Federal Court Cour fédérale

Date: 20241022

Docket: IMM-3510-23

Citation: 2024 FC 1658

Ottawa, Ontario, October 22, 2024

PRESENT: Mr. Justice Norris

BETWEEN:

SUKHPREET SINGH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant is a 28-year-old citizen of India. He sought refugee protection in Canada on the basis of his fear of persecution by the family of a young woman in India with whom he had had a romantic relationship. The applicant alleged that the young woman's family, which is politically influential and well connected to the police, strongly disapproved of the relationship and sought to harm him. The Refugee Protection Division (RPD) of the Immigration and

Refugee Board of Canada rejected the claim because it found that the applicant had an internal flight alternative (IFA) in Delhi.

[2] On appeal to the Refugee Appeal Division (RAD), the applicant submitted that the RPD erred in its IFA analysis. The applicant also sought the admission of new evidence under subsection 110(4) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). The import of the new evidence was to establish an additional basis for the applicant's claim for protection – namely, his political activities in Canada in support of "Sikhs for Justice" and the Khalistan movement.

[3] The RAD dismissed the applicant's appeal. It refused to admit the new evidence because the applicant had not established that the evidence was not reasonably available while his claim was still before the RPD and because, in any event, the evidence linking the applicant to Sikh activism in Canada was not credible. The RAD also found that the RPD correctly concluded that the applicant has a viable IFA in Delhi. The RAD therefore confirmed the RPD's determination that the applicant is not a Convention refugee or a person in need of protection.

[4] The applicant now applies for judicial review of the RAD's decision pursuant to subsection 72(1) of the *IRPA*.

[5] The parties agree, as do I, that the RAD's decision should be reviewed on a reasonableness standard. A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain

the decision maker" (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85). A decision that displays these qualities is entitled to deference from a reviewing court (*ibid.*). When applying the reasonableness standard, it is not the role of the reviewing court to reweigh or reassess the evidence considered by the decision maker or to interfere with factual findings unless there are exceptional circumstances (*Vavilov*, at para 125). To set aside a decision 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).

[6] The applicant challenges the RAD's decision on the basis that its IFA finding is unreasonable. I am not persuaded that there is any basis for interfering with the RAD's determination. In his submissions, the applicant has not identified any flaws in the RAD's decision that would impugn its reasonableness. Rather, he simply disagrees with the RAD's findings with respect to the motive and means of his agents of persecution and effectively invites me to substitute my view of the evidence for that of the RAD. As set out above, this is not the role of a Court conducting judicial review on a reasonableness standard.

[7] On the question of whether it would be unreasonable for the applicant to relocate to Delhi, in several respects the applicant raises issues he did not raise in his appeal of the RPD's decision. This is generally impermissible: see *Lawal v Canada (Citizenship and Immigration)*, 2021 FC 964 at para 20, and *Olori v Canada (Citizenship and Immigration)*, 2021 FC 1308 at para 40. Apart from this, once again, the applicant is simply asking me to take a different view of the evidence than the RAD did, something I am not permitted to do.

[8] Finally, the applicant submits that he "supplied sufficient materials and explanation confirming his active participation" in Sikh activism in Canada, including in relation to the Khalistan referendum, and that this puts him at risk in India. However, the only evidence to this effect was the new evidence that the RAD refused to admit. The applicant has not challenged the RAD's refusal to admit this evidence in this application for judicial review. As a result, he cannot rely on that evidence now to show that the IFA finding is unreasonable.

[9] For these reasons, the application for judicial review will be dismissed.

[10] The parties did not propose any serious questions for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-3510-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

2. No question of general importance is stated.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-3510-23
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PLACE OF HEARING:	HELD BY VIDEOCONFERENCE
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APPEARANCES:

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