

Federal Court



Cour fédérale

**Date: 20140320**

**Docket: IMM-4333-13**

**Citation: 2014 FC 269**

**[UNREVISED ENGLISH CERTIFIED TRANSLATION]**

**Ottawa, Ontario, March 20, 2014**

**PRESENT: The Honourable Madam Justice Gleason**

**BETWEEN:**

**HARMINDER SINGH**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] This is an application for judicial review of a decision issued May 28, 2013, by the Refugee Protection Division of the Immigration and Refugee Board [the RPD or the Board] in which the RPD rejected the applicant's application to be considered a refugee or person in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA].

[2] The applicant is a citizen of India of the Sikh religion. Before fleeing India, the applicant lived in the Punjab region, where he worked as a real estate agent. He claims that his real estate business card was found with a couple that a friend had introduced him to and that these two people were considered to be Sikh militants. He says that, as a result, he himself was suspected of being a Sikh militant and was arrested three times by the Punjabi police, who tortured him. One of these incidents occurred after the applicant had left his native town to hide among relatives in the state of Himachal Pradesh, which is located near the Punjab region. Each time the police arrested the applicant, he was released because his father paid a bribe. After the third arrest, the applicant decided to flee India to come to Canada. He left the country with his own passport and arrived in Canada in 2007. However, he did not make a refugee claim until 2009.

[3] In its decision in this case, the RPD concluded that the applicant was credible but dismissed his application because it concluded that the applicant had an internal flight alternative [IFA] in Mumbai, a city of more than 16 million people located several hundred kilometres from the Punjab.

[4] In reaching this conclusion, the Board found that the applicant was not a member of a militant movement, was not politically active and had never participated in or supported the activities of an organization that engaged in acts of subversion. The RPD also pointed out that no charges had been laid against the applicant and that every time he was arrested and tortured by the police, he was released upon payment of a bribe. The Board also noted that the police found the applicant in Himachal Pradesh as the result of his father's statement not because of information-sharing between the various states.

[5] The RPD also referred to the documentary evidence on the ability of the Punjabi police to find the applicant in Mumbai and noted the following facts:

- While the Punjabi police may be serious about pursuing Sikhs anywhere in India whom they view as hard-core militants, in practice only a handful of militants are likely to be targeted (citing the National Documentation Package on India, May 31, 2010 – tab 2.5: United Kingdom (U.K.). April 17, 2008. Home Office. *Operational Guidance Note: India*, at p 5);
- Although it is possible to locate a person of interest in a different state if the police are determined to do so, officers rarely exert such efforts. The type of people that police officers might go to great lengths to search for include people accused of being political dissidents (citing the National Documentation Package on India, May 30, 2012 – tab 10.2: IRB. May 14, 2012. *Responses to Information Requests*, IND104065.E, at p 2);
- Sikhs who fear local police but who are not of interest to the central authorities may relocate to other areas of India (citing the National Documentation Package on India, May 30, 2012 – tab 2.5: United Kingdom (U.K.). April 17, 2008. Home Office. *Operational Guidance Note: India*, at p 6);
- Verification of new tenants is a practice that was established in Delhi and in a limited number of Indian states. The documentation does not support a finding that this action is widespread (citing the National Documentation Package on India, May 30, 2012 – tab 10.2: IRB. May 14, 2012. *Responses to Information Requests*, IND104065.E, at

p 2; and tab 14.8: IRB. May 9, 2007. *Responses to Information Requests*, IND102467.E);

- India does not have a national infrastructure for police communication. There is also no citizen registration system and no central police database. For this reason, it is extremely difficult to locate an individual as the result of a security check (citing the National Documentation Package on India, May 30, 2012 – tab 10.2: IRB. May 14, 2012. *Responses to Information Requests*, IND104065.E);
- A number of police stations in India use antiquated equipment and cannot adequately maintain archives. In addition, most states and metropolitan areas have not developed national criminal history and fingerprint databases (citing the National Documentation Package on India, May 30, 2012 – tab 7.1 Human Rights Watch, August 2009, *Broken System: Dysfunction, Abuse, and Impunity in the Indian Police*, chapters I, II & III at pp 21, 24).

[6] The RPD therefore concluded that it would be very difficult for the Punjabi police to locate the applicant in Mumbai and that the applicant had not shown that he had a high enough profile to induce the Punjabi police to detain him, let alone search for him throughout India. Given that there was no reason why the applicant could not live and earn a living in Mumbai, the RPD determined that this city was an IFA for the applicant.

[7] The applicant asserts that the RPD committed a reviewable error by concluding that there was an IFA for two reasons. First, he alleges that the RPD should not have found that the applicant would not be pursued by the Punjabi police if returned to India because that police

force pursued him to Himachal Pradesh. Although the police found him as a result of information they obtained from his father, the applicant submits that the police could try again to obtain information on his location in Mumbai. Second, the applicant submits that the RPD did not consider an important relevant piece of evidence, a DVD that he introduced in evidence on the situation in India, which establishes that verification of new tenants has been put in place in Mumbai. The applicant is of the view that this DVD is so relevant to the issues that the RPD decided that the fact it did not discuss the DVD means that the Board's decision should be set aside, as was the case in *Myle v Canada (Citizenship and Immigration)*, 2006 FC 871; *Myle v Canada (Citizenship and Immigration)*, 2007 FC 1073; *James v Canada (Citizenship and Immigration)*, 2010 FC 546; and *Bacchus v Canada (Citizenship and Immigration)*, 2010 FC 616.

[8] The applicable standard of review in this case is reasonableness because the issue is a question of fact or mixed fact and law (see *Lopez Martinez v Canada (Citizenship and Immigration)*, 2010 FC 550 at para 14; *Pedraza Corona v Canada (Citizenship and Immigration)*, 2010 FC 508 at para 5. Consequently, the Court must show a high degree of deference to the RPD's decision with respect to its determination that an IFA was available in Mumbai (see *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 [*Dunsmuir*]; *Duran Mejia v Canada (Citizenship and Immigration)*, 2009 FC 354 at para 29).

[9] Moreover, the RPD is not required to comment on every piece of evidence in the record. On behalf of the Court in *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador*

(*Treasury Board*), 2011 SCC 62, [2011] 3 SCR 708, Justice Abella wrote the following at paragraph 16:

[16] Reasons may not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis. A decision-maker is not required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion ... In other words, if the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met.

(See also *Andrade v Canada (Citizenship and Immigration)*, 2012 FC 1490.)

[10] Accordingly, the applicant's argument regarding the fact that the RPD did not mention the DVD in its decision is without merit. Since the RPD is not required to specifically mention each piece of evidence in its decision, it did not err by not mentioning the DVD. It was reasonably open to the RPD to rely on the other documentary evidence including the *Operational Guidance Note on India* by the Home Office of the United Kingdom and the responses to information requests published by the IRB, which are more reliable sources than the DVD, which came from an unknown source. In addition, the sources cited by the RPD amply support the RPD's conclusion that, because of his profile, there is no serious possibility of the applicant being persecuted in Mumbai. According to the report of the Home Office of the United Kingdom, Indian police may be serious about pursuing Sikhs anywhere in India whom they view as hard-core militants, but in practice only a handful of militants are likely to be targeted. Next, according to a program officer at the Asian human rights commission, people who are accused of being political dissidents are the ones who are at risk of being sought by police across the country. Last, again according to the Home

Office of the United Kingdom, Sikhs who fear local police but are not of interest to the central authorities may relocate to other areas of India.

[11] In light of this evidence, it was reasonable to conclude that the applicant did not have a profile that would lead the police to search for him everywhere in India. Since he was not a member of a militant movement, was not politically active, had never participated in the activities of an organization that engaged in acts of subversion and had not been charged, it was reasonable to find that the applicant did not have the profile of a person who would be sought across the country.

[12] In this case, it was reasonable to conclude that the police would have no intention of looking for the applicant throughout India. The situation is similar to a recent case decided by my colleague, Justice de Montigny, where he determined that a Sikh from the Punjab had an internal flight alternative in New Delhi (*Singh v Canada (Citizenship and Immigration)*, 2013 FC 535). He wrote the following at paragraph 30:

The real disagreement of the Applicant with the RPD has to do with the RPD's finding that the Punjab police are unlikely to pursue a Sikh outside of Punjab unless they are one of a handful of hard-core militants. Although there is some evidence in the National Documentation Package suggesting that no IFA is available to Sikhs, the Board noted that this evidence was based primarily on events in the 1990s. The Board was entitled to prefer more recent information, indicating that . . . an IFA is possible. . . .

[13] The same question was asked in *Kumar v Canada (Citizenship and Immigration)*, 2012 FC 30, where the RPD had concluded that there was an IFA for the applicants in New Delhi or Mumbai. Justice Scott noted the lack of evidence that the police would look for the applicants

throughout India and concluded that the RPD had not erred:

[34] The Court is of the opinion that the IRB did not err in finding that the applicants did not provide sufficient evidence to establish that the internal flight alternative is unreasonable. Thus, even if there is documentary evidence clearly showing that the police have the means to find a person anywhere in India, the applicants had to demonstrate that the local police had sufficient interest in trying to find them, even in Bombay or New Delhi. In this case, the applicants did not submit any objective evidence to support their claim that the local police were looking for them and that it will use the signed blank document to build a case against the applicant.

[14] Finally, in *Singh v Canada (Citizenship and Immigration)*, 2011 FC 342, Justice Boivin found that the RPD's conclusion as to the availability of an IFA in similar circumstances was reasonable:

[25] The Board considered documentary evidence regarding internal relocation in India, and found that citizens, including Sikhs, can move freely within the country. The test is forward looking and the Board noted that Mumbai is a large city with a population exceeding 16 million people. Although, the applicants were previously located in the small towns of Motipur and Majitha, the Court observes that when the applicants were arrested, they were staying with family in Majitha and with someone their father knew in Motipur, thus making it easier for a corrupt police to trace them for extortion. It was also open to the Board, given the history of the applicants, to find that the applicants' profiles are not of such significance as to attract the attention of central authorities in India. Given the facts of this case, it was also reasonable for the Board to find that although the applicants had previously been found in small towns did not necessarily mean that they would be found in the large city of Mumbai. In addition, the Board considered the fact that the applicants speak two of India's official languages (Hindi and English) and have post-secondary education. The Board determined that it would not be difficult for them to find work in Mumbai.

[26] Even if the evidence may bear a different interpretation, this Court will not intervene if the conclusions drawn by the Board are not unreasonable.



[15] In this case, I find that the RPD's analysis was not unreasonable. The RPD's finding that an IFA was available falls within "a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir*, at para 47), and therefore the Court should not intervene.

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

[17] This case does not involve a serious question of general importance under paragraph 74(d) of the IRPA, and neither party has proposed the certification of such a question.

**JUDGMENT**

**THE COURT ORDERS AND ADJUDGES as follows:**

1. The application for judicial review is dismissed.
2. No question of general importance is certified under section 74 of the IRPA.
3. No costs are awarded.

Mary J.L. Gleason

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Judge

Certified true translation  
Mary Jo Egan, LLB

dd

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

**DOCKET:** IMM-4333-13

**STYLE OF CAUSE:** HARMINDER SINGH v MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** FEBRUARY 27, 2014

**REASONS FOR JUDGMENT  
AND JUDGMENT:** GLEASON J.

**DATED:** MARCH 20, 2014

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