

Federal Court



Cour fédérale

Date: 20221017

Docket: IMM-5982-21

Citation: 2022 FC 1411

[ENGLISH TRANSLATION]

Ottawa, Ontario, October 17, 2022

PRESENT: Mr. Justice McHaffie

BETWEEN:

YADWINDERJEET SINGH SAHI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an appeal of a decision by the Refugee Appeal Division (RAD), Immigration and Refugee Board of Canada. The RAD determined that Yadwinderjeet Singh Sahi, a citizen of India, has an internal flight alternative (IFA) in New Delhi and is therefore neither a Convention

refugee nor a person in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] Mr. Sahi submits that the RAD's conclusion that he would not face a serious risk of persecution if he were to relocate to New Delhi is unreasonable. In particular, he submits that the RAD erred in analyzing the evidence regarding the alleged agents of persecution and their use of the tenant verification system as a way to locate him in New Delhi. On a reasonableness standard of review, I find that the decision was reasonable. The RAD concluded that, despite his strong belief, Mr. Sahi was merely speculating when he alleged that the anonymous telephone threats he had received were from influential politicians. It was open to the RAD to draw this conclusion, and Mr. Sahi's arguments are basically asking this Court to assess the evidence differently. However, this is not the Court's role on judicial review.

[3] The application for judicial review is therefore dismissed.

II. Issue and standard of review

[4] Mr. Sahi raises only one issue in this application:

Did the RAD err in determining that Mr. Sahi would not face a serious risk of persecution if he were to relocate to New Delhi?

[5] The parties agree that the standard of review applicable to RAD decisions regarding an IFA is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC

65 at paras 16–17, 23–25; *Adeniji-Adele v Canada (Citizenship and Immigration)*, 2020 FC 418 at para 11; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 807 at paras 16–17.

[6] When conducting a reasonableness review, the Court must focus on the decision that the decision maker made and determine whether the decision bears the requisite hallmarks of justification, transparency and intelligibility: *Vavilov* at paras 83–85, 99. A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law: *Vavilov* at paras 85, 99–107. The Court must refrain from reweighing and reassessing the evidence that was before the decision maker, and it should not interfere with factual findings absent exceptional circumstances: *Vavilov* at para 125. However, the reasonableness of a decision may be jeopardized where the decision maker has fundamentally misapprehended or failed to account for the evidence before it: *Vavilov* at para 126.

III. Analysis

A. *RAD's decision*

[7] Mr. Sahi's claim for refugee protection is based on his work in the Punjab region. A preacher since 1999, Mr. Sahi established a secular organization in 2014 to help people in need regardless of their religion. As he became better known, he started receiving invitations to attend and speak at interfaith events. His popularity displeased some Sikh fundamentalists. Between 2015 and 2018, Mr. Sahi received a number of anonymous telephone threats from people who disapproved of his interfaith work, accusing him of not being a true Sikh and telling him to stop

his work. Although the calls were anonymous, Mr. Sahi suspects that the callers were influential politicians he had met in the course of his work. Mr. Sahi left India in 2018 because he feared these people. His fears were exacerbated by the murders of other preachers and by the refusal of the police to provide protection.

[8] The RAD, like the Refugee Protection Division (RPD), found that Mr. Sahi had an IFA in New Delhi. There is an IFA in another part of an applicant's home country if both (1) the claimant will not be subjected to persecution or a section 97 danger or risk in the proposed IFA; and (2) in all the circumstances, conditions in the IFA are such that it would not be unreasonable for the claimant to seek refuge there: *Limonés Munoz v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 1051 at para 41, citing *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 (CA) at 597–98, and *Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706 (CA).

[9] In the first prong of the analysis, the RAD determined that the agents of persecution were likely conservative Sikhs who believed that Mr. Sahi was disloyal to the Sikh faith. However, it concluded that, since the calls were anonymous, Mr. Sahi's belief that the agents were influential politicians was merely speculation. The RAD noted that Mr. Sahi lived near New Delhi between 2016 and 2018 but was not approached by the agents of persecution during that time, even though he continued to receive threatening calls. The RAD agreed with the RPD's conclusion that Mr. Sahi is unlikely to be in police databases as a person of interest. The RAD therefore concluded that, even if conservative Sikhs had the motivation to pursue him in New Delhi, they would not be able to locate him, and Mr. Sahi would be safe in New Delhi.

[10] In the second prong of the analysis, the RAD noted that Mr. Sahi was not challenging the RPD's conclusion that he could reasonably relocate to New Delhi.

B. *Decision reasonable*

[11] Mr. Sahi submits that the RAD erred in analyzing the evidence, particularly with respect to whether the agents of persecution could locate him in New Delhi. He refers to the evidence regarding the murder of another religious preacher, the fact that there is a tenant verification system in New Delhi, and his testimony regarding the politicians.

[12] I agree with the Minister's submission that Mr. Sahi has failed to show that the RAD's decision is unreasonable. As confirmed by the Supreme Court in *Vavilov*, in a judicial review, the Court must refrain from reweighing and reassessing the evidence considered by the decision maker: *Vavilov* at para 125. Having reviewed the evidence before the RAD and its analysis, I find that its conclusions are supported by the record and that its decision bears the hallmarks of justification, transparency and intelligibility. It was open to the RAD to conclude that the evidence failed to establish Mr. Sahi's allegation that the telephone threats had been made by influential politicians. Contrary to Mr. Sahi's arguments, this does not mean that the RAD unreasonably required him to identify the anonymous caller(s). It is simply a conclusion that the allegation was not established on a balance of probabilities. This conclusion was reasonable.

[13] Similarly, the RAD considered the existence of state databases but concluded that the agents of persecution could not use them to locate him. Mr. Sahi has failed to discharge the burden of showing that this conclusion is unreasonable in light of the evidence.

[14] Therefore, despite Mr. Sahi's submissions, I conclude that the decision was reasonable.

IV. Conclusion

[15] For these reasons, the application for judicial review is dismissed. The parties did not raise a question for certification. I agree that there are none in this case.

JUDGMENT in IMM-5982-21

THIS COURT'S JUDGMENT is as follows:

1. The application for judicial review is dismissed.

“Nicholas McHaffie”

Judge

Certified true translation
Vincent Mar

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5982-21

STYLE OF CAUSE: YADWINDERJEET SINGH SAHI v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: JUNE 6, 2022

JUDGMENT AND REASONS: MCHAFFIE J

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