Date: 20090213

Docket: IMM-2293-08

Citation: 2009 FC 158

Ottawa, Ontario, February 13, 2009

PRESENT: The Honourable Mr. Justice Beaudry

BETWEEN:

PRITAM SINGH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review, pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the Act) of a decision of the Refugee Protection Division of the Immigration and Refugee Board (the Board), rendered April 25, 2008, where the Board determined that Pritam Singh (the applicant) was not a Convention refugee or a person in need of protection.

Issue

[2] This application raises the following question: Did the Board err in concluding that there was an internal flight alternative available to the applicant?

[3] The application for judicial review shall be dismissed for the following reasons.

Factual Background

[4] The applicant is an illiterate citizen of India who lived with his family in the village of Mothanwala until June 2005.

[5] The applicant's nephew, Kulbagh Singh, was a priest in a Sikh temple who had previously encountered problems with the police because they suspected he was harboring militants. After being tortured by the authorities, the applicant's nephew lived in secrecy. Police officers often went to the applicant's farm to inquire about his nephew.

[6] On June 6, 2005, his nephew and two of his colleagues forced the applicant to let them stay at his home. Two hours later, the police surrounded the farm and the three men ran away through the sugar cane fields, exchanging gunshots with the police. One of the men and the applicant were apprehended.

[7] The applicant was detained and tortured for three days. He was released following the intervention of the sarpanch and the payment of a bribe. He was photographed, police took his

prints and he was required to sign some papers. He was also required to report to the police station every month.

[8] The applicant presented himself at the police station in August of 2005 and was told that two militants had informed the police that a bag of ammunition had been hidden on his property. He was severely beaten but was finally released.

[9] He then fled to Canada after being offered a temporary lodging by his wife's nephew.

[10] He appeared before the Board a first time on June 23, 2006.

[11] On December 19, 2007, the Board held a *de novo* hearing. The day before the hearing, the Board member received a letter from Dr. Ouimet. The document referred to an examination of the applicant performed on December 14, 2007.

[12] At the hearing, the Board member asked the applicant if he understood the purpose and the implications of the hearing and asked how he was feeling. The Board member also spoke to the applicant’s counsel in order to clarify the purpose of this letter. The hearing then proceeded.

The Board's Decision

[13] The Board concluded that the Applicant had an internal flight alternative (IFA) in several cities in India and rejected the applicant's claim.

[14] The Board found that the applicant did not have the profile of a militant, no warrant had been issued against him and he had not appeared before a judge.

[15] Although the applicant testified that he did not speak the language used in the proposed cities, the Board noted that according to the case law, that did not mean that an internal flight alternative was not available to him (*Ranganathan v. Canada (Minister of Citizenship and Immigration)*, [2001] 2 F.C. 164 (C.A.). The Board cited excerpts from the National Documentation Package on India, dated May 30, 2007, IND100771.EX tab 14.4, to support this finding.

Standard of Review

[16] Prior to the decision of the Supreme Court of Canada in *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, the standard of review on the issue of an IFA was patent unreasonableness (*Khan v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 44, 136 A.C.W.S. (3d) 912 and *Chorny v. Canada (Minister of Citizenship and Immigration)*, 2003 FC 999, 238 F.T.R. 289).

[17] Following *Dunsmuir*, the decision on an IFA is reviewable on the newly articulated standard of reasonableness. As a result, this Court will only intervene if the decision does not fall “within a

range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir*, above, at paragraph 47). For a decision to be reasonable there must be justification, transparency and intelligibility within the decision making process.

Analysis

[18] After having read the parties' written representations, analyzed and considered their oral arguments and cited case law , I am of the opinion that the Board's finding are reasonable in the circumstances of the case at bar. The applicant has not provided any evidence which demonstrates the inadequacy of the named IFA.

[19] In *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 (C.A.), the Court established a very high threshold as explained at paragraph 15 of *Ranganathan*, above:

> … requires nothing less than the existence of conditions which would jeopardize the life and safety of a claimant in traveling or temporarily relocating to a safe area. In addition, it requires actual and concrete evidence of such conditions. The absence of relatives in a safe place, whether taken alone or in conjunction with other factors, can only amount to such condition if it meets that threshold, that is to say if it establishes that, as a result, a claimant's life or safety would be jeopardized. …

[20] The combination of reasons provided by the applicant to demonstrate why the IFA is not a reasonable option for him (language, absence of family members in the IFA, etc.) do not establish that, as a result, the applicant's life or safety would be jeopardized. The factors enumerated by the applicant carry little weight because they do not meet the aforementioned threshold.

[21] I am of the opinion that the applicant did not discharge his burden of establishing that the Board committed a reviewable error in concluding that there was an IFA available to him.

[22] The letter submitted by Dr. Ouimet cannot serve to establish that the IFA was not a reasonable option. This letter is not a medical opinion. It was considered and dealt with by the Board and the applicant's counsel, and both agreed that the hearing should proceed (tribunal's record, pages 438 to 445). The Court's intervention is not warranted.

[23] The parties did not submit questions for certification and none arises.

JUDGMENT

THIS COURT ORDERS that the application for judicial review be dismissed. No question is certified.

"Michel Beaudry"
Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:	IMM-2293-08
STYLE OF CAUSE:	**PRITAM SINGH** **and** **THE MINISTER OF CITIZENSHIP AND IMMIGRATION**
PLACE OF HEARING:	Montreal, Quebec
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APPEARANCES:

Annick Legault	FOR APPLICANT
Tony Abi Nasr Alexandre Tavadian	FOR RESPONDENT

SOLICITORS OF RECORD:

Annick Legault Montreal, Quebec	FOR APPLICANT
John H. Sims, Q.C. Deputy Attorney General of Canada Montreal, Quebec	FOR RESPONDENT