

Federal Court



Cour fédérale

**Date: 20210913**

**Docket: IMM-4614-20**

**Citation: 2021 FC 940**

**St. John's, Newfoundland and Labrador, September 13, 2021**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**KAWARJIT SINGH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Mr. Kwarjit Singh (the “Applicant”) seeks judicial review of a decision of the Immigration and Refugee Board, Refugee Appeal Division (the “RAD”). In that decision made on September 10, 2020, the RAD confirmed the decision of the Immigration and Refugee Board, Refugee Protection Division (the “RPD”), that the Applicant is neither a Convention refugee nor a person in need of protection, within the scope of section 96 and subsection 97(1), respectively, of the *Immigration and Refugee Protection Act*, S.C. 2001, c.27 (the “Act”).

[2] The Applicant is a citizen of India. For some years, he held status in Belgium as a permanent resident. The RAD determined that he had lost that status by operation of law. It assessed the Applicant's claim for protection against his country on nationality, that is India.

[3] The RAD determined that the Applicant's alleged risk of persecution in India had no nexus to the grounds of Convention refugee status, as set out in section 96 of the Act. The Applicant claims to be at risk of harassment and threats of bribery from the police.

[4] The RAD proceeded to assess the Applicant's alleged risk pursuant to subsection 97(1) of the Act.

[5] The RAD found that the Applicant failed to establish risk, that it would not be unreasonable for the Applicant and his family to meet the police demands for money realized from the family business, and that such settlement would not deprive the Applicant of his "fundamental human rights".

[6] The Applicant argues that the RAD failed to consider his claim pursuant to section 96 of the Act and unreasonably assessed his claim pursuant to subsection 97(1).

[7] The Applicant characterized the RAD's failure to consider his claim pursuant to section 96 of the Act amounts to a breach of procedural fairness.

[8] Issues of procedural fairness are subject to review upon the standard of correctness; see the decision in *Canada (Minister of Citizenship and Immigration) v. Khosa* (2009), 304 D.L.R. (4th) 1 (S.C.C.).

[9] The merits of the decision are reviewable on the standard of reasonableness; see the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019), 441 D.L.R. (4th) 1 (S.C.C.).

[10] According to the recent decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019), 441 D.L.R. (4th) 1 (S.C.C.), the standard of reasonableness presumptively applies to administrative decisions, including decisions made under the Act, except where legislative intent or the rule of law suggests otherwise; see *Vavilov, supra* at paragraph 23.

[11] In considering reasonableness, the Court is to ask if the decision under review “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 that decision”; see *Vavilov, supra* at paragraph 99.

[12] The Applicant has failed to show any breach of procedural fairness. Contrary to his arguments, the RAD did consider his claim relative to section 96 of the Act and found no nexus to a Convention refugee ground.

[13] In my opinion, having regard to the evidence, that conclusion was reasonable.

[14] Essentially, the Applicant argues that extortion attempts from police are the root of his claim for protection. Extortion and bribery, per se, are not recognized as Convention refugee grounds. The RAD determined that the Applicant failed to show a ground for protection. I see no reviewable error in the RAD's finding.

[15] The RAD also considered the Applicant's claim for protection pursuant to subsection 97(1) of the Act and concluded that he had not shown a basis for protection.

[16] Again, this finding is reasonable, considering the evidence and relevant jurisprudence.

[17] I refer to the decision in *Sanchez v. Canada (Minister of Citizenship and Immigration)*, 62 Imm. L.R. (3d) 5 where the Federal Court of Appeal found that interference with business interests "would not affect a fundamental principle of human rights"; see paragraph 19.

[18] In the result, the decision of the RAD meets the applicable standards of review. There is no reviewable error and no basis for judicial intervention, the application for judicial review will be dismissed.

[19] There is no question for certification arising.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed, there is no question for certification arising.

"E. Heneghan"

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Judge

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

**DOCKET:** IMM-4614-20

**STYLE OF CAUSE:** KAWARJIT SINGH v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY WAY OF VIDEOCONFERENCE

**DATE OF HEARING:** JUNE 3, 2021

**JUDGMENT AND REASONS:** HENEGHAN J.

**DATED:** SEPTEMBER 13, 2021

**APPEARANCES:**

Mark J. Gruszczynski FOR THE APPLICANT

Evan Liosis FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Canada Immigration Team FOR THE APPLICANT  
Barrister and Solicitor  
Westmont, Québec

Attorney General of Canada FOR THE RESPONDENT  
Montreal, Québec