

Federal Court



Cour fédérale

**Date: 20210518**

**Docket: IMM-6859-19**

**Citation: 2021 FC 459**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, May 18, 2021**

**PRESENT: The Honourable Madam Justice Roussel**

**BETWEEN:**

**UNKNOWN SUKHBIR SINGH  
UNKNOWN BALWINDER KAUR  
UNKNOWN SIMERPREET KAUR  
UNKNOWN CHARANJOT SINGH**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Background

[1] The applicant, Sukhbir Singh, his spouse, Balwinder Kaur, and their two minor children are citizens of India. They are seeking judicial review of the Refugee Appeal Division [RAD]

decision dated October 25, 2019, confirming the rejection of their claim for refugee protection on the ground that an internal flight alternative [IFA] was available elsewhere in their country of origin.

[2] The applicants are from the Punjab. In support of their claim for refugee protection, they allege that they fear persecution by their village's sarpanch. The sarpanch is affiliated with the ruling political party and has influence over the municipal police.

[3] In the account attached to his Basis of Claim Form and in an addendum to that account, the applicant states that his problems with the sarpanch began in June 2015, when the sarpanch told him about a scheme he was planning in order to take possession of land owned by the applicant's aunt and cousin. The applicant disagreed with the scheme and refused to cooperate, instead informing his aunt and cousin, who took steps to foil the sarpanch's plans.

[4] A few months later, the applicant obtained a work permit and left India to go and work in Dubai. While he was away, the sarpanch threatened his spouse.

[5] On January 24, 2018, the day the applicant returned to India, three strangers came to the applicant's home to solicit a donation for a gurdwara. When the applicant refused, the individuals beat him and issued a warning. That evening, the sarpanch came to the applicant's home with police officers and informed him that a complaint had been filed against him for beating up at least one person, who had been hospitalized. The police searched the home and seized the applicant's passport. The police then took him to the police station, where he was held

overnight, interrogated and accused of financing terrorists. The applicant was released the following day with a condition to report to the police station whenever the officers called.

[6] The following week, the applicants received telephone threats against their lives. They decided to take refuge with relatives and engaged the services of an agent who helped them obtain a new passport for the applicant. The applicants arrived in Canada on April 25, 2018.

[7] On May 2, 2019, the Refugee Protection Division [RPD] rejected the claim for refugee protection on the ground that an IFA was available elsewhere in India. It concluded that the applicants had failed to demonstrate that (1) there was a risk of persecution or serious harm in the proposed cities; and that (2) it would be unreasonable for them to relocate there.

[8] The applicants appealed this decision to the RAD. They challenged the RPD's analysis only under the first prong of the IFA test, that is, a lack of fear of persecution in the proposed cities. They argued that their persecutors could easily find them if they relocated to the proposed IFAs because, to rent an apartment, they would have to complete a tenant verification process with the police.

[9] On October 25, 2019, the RAD dismissed the applicants' appeal. It agreed with the RPD that an IFA was available to the applicants in the proposed cities. It concluded that the RPD did not err in its analysis of the tenant information verification program and the documentary evidence regarding communication between the various police forces. It also confirmed the

RPD's conclusion that there was no serious possibility that the applicant was a person of interest to any police station in India.

[10] The applicants submit that the RAD's IFA finding is unreasonable and contrary to the evidence.

## II. Analysis

[11] The reasonableness standard applies to the RAD's IFA findings and its assessment of the evidence (*Mukhal v Canada (Citizenship and Immigration)*, 2020 FC 868 at para 25; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 510 at para 16 [*Jagdeep Singh*]; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 350 at para 17 [*Manpreet Singh*]; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 277 at para 19).

[12] When reasonableness is the applicable standard, the Court focuses “on the decision actually made by the decision maker, including both the decision maker's reasoning process and the outcome” (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 83 [*Vavilov*]). The Court asks whether “the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision” (*Vavilov* at para 99). It is not a question of a “line-by-line treasure hunt for error” (*Vavilov* at para 102). In addition, the “burden is on the party challenging the decision to show that it is unreasonable” (*Vavilov* at para 100).

[13] The IFA test is two-pronged. The RAD was required to be satisfied, on a balance of probabilities, that (1) there was no serious possibility of the applicants being persecuted in the region of the proposed IFA; and (2) in all the circumstances, including the personal situation of the applicants, it would not be unreasonable for them to seek refuge there (*Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706 at 709–11 (FCA) (QL); *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 (FCA); *Jagdeep Singh* at para 18; *Manpreet Singh* at para 26). The burden is on the refugee protection claimant to demonstrate that an IFA is unreasonable.

[14] The applicants are challenging the RAD’s findings on the first prong only.

[15] In general, the applicants criticize the RAD for its assessment of the documentary evidence regarding the computer database known as the Crime and Criminal Tracking Network and Systems (CCTNS). They submit that the documentary evidence relied on by the RAD to conclude that the CCTNS database was out of date cites other sources that state the opposite. For example, the documentary evidence indicates that the “implementation of the CCTNS project is satisfactory in all [s]tates”, that “secured data connectivity, as part of the CCTNS project, was available at 14,363 police stations” and that “94 percent of police stations across India have CCTNS hardware deployed”.

[16] The applicants state that the documentary evidence also confirms that tenant verification is performed in the proposed IFAs and that the CCTNS database contains 70 million records, including 25 million First Information Reports (FIRs). The applicants submit that the name of

the applicant may be among the names of the 45 million people in the database who are not the subject of an FIR. The applicants submit that it was unreasonable for the RAD to conclude that their argument in this regard was “a big leap in logic”.

[17] Finally, the applicants submit that the RAD’s finding that the applicant was not a person of interest to the police is unreasonable. The police authorities were the sarpanch’s accomplices when they arrested and detained the applicant despite there being no warrant or FIR against him.

[18] The passage cited by applicants in their memorandum is from “Responses to Requests for Information”, No. IND106120.E, dated June 25, 2018. This document discusses surveillance by state authorities in India, communication between police offices across the country, including the use of the CCTNS, information in FIRs, tenant verification, categories of persons that may be included in police databases, and whether police authorities are able to locate persons of interest.

[19] The document contains the passages on which the applicants rely; however, it also cites police sources as claiming that a large part of the CCTNS is yet to be implemented, and it indicates that several police stations in India still work in silos as far as criminal information is concerned. It also refers to newspaper articles quoting various people on the problems with the tenant verification process and the fact that it is impossible for the police to verify the identity of all those who rent property. Moreover, the document cites a professor as stating that the police are not always able to trace a person on the basis of information collected through the CCTNS and that information on persons of interest is recorded not in the CCTNS but in classified databases.

[20] Given the information in this document as a whole, the applicants cannot reasonably argue that the RAD's interpretation is unreasonable. It was up to the RAD to select and accept the parts of the evidence that it considered to be the most persuasive to support its findings.

[21] It was also open to the RAD to reject the allegation that the applicant might be one of the 45 million people in the CCTNS even though he had never been charged with a crime. The RAD correctly points out that the document in question does not specify what these other records are, and that the fact they are not FIRs does not mean that they are records of people who have not been officially accused.

[22] Moreover, the Court cannot agree with the applicants' argument that it was unreasonable for the RAD to conclude that the applicant was not a person of interest to the police. The RAD considered the particular circumstances of the applicant and examined the alleged risk. It concluded that there was no serious possibility that the applicant was a person of interest to any police force in India. In this regard, it relied on (1) the applicant's testimony before the RPD that he was merely a victim of corrupt police officers wanting to please the village sarpanch; (2) the lack of a formal charge, arrest warrant or FIR against him; (3) the lack of details about the applicant's conditions of release; (4) the fact that the applicant was able to renew his passport, which had been seized by the local police; (5) the applicants' use of their own passports to leave India without attracting special attention at the airport; (6) the lack of evidence that the applicant's name was on a wanted list; and (7) the lack of evidence that the sarpanch's influence extended beyond the area where the applicants lived. The RPD also noted that there was no

evidence to show that the applicant's aunt, who still lived in Punjab, had been pursued by the sarpanch.

[23] The RAD's IFA findings are essentially factual and are based on its assessment of all the evidence, including the documentary evidence, which includes more than the passages on which the applicants rely. The findings are within the RAD's area of expertise and require a high degree of deference from this Court. Based on all the evidence, the RAD could reasonably conclude that the applicant had failed to demonstrate, on a balance of probabilities, that he would be at risk in the cities proposed as IFAs. It is not the role of this Court to reassess and reweigh the evidence to reach a conclusion favourable to the applicants. The role of this Court is to assess whether the decision bears the hallmarks of reasonableness (*Vavilov* at paras 99, 125; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59). This Court finds that it does.

[24] For the reasons above, the application for judicial review is dismissed. No question of general importance was submitted for certification, and the Court is of the opinion that this case does not raise any.

**JUDGMENT in IMM-6859-19**

**THIS COURT'S JUDGMENT** is as follows:

1. The application for judicial review is dismissed; and
2. No question of general importance is certified.

“Sylvie E. Roussel”

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Judge

Certified true translation  
Johanna Kratz, Reviser

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

**DOCKET:** IMM-6859-19

**STYLE OF CAUSE:** UNKNOWN SUKHBIR SINGH ET AL v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** JANUARY 20, 2021

**JUDGMENT AND REASONS:** ROUSSEL J.

**DATED:** MAY 18, 2021

**APPEARANCES:**

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