

Federal Court



Cour fédérale

Date: 20150529

Docket: IMM-5664-14

Citation: 2015 FC 694

Ottawa, Ontario, May 29, 2015

PRESENT: The Honourable Mr. Justice Locke

BETWEEN:

BUSHRA AZIZ

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Nature of the Matter

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] of a decision of a Pre-Removal Risk Assessment officer (PRRA officer) dated June 10, 2014, rejecting the applicant's second pre-removal risk assessment application (PRRA application).

II. Background

[2] The applicant is a 58-year-old citizen of Pakistan and a member of the Ahmadiyya community, a religious group that is an off-shoot of Islam but is considered non-Muslim by many Muslims and by the Pakistani government. Fearing religious persecution, the applicant came to Canada in August 2005, and claimed refugee protection in February 2006. In January 2007, the Refugee Protection Division (RPD) found the applicant to be neither a Convention refugee nor a person in need of protection. The RPD was concerned about inconsistencies in the applicant's evidence, as well as evidence suggesting that the applicant lacked the requisite subjective fear.

[3] In October 2007, a PRRA officer rejected the applicant's first PRRA application.

[4] The applicant alleges that she and her family faced persecution in Pakistan due to her Ahmadiyya faith. The applicant alleges that the discrimination she and her family experienced while her husband was alive was minor due to her husband's position as a police officer. However, after her husband's death in 2003, the situation worsened. The applicant alleges that she and her children: (i) were regularly subjected to verbal abuse and threats by fundamentalists, (ii) received death and kidnapping threats over the phone, and (iii) had difficulties practising their religion because of heinous acts against Ahmadiyya mosques.

[5] In August 2005, the applicant obtained a Canadian visa and travelled to Canada. Her seven children allegedly fled Pakistan and three of them successfully claimed refugee protection in the United Kingdom and in Germany.

III. Decision

[6] The PRRA officer acknowledged that the applicant is an Ahmadi Muslim who experienced difficulties practising her religion in Pakistan. However, the PRRA officer considered that risk factors arising since the first PRRA assessment were insufficient to allow the PRRA application. The PRRA officer judged that documents from the UK home office on the granting of refugee protection to three of the applicant's children did not provide any information enabling him to draw any conclusion about the basis of her claims. The PRRA officer also considered that the applicant is not an unprotected woman in Pakistan as her nephew, a successful businessman, provides financial support to her and her family.

[7] Moreover, the PRRA officer found that the country documentation revealed that: "conditions in Pakistan for Ahmadi Muslims have not changed significantly since the last PRRA assessment was completed." The PRRA officer also found that the evidence was insufficient to demonstrate that the applicant is personally at risk of harm. Hence, the PRRA officer found that the applicant "would not face more than the mere possibility of persecution."

IV. Issue

[8] This matter raises the following issue:

1. Did the PRRA officer err in considering that the applicant would not face a risk of torture, a risk of persecution, a risk to her life, or a risk of cruel and unusual treatment or punishment if she is deported to Pakistan?

V. Analysis

[9] The parties agree, and I concur, that the standard of review applicable in the present case is reasonableness. It is trite law that the findings of a PRRA officer are due considerable deference: *James v Canada (Citizenship and Immigration)*, 2010 FC 318 at paras 16-17; *Raza v Canada (Citizenship and Immigration)*, 2006 FC 1385 at para 10. Nevertheless, a risk assessment cannot be reasonable if it is made without regard to the evidence: *Lakhani v Canada (Citizenship and Immigration)*, 2008 FC 656 at para 35; *Ariyathurai v Canada (Citizenship and Immigration)*, 2009 FC 716 at paras 6-7; *Ramon Alcaraz v Canada (Citizenship and Immigration)*, 2012 FC 639 at para 10.

[10] The parties also agree that the role of the PRRA officer was not to reconsider the evidence previously considered in the context of the applicant's refugee claim or her first PRRA application, but rather to focus on significant changes in country conditions or personal circumstances since the first PRRA in 2007: *Cupid v Canada (Citizenship and Immigration)*, 2007 FC 176 at para 4; *Singh v Canada (Citizenship and Immigration)*, 2014 FC 11 at para 24.

[11] The respondent argues that the applicant failed to establish that the situation of Ahmadi Muslims in Pakistan has worsened since 2007. The respondent considers that the "only new change in the [a]pplicant's personal situation was the acceptance of her sons for refugee

protection in UK.” Moreover, the respondent argues that the applicant failed to link her personal situation to the general risk for Ahmadis in Pakistan.

[12] The applicant argues, and I agree, that the PRRA officer erred in finding that the situation for Ahmadis in Pakistan has not changed since 2007, and that the applicant did not establish a direct link between the evidence and her personal circumstances.

[13] The documentary evidence clearly reveals that:

1. Religious freedom in Pakistan has worsened since 2010 and Ahmadis are the primary target (see for example violent attacks against Ahmadis, discriminatory laws, and forced sale of religious properties by the government): U.S. Commission on International Religious Freedom, *Annual Report 2013*, May 2013; Asian Human Rights Commission as reported in *U.K. Home Office, Country of Origin Information (COI) Report: Pakistan*, August 2013 at para 19.05;
2. The killing of Ahmadis is not considered a crime by the state in Pakistan: Asian Human Rights Commission as reported in *U.K. Home Office, Country of Origin Information (COI) Report: Pakistan*, August 2013 at para 19.05;
3. The trend of violence (torture, bombing, killing, etc.) against Ahmadis has worsened since 2010: *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan*, May 2012 at p. 21-22; U.K. Home Office, *Country of Origin Information (COI) Report: Pakistan*, August 2013 at para 19.157; Human Rights Watch, *Pakistan: Prosecute Ahmadi Massacre Suspects*, May 27, 2012; and

4. “[W]omen from religious minorities are the most frequent victims of violence”: U.K. Home Office, *Country of Origin Information (COI) Report: Pakistan*, August 2013 at para 19.11.

[14] These documents reveal that in 2010 and 2011 hundreds of Ahmadis were killed during peaceful religious ceremonies, and that targeted assassinations of Ahmadis have been carried out under the orders of religious leaders.

[15] The PRRA officer’s analysis of the documentary evidence seems to be limited to a footnote that refers to an Operational Guidance Note from the UK Home Office. This document does not contradict the evidence to the effect that the persecution of Ahmadi Muslims has worsened since 2010. I am mindful of the deference due to the PRRA officer’s conclusions. However, the evidence simply cannot support the PRRA officer’s statement that: “conditions in Pakistan for Ahmadi Muslims have not changed significantly since [2007].”

[16] The respondent also notes that the applicant was unsuccessful in establishing a link between conditions in general for Ahmadis in Pakistan and the applicant’s personal circumstances. In my view, the fact that the PRRA officer accepted that the applicant and her family had experienced difficulties in practising their religion in Pakistan is sufficient to establish this link. Moreover, the applicant submitted evidence that, for safety reasons, Ahmadi women and children have not been allowed to attend mosques anywhere in Pakistan since May 2010.

VI. Conclusions

[17] In my opinion, the application for judicial review should be granted.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. The present application is granted and the June 10, 2014 decision of the PRRA officer is set aside.
2. The applicant's pre-removal risk assessment is remitted for reconsideration by another PRRA officer.
3. No serious question of general importance is certified.

"George R. Locke"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5664-14

STYLE OF CAUSE: BUSHRA AZIZ v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 26, 2015

JUDGMENT AND REASONS: LOCKE J.

DATED: MAY 29, 2015

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