

Federal Court



Cour fédérale

Date: 20241008

Docket: IMM-4232-23

Citation: 2024 FC 1588

Toronto, Ontario, October 8, 2024

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

DHRUV DHINGRA

Applicant

and

**THE MINISTER OF CITIZENSHIP &
IMMIGRATION CANADA**

Respondent

REASONS AND JUDGMENT

[1] Mr. Dhruv Dhingra (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”), dismissing his application for recognition as a Convention refugee or person in need of protection, pursuant to section 96 and subsection 97(1), respectively, of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicant is a citizen of India. He visited Canada in August 2019 and January 2020 before returning to live in Canada on July 22, 2020. He obtained a work permit and fourteen months later, he went to the United States to apply at a border crossing for renewal of that permit. That request was denied.

[3] On September 21, 2021, he filed a claim for protection, alleging risk from moneylenders and “goons” in India. The application was refused on the grounds that the Applicant failed to show a nexus with a Convention refugee ground. As well, the RPD found that the Applicant failed to establish that he would be at risk of persecution or at personalized risk in India.

[4] The Applicant now argues that he was deprived of the right to appeal to the Refugee Appeal Division (the “RAD”) and that the decision of the RPD is unreasonable.

[5] The Minister of Citizenship and Immigration (the “Respondent”) submits that the decision meets the applicable standard of review, that is reasonableness, and that the Applicant has not shown a reviewable error.

[6] Following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.), the decision of the Officer is reviewable on the standard of reasonableness.

[7] 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.

[8] I will address the first argument, that is about the Applicant’s access to an appeal before the RAD.

[9] The Applicant entered Canada from the United States after unsuccessfully applying to renew his work permit for that country. Pursuant to sub-paragraph 110(2)(d)(i) of the *Act*, he had no right to appeal to the RAD.

[10] There is no merit to the Applicant’s arguments about “deprivation” of a right to appeal to the RAD. The issue was determined by the Federal Court of Appeal in *Kreishan v Canada (Minister of Citizenship and Immigration)* (2019), 67 Imm. L.R. (4th) 215 (F.C.A) leave to appeal refused, 2020 CarswellNat 693, CarswellNat 604 (S.C.C.).

[11] Mindful of the applicable standard of review, I note that upon an application for judicial review, the Court does not engage in reweighing the evidence. It can “look at” the evidence to see if the evidence before the decision-maker supports the conclusion reached.

[12] In this case, the RPD reasonably concluded that the Applicant had failed to show that he was at risk of persecution in India. The RPD addressed the evidence. There is no basis for judicial intervention and the application for judicial review will be dismissed.

[13] There is no question for certification.

JUDGMENT IN IMM-4232-23

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

There is no question for certification.

"E. Heneghan"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4232-23

STYLE OF CAUSE: DHRUV DHINGRA v. THE MINISTER OF
CITIZENSHIP & IMMIGRATION CANADA

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JULY 25, 2024

REASONS AND JUDGMENT: HENEGHAN J.

DATED: OCTOBER 8, 2024

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