

Federal Court



Cour fédérale

Date: 20240830

Docket: IMM-11930-23

Citation: 2024 FC 1364

Ottawa, Ontario, August 30, 2024

PRESENT: Madam Justice Gagné

BETWEEN:

**MANJINDER SINGH
HARSHDEEP KAUR
JASKARAN SINGH
HARPREET KAUR**

Applicants

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants seek judicial review of the decision of the Refugee Appeal Division [RAD] dismissing their appeal of the Refugee Protection Division's decision to deny the Applicants' refugee protection claim.

[2] They argue that the RAD misapplied the test for finding that they had an internal flight alternative [IFA] in India and that the police in their home State of Punjab would be motivated to pursue them in the cities proposed as IFAs.

II. Facts

[3] The Applicants claim that they face persecution in the State of Punjab in India because of the Principal Applicant's working relationship with people accused of being anti-state militants.

[4] In 2017, the Punjabi police questioned, arrested and beat the Principal Applicant because he worked at the same company as suspected militants.

[5] The Principal Applicant travelled to Canada in May 2017. While in Canada, he learned that the police continued to harass his family. In November 2018, the Punjabi police raided the Principal Applicant's house and arrested his wife, the Associate Applicant, who was approached to testify in a court case against the police. The police questioned, beat and sexually assaulted the Associate Applicant while she was in their custody.

[6] The Principal Applicant alleges that the Punjabi police continue to harass his family in an attempt to know his whereabouts.

III. Issues

[7] The only issue raised by this application for judicial review is whether the RAD made a reviewable error in finding that the Applicants had an IFA in India.

[8] It is undisputed that the standard of review is that of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65).

IV. Decision under review

[9] The test to determine if the Applicants have a viable IFA is defined in *Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA). The Applicants must demonstrate, on a balance of probabilities, that:

1. The Applicants do not face a risk of harm or a reasonable chance of persecution in the IFA; and
2. Conditions in the IFA are such that it would not be unreasonable for the Applicants to seek refuge there (*Rasaratnam* at p 709).

[10] The RAD determined that the Applicants failed to meet both prongs of the *Rasaratnam* test. On the first prong, it found there was no evidence that the police had pursued or would pursue the Applicants across state borders in India, as their motivation for doing so was not sufficiently established. On the second prong, it found that there would be no threat to the life and safety of the Applicants in the IFA, as they have not demonstrated that they would be unable to access healthcare or other services in the IFA.

V. Analysis

[11] For the reasons that follow, I will dismiss this application for judicial review.

[12] The Applicants' arguments focus on the RAD's finding that the Punjabi police lacked the motivation to pursue them outside Punjab; according to the Applicants, this finding is the result of a microscopic analysis of the evidence.

[13] The Applicants argue that the mere fact that police visited members of their family in their home State to inquire about the Applicants' whereabouts is sufficient to show motivation, which in turn is sufficient to show that the police would track the Applicants in the IFA location(s).

[14] The Applicants base their rationale on this Court's decisions in *Ali v Canada (Citizenship and Immigration)*, 2020 FC 93 and *AB v Canada (Citizenship and Immigration)*, 2020 FC 915.

[15] Yet, both these cases are factually distinguishable from the case before me. In *Ali*, the applicant and his parents have received multiple death threats from the Tehrik-i-Taliban in Pakistan, who were claiming a sum of money from the applicant, and accusing him of being their enemy for having moved to Canada and having Canadian-born children. In *AB*, the applicants feared returning to Nigeria due to a threat of ritualistic practices that entailed inflicting deep wounds on Igbo boys to create distinctive scars across their bodies. The Chief of the tribe had threatened to kill the applicant and later beat the applicant's father to death. In both cases, the

Court held that it was not reasonable to ask family members to put their own lives in danger by denying knowledge of or misleading the agent of persecution as to a refugee claimant's whereabouts (*Ali* at para 49 and *AB* at para 20).

[16] In the case before me, the police interest in the Principal Applicant comes from the fact that he worked with individuals accused of being militants, and from the possibility that the Applicants could become witnesses in a court case against the police for their mistreatment of one of the alleged militants. As such, it was reasonable for the RAD to find that since the principal Applicant's arrest was extrajudicial and unofficial, this was not the type of case in which police are motivated to cooperate in a multi-state manhunt.

[17] In my view, it was reasonable for the RAD to find that the two visits made by the police to the Principal Applicant's father, respectively in 2017 and 2022, to inquire into the Applicants' whereabouts, does not equate to their motivation to pursue the Applicants in the proposed IFA location.

[18] As stated by this Court on several occasions, the holdings in *Ali* and *AB* are facts specific; they do not prevent a case-by-case review of IFA findings by this Court (*Essel v Canada (Citizenship and Immigration)*, 2020 FC 1025 at para 15; *Kodom v Canada (Citizenship and Immigration)*, 2023 FC 305; *Aulakh v Canada (Citizenship and Immigration)*, 2023 FC 1176; *Singh v Canada (Citizenship and Immigration)*, 2024 FC 1290 at para 22). When the RAD assesses a possible IFA in a given case and reasonably considers in their analysis factors such as the persistency of the inquiries from the agent of persecution, the gradation of the threats made

against family members, and the level of violence or threats of violence exhibited toward them, this Court's intervention is not warranted.

VI. Conclusions

[19] For these reasons, the application for judicial review is dismissed. Counsel proposed no question for certification, and I agree that no question arises from this case.

JUDGMENT in IMM-11930-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed;
2. No question is certified.

“Jocelyne Gagné”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-11930-23

STYLE OF CAUSE: MANJINDER SINGH et al v MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

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