

Federal Court



Cour fédérale

**Date: 20191204**

**Docket: IMM-2627-19**

**Citation: 2019 FC 1550**

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

**Ottawa, Ontario, December 4, 2019**

**PRESENT: The Honourable Madam Justice St-Louis**

**BETWEEN:**

**BALJIT SINGH BEDI**

**Applicant**

**and**

**THE MINISTER OF PUBLIC SAFETY AND  
EMERGENCY PREPAREDNESS  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondents**

**JUDGMENT AND REASONS**

I. Introduction

[1] Baljit Singh Bedi is seeking judicial review of the Immigration Division (ID) decision, dated April 3, 2019, determining he was inadmissible under paragraph 35(1)(a) of the

*Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act] and issuing a removal order as provided under paragraph 229(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227.

[2] The ID found that there were reasonable grounds to believe that Mr. Bedi voluntarily made a significant and knowing contribution to the crimes against humanity or criminal purpose of the Punjab Police (PP).

[3] For the following reasons, the application for judicial review will be dismissed.

## II. Background

[4] Mr. Bedi is a citizen of India. On May 18, 2017, he entered Canada with his family, and on June 8, 2017, he claimed refugee protection. In the narrative enclosed with his Basis of Claim form [BOC Form], Mr. Bedi stated he joined the PP in 1991 and worked there until he retired in 2016. He based his refugee protection claim and that of his family on his fear of the PP, which allegedly tortured and arbitrarily arrested him for having helped and encouraged a Sikh friend to file a complaint against the PP.

[5] On September 11, 2017, a Canada Border Services Agency (CBSA) officer questioned Mr. Bedi about his work as a police officer with the PP. On September 12, 2017, Mr. Bedi completed a form detailing his career as a police officer with the PP.

[6] On March 5, 2018, an enforcement officer prepared a report under subsection 44(1) of the Act, finding that in his opinion, Mr. Bedi was excluded pursuant to paragraph 35(1)(a) of the Act, as there are reasonable grounds to believe he committed or was complicit in crimes against humanity. On March 6, 2018, a Minister's delegate referred the report to the ID for an admissibility hearing pursuant to subsection 44(2) of the Act.

[7] On January 15, 2019, Mr. Bedi testified before the ID, and on April 3, 2019, the ID rendered its decision.

### III. ID decision

[8] Before the ID, the Minister argued that the documentary evidence unequivocally showed that the PP systematically committed crimes that meet the definition of crimes against humanity during almost the entire career Mr. Bedi had with the PP, namely from the early 1990s until 2009. These crimes included extra-judicial killings, torture and systematic human rights violations. The Minister submitted that there was no evidence that Mr. Bedi personally committed these crimes, but that the evidence reveals he was complicit as a PP police officer for 25 years.

[9] The Minister noted that Mr. Bedi's lack of credibility was one of the determining factors in the case. Before the ID, Mr. Bedi stated that he was not aware of the crimes or operations the PP carried out, whereas in other statements, he stated that he learned of the perpetration of these crimes shortly after he entered the PP and that he participated in incursions and search operations

in villages, including mass arrests. The Minister alleged that, before the ID, Mr. Bedi attempted to minimize his role and knowledge.

[10] Mr. Bedi, however, submitted to the ID that the Minister did not meet his burden of proof and that his testimony before the ID was reliable and credible. He stated he was never directly involved in the incursions, arrests, interrogations or abuse, having worked instead at vehicle checkpoints and in prisoner transportation for court appearances. He added that he only had a limited role in the sweeps and searches and was not engaged in fighting against militants.

[11] In its analysis, the ID first assessed the credibility of Mr. Bedi's testimony before it. It confirmed that the credible and reliable documentary evidence reports widespread and systematic perpetration of crimes against humanity by the PP throughout Punjab, in particular in the 1990s. It found that it was unlikely Mr. Bedi was completely unaware of these events and drew a negative inference regarding his credibility (*Ali v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1306). Moreover, the ID was of the view that this negative inference was exacerbated when it compared Mr. Bedi's testimony with the information reported in the various forms and the information he gave to the CBSA officer, which confirm his participation and knowledge.

[12] The ID reviewed the criteria stated by the Supreme Court of Canada in *Mugesera v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40, and found that the PP had committed crimes against humanity.

[13] The ID then applied the contribution test stated by the Supreme Court of Canada in *Ezokola v Canada (Citizenship and Immigration)*, 2013 SCC 40 [*Ezokola*], and concluded that there were reasonable grounds to believe that Mr. Bedi voluntarily made a significant and knowing contribution to the crimes or criminal purpose.

[14] Together with the six factors of the test, the ID noted or drew the following conclusions: (1) the PP is a force of around 60,000 officers, and its objective to eliminate an identifiable group of individuals and supporters is a clear criminal purpose; (2) Mr. Bedi was a police officer for 25 years, was assigned to a commando group to counter the Sikh militants, and participated in incursions and sweeps and searches of villages, during which crimes against humanity were committed; (3) Mr. Bedi did not merely acquiesce passively but participated actively in the operations, and his actions are in keeping with a significant contribution to the criminal purpose of the PP; (4) Mr. Bedi eventually became chief constable at the end of his career, and he participated in operations, which increases the likelihood that he knew about the criminal purpose of the PP; (5) during the interview with the CBSA officer, Mr. Bedi stated that he found out that the PP committed atrocities against Sikhs, which is another indication that he knew about the situation and also an indication, with his many years of service and participation in multiple police operations during which several crimes were committed, of a significant contribution to a criminal purposes or crimes; and (6) Mr. Bedi voluntarily joined the PP, learned it committed atrocities right from the start of his career and remained there for 25 years, which indicates his contribution was voluntary.

[15] The ID found that there were reasonable grounds to believe that Mr. Bedi voluntarily made a significant and knowing contribution to crimes against humanity, declared him ineligible, and ordered his removal.

IV. Parties' arguments on judicial review

A. *Mr. Bedi*

[16] Mr. Bedi submits that the standard of review is reasonableness (*Al Khayyat v Canada (Citizenship and Immigration)*, 2017 FC 175 at para 18; *Khasria v Canada (Public Safety and Emergency Preparedness)*, 2016 FC 773 at para 16) and that the decision is unreasonable.

[17] At the hearing before the Court, Mr. Bedi confirmed that he was not challenging the ID's finding regarding his credibility or its finding that the PP committed crimes against humanity in a widespread and systematic manner.

[18] Mr. Bedi submits, rather, that the ID incorrectly applied the contribution factors stated in *Ezokola*, which renders its decision unreasonable.

[19] In particular, Mr. Bedi argued that the ID drew erroneous findings of fact or ignored essential facts because (1) the ID did not take into consideration that he was demoted to security guard for a senior officer when he refused to cooperate; (2) he only worked in the so-called "Commando" unit for six months, not for a significant period as the ID described in paragraph 26 of its decision, and then became a gunner; (3) his participation in the sweep and

search operations seeking out terrorists does not establish that he made a voluntary, significant and knowing contribution to a crime or criminal purpose, particularly since he was only in that unit for six months; (4) the ID made an erroneous finding of fact at paragraph 27 of its decision, finding that Mr. Bedi participated in incursions and raids [TRANSLATION] “several times” when he was in the Commando unit, when this qualification was related to another position; (5) the fact he worked in other units of the PP could exonerate him according to comments in *Ezokola* at para 95; (6) his BOC Form was his first spontaneous statement, and the fact he wrote that he was at the bottom of the hierarchy should have been considered; (7) he stated that he became chief constable in 2008 and that this is only the third level on a scale with 14 levels; and (8) passive acquiescence is insufficient to prove complicity (*Moreno v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 298 (CA)).

[20] In summary, Mr. Bedi is arguing that the Minister did not prove Mr. Bedi voluntarily made a significant and knowing contribution to the crimes against humanity or criminal purpose of the PP.

B. *The Minister*

[21] The Minister submits that the standard of reasonableness applies (*Khasria v Canada (Public Safety and Emergency Preparedness)*, 2016 FC 773) and that the decision is reasonable.

[22] The Minister responds that the evidence allows one to reasonably believe Mr. Bedi was complicit in the crimes against humanity committed by the PP. In fact, the Minister submitted that (1) the PP committed crimes against humanity against Sikh militants, an identifiable group; (2) Mr. Bedi is not credible in that he knew or should have known what was happening in the early 1990s in the State of Punjab; (3) Mr. Bedi's responses were vague, evasive and unsatisfactory in light of the documentary evidence; (4) the first statement a person provides is most reliable (*Athie v Canada (Public Safety and Emergency Preparedness)*, 2016 FC 425 at para 49), and it confirms that Mr. Bedi knew of the crimes and participated in them; (5) in the BOC Form, Mr. Bedi stated he knew that the Punjab Police committed many atrocities against the Sikhs; and (6) the ID correctly applied the complicity test developed in *Ezokola*.

[23] In summary, the Minister submits that it was reasonable for the ID to find that Mr. Bedi voluntarily made a significant and knowing contribution to the crimes against humanity or criminal purpose of the PP.

## V. Analysis

[24] The parties agree that the applicable standard is reasonableness (*Hadhiri v Canada (Citizenship and Immigration)*, 2016 FC 1284). The Court's task is to verify the justification, transparency and intelligibility of the decision (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47 [*Dunsmuir*]).



[25] The Court must verify whether the decision “falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law” (*Dunsmuir* at para 47) and, if so, whether the facts submitted in evidence allow it to reasonably conclude, according to the test developed by the Supreme Court in *Ezokola*, that there are grounds to believe that Mr. Bedi was complicit with the PP in the perpetration of crimes against humanity.

[26] *Ezokola* requires the contribution to not only be made voluntarily and knowingly, but it must also be significant. A significant contribution is less than a substantial contribution or an essential contribution (*Ezokola* at para 56) and is assessed with regard to the criminal purpose of an organization or a specific identifiable crime (*Ezokola* at para 87).

[27] It was not contested that the ID could draw a negative inference regarding Mr. Bedi’s credibility, considering the contradictions in his various declarations and his testimony before the ID.

[28] It was also not contested that the PP committed crimes against humanity in a systematic and widespread manner, throughout Punjab, during the 1990s and 2000s. These crimes included torture, rape and extrajudicial executions during searches, sweeps, incursions and raids in villages.

[29] The evidence reveals that Mr. Bedi participated in these raids, sweeps and searches, and according to his own statements, not only during the six months he was assigned to the Commando Unit (see Certified Tribunal Record at pp 139, 142, 176). Moreover, Mr. Bedi

clearly stated in his narrative that he learned the PP committed atrocities upon his arrival in the organization. He only became a security officer five years later. Thus, if he had been demoted to the position of security officer after objecting to the organization's activities, all indications are that he did not object for at least five years. The Certified Tribunal Record reports these statements made by Mr. Bedi that confirm, in particular, (1) that he joined the PP voluntarily; (2) that he had knowledge of the crimes committed by the organization (see narrative in his BOC Form) and chose not to leave, working for the organization for 25 years; (3) that he participated in around 40 sweep operations in addition to commando operations, during which, according to uncontested documentary evidence, crimes were committed.

[30] The ID reviewed each test criterion in *Ezokola* and the fact it stated that Mr. Bedi spent a significant time in the Commando Unit instead of six months does not have an impact. The acts that indicate he made a significant contribution are not limited to those he committed while working for this Commando Unit.

[31] The ID analysis relied on the evidence on the record, and its decision is reasonable since it falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

**JUDGMENT in IMM-2627-19**

**THIS COURT' JUDGMENT is that:**

- (1) The application for judicial review is dismissed;
- (2) No question is certified.

“Martine St-Louis”

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Judge

Certified true translation  
This 23rd day of December, 2019.

Michael Palles, Reviser

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

**DOCKET:** IMM-2627-19

**STYLE OF CAUSE:** BALJIT SINGH BEDI v CANADA (CITIZENSHIP AND IMMIGRATION)

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** NOVEMBER 21, 2019

**JUDGMENT AND REASONS:** ST-LOUIS J.

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**APPEARANCES:**

Meryam Haddad

FOR THE APPLICANT

Michel Pépin

FOR THE RESPONDENTS

**SOLICITORS OF RECORD:**

Meryam Haddad  
Montréal, Quebec

FOR THE APPLICANT

Attorney General of Canada  
Montréal, Quebec

FOR THE RESPONDENTS