, when the basis of his refugee claim was a fear of non-state actors.

[13] The Minister of Citizenship and Immigration (the "Respondent") argues that the Applicant has failed to show any reviewable error by the RPD.

[14] The decision here is reviewable on the standard of reasonableness, following the recent decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.).

[15] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is

justified in relation to the relevant factual and legal constraints that bear on the decision”; see *Vavilov*, *supra* at paragraph 99.

[16] I am not persuaded by any of the Applicant’s submissions. The RPD assessed the evidence, including the oral evidence of the Applicant.

[17] There is a “paper” trail about the issuance of a passport by Nepal. There is evidence that the Applicant used this passport for travel in 2020, first to India and then to Nepal.

[18] There is no merit in the Applicant’s argument that the involvement of non-state actors in his claim of persecution means that the test for cessation applies in a different manner.

[19] This argument was rejected in the decision in *Chowdhury v. Canada (Citizenship and Immigration)*, 2021 FC 312.

[20] In the result, the application for judicial review will be dismissed. There is no question for certification.

**JUDGMENT IN IMM-8948-23**

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

There is no question for certification.

"E. Heneghan"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-8948-23

**STYLE OF CAUSE:** SUMAN SHRESTHA v. THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JULY 15, 2024

**REASONS AND JUDGMENT:** HENEGHAN J.

**DATED:** JULY 17, 2024

**APPEARANCES:**

Keshab Prasad Dahal FOR THE APPLICANT

Alison Engel-Yan FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

DAHAL LAW PROFESSIONAL CORPORATION FOR THE APPLICANT  
CORPORATION  
Etobicoke, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario