

Federal Court



Cour fédérale

Date: 20210812

Docket: IMM-6222-19

Citation: 2021 FC 836

Ottawa, Ontario, August 12, 2021

PRESENT: The Honourable Mr. Justice Gleeson

BETWEEN:

HARPREET SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Mr. Singh, is a citizen of India and a member of the Sikh faith. While in Canada, he married. His spouse, a citizen of Afghanistan and a Canadian permanent resident, is a member of the Islamic faith. They have a young daughter who is a Canadian citizen.

[2] Mr. Singh has sought protection on the basis that his interfaith marriage places him at a risk of persecution or harm from “people of [his] community” who disapprove of his marrying a Muslim woman. Before the Refugee Protection Division [RPD], Mr. Singh’s spouse stated that he also faced a risk of persecution or harm from her ex-fiancé’s family who, she says, are originally from Afghanistan and now live in India, and are angry about the breakup of the engagement.

[3] The RPD found Mr. Singh is neither a Convention refugee nor a person in need of protection as he had viable internal flight alternatives [IFA] in both Delhi and Mumbai.

[4] In its September 24, 2019, decision the RAD upheld the findings of the RPD, concluding the existence of viable IFAs to be the determinative issue.

[5] Pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], Mr. Singh now seeks judicial review of the RAD decision. He argues that the RAD erred by only considering persecution through the lens of interfaith marriage to the exclusion of the persecution of Muslims more generally.

[6] Having considered the submissions of the parties, I am not persuaded that the RAD committed any error warranting the Court’s intervention. The application is dismissed for the reasons that follow.

II. Style of Cause

[7] Counsel for the respondent notes that the application has identified the respondent as the Minister of Immigration, Refugees and Citizenship Canada, the name that is commonly used to refer to the respondent. However, the respondent is identified in statute as the Minister of Citizenship and Immigration and should be so identified in the style of cause (*Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22, s 5(2) and IRPA, s 4(1)). The style of cause is amended accordingly (Rule 76, *Federal Courts Rules*, SOR/98-106).

III. Decision under Review

[8] The RAD found the determinative issue to be the existence of viable IFAs in India and that Mr. Singh had not presented sufficient evidence to verify his claim that he would be at risk in either of the proposed IFAs (Delhi or Mumbai). The RAD noted evidence that Mr. Singh's extended family mistreated his parents as a result of his inter-religious marriage was limited to Mr. Singh's own testimony that certain family members have threatened to harm him. The RAD noted that Mr. Singh did not name the individuals who threatened harm or provide evidence as to whether those individuals could carry out the threat. The RAD found the suggestion that Mr. Singh's extended family would be able to locate him in the IFAs should he require official documentation was vague and speculative.

[9] The RAD addressed the risk to Mr. Singh arising from his inter-religious marriage in light of anti-Muslim sentiment in a segment of Indian society. The RAD found the documentary evidence indicated that violence motivated by interfaith marriage is most often perpetrated by

family members and that outside of rural areas non-family members are not likely to take interest in an interfaith marriage. The RAD found that the evidence did not demonstrate, as Mr. Singh argued, that the country was generally unsafe for Muslims or that anyone associating with Muslims risked persecution from either state or non-state actors. The RAD also found that the suggestion Mr. Singh would be at greater risk should his spouse and daughter relocate to India was not in issue as the evidence was that his spouse and daughter would not permanently relocate to India.

[10] The RAD concluded that the Mr. Singh had viable IFAs in Delhi and Mumbai and, as a result, his claim under sections 96 and 97 of the IRPA could not succeed.

IV. Issue and Standard of Review

[11] The application raises a single issue: whether the RAD erred in its consideration and analysis of the evidence.

[12] The RAD's IFA determinations are reviewed by this Court against the presumptive standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 10 [*Vavilov*]; *Akinkunmi v Canada (Citizenship and Immigration)*, 2020 FC 742 at para 13). A reasonable decision is one that reflects an internally coherent and rational chain of analysis and is justified in relation to the facts and law constraining the decision maker (*Vavilov* at para 85; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 at para 32). The party challenging a decision has the burden of showing that the shortcomings or flaws in the

decision are sufficiently central or significant to render the decision unreasonable (*Vavilov* at para 100).

V. Analysis

[13] Mr. Singh argues that the RAD's consideration and analysis of the evidence is unreasonable in two respects. First, the RAD failed to recognize that he claimed a risk of persecution on two grounds: (1) his interfaith marriage; and (2) general country conditions for Muslims in India. He submits the RAD addressed only the risk arising from his interfaith marriage. Second, the RAD failed to address the risk he would face should his spouse and child, visible and recognizable Muslims, visit him in India.

[14] Mr. Singh also argued in written submissions that the RAD should not have undertaken its own analysis of the issues. This final point appears to reflect an initial misunderstanding of the RAD's role and was not pursued in oral submissions (*Canada (Citizenship and Immigration) v Huruglica*, 2016 FCA 93 at paras 37 and 103).

A. *The RAD did address general country conditions and the prevalence of Anti-Islamic sentiment in India*

[15] In responding to the issues raised on the appeal, the RAD did not limit itself to a consideration of the risk of persecution arising from Mr. Singh's marriage. The RAD did consider general country conditions faced by Muslims in India and, in doing so, specifically addressed the documentary evidence Mr. Singh had placed before the RAD in regard to this issue.

[16] The RAD acknowledged Mr. Singh's position that the general situation for Muslims in India "is dire and that any association with Muslims, marriage to a Muslim in the Appellant's case, is likely to lead to persecution" but concluded the documentary evidence did not support this contention. The RAD further concluded that the country conditions evidence did not demonstrate that "the country is generally unsafe for Muslims or that anyone associating with Muslims risks being persecuted by either state or non-state actors". Mr. Singh does not take issue with the RAD's interpretation of the documentary evidence or submit that the conclusions reached are unreasonable.

[17] I am satisfied that the RAD both recognized and addressed the reported risk of persecution arising from Mr. Singh's association with a member of the Muslim faith.

B. *The RAD's treatment of the evidence that Mr. Singh's spouse and child may visit him in India was reasonable*

[18] Mr. Singh argues that the RAD erred by failing to assess the risk that would arise from his association with members of the Muslim faith should his spouse and child visit, a possibility contemplated in the evidence. I disagree.

[19] The RAD had previously concluded that Mr. Singh's association with members of the Muslim faith did not create a risk of persecution by either state or non-state actors. It is not evident how this conclusion, which Mr. Singh has not challenged, would be impacted where the association arises in the context of a visit. I also note that the RAD was aware of the possibility of a visit, having stated that the applicant "testified that his wife would likely visit him in India".

[20] The RAD's failure to explicitly address the possibility of a visit does not undermine the RAD's overarching logic and, in my view, does not impact upon the reasonableness of the decision (*Vavilov* at para 102).

VI. Conclusion

[21] The RAD's decision is reasonable. The application is dismissed.

[22] The parties have not identified a question of general importance for consideration, and none arises.

JUDGMENT IN IMM-6222-19

THIS COURT'S JUDGMENT is that:

1. The style of cause is amended to reflect the Minister of Citizenship and Immigration as the correct respondent;
2. The application is dismissed; and
3. No question is certified.

“Patrick Gleeson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6222-19

STYLE OF CAUSE: HARPREET SINGH v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: JULY 13, 2021

JUDGMENT AND REASONS: GLEESON J.

DATED: AUGUST 12, 2021

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