

Federal Court



Cour fédérale

Date: 20221129

Docket: IMM-8897-21

Citation: 2022 FC 1642

Ottawa, Ontario, November 29, 2022

PRESENT: Madam Justice McDonald

BETWEEN:

Muhammad RASHID

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Mr. Rashid seeks judicial review of a decision of the Refugee Protection Division [RPD] dated November 4, 2021 [Decision], denying his claim for refugee protection on the grounds that he has Internal Flight Alternatives [IFA] within his home country of Pakistan. Mr. Rashid argues the RPD failed to consider contradictory evidence on the viability of the identified IFAs.

[2] For the reasons that follow, this judicial review is dismissed, as the decision of the RPD is reasonable.

Background and Decision Under Review

[3] Mr. Rashid is a Sunni Muslim who, along with his brothers, operated a fashion stall in a market in Lahore, Pakistan. One of the brothers was approached by a member of Sipah-e-Sahaba Pakistan [SSP], an extremist group, who asked for financial support or the undertaking of anti-Shia activities. After this encounter with the SSP, Mr. Rashid and his brothers fled to Canada and made refugee claims.

[4] The RPD determined Mr. Rashid and his brothers were not refugees as they had IFAs in Pakistan. The RPD identified three possible IFAs: Karachi, Rawalpindi or Islamabad.

[5] In considering this issue, the RPD applied the two prong test for an IFA from *Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706 (CA), which asks (1) is there a serious possibility of persecution in the proposed IFA, and (2) it is reasonable for the claimants to relocate there.

[6] The RPD considered the documentary evidence on Pakistan and the SSP. The RPD makes reference to an Australian Government Department of Foreign Affairs and Trade assessment, published in February 2019, which found “[l]arge urban centres such as Karachi, Islamabad and Lahore have ethnically and religiously diverse populations, and offer some

anonymity for people fleeing violence by non-state actors.” While the RPD acknowledged this is a general statement, it affirmed the viability of IFAs in Pakistan.

[7] The RPD considered information about the SSP, also known as the Punjabi Taliban. The RPD found the evidence indicated “many of the associated Pakistani extremist groups do not operate as a unified, integrated organization with a solitary hierarchical structure” and there was “no objective country condition evidence before it which suggests that the agent of persecution is of sufficient strength and reach to be able to learn of a person’s return to Pakistan or their presence in any city in Pakistan.”

[8] The RPD noted “the documentary evidence does not support the claimants’ assertions that the SSP can communicate and find them anywhere. The panel notes that the objective evidence specifically states that the militant groups under the Taliban umbrella are fractious and they do not appear to have the ability to track individuals.” The RPD found the documentary evidence mostly described SSP attacks against Shias, not Sunnis, and that attacks usually did not target one specific individual, but were roadside or suicide bombs. While the evidence showed some individualized attacks on high profile persons, the RPD found the evidence did not indicate specific attacks on individuals with commonplace profiles, like Mr. Rashid, or Sunni Muslims generally. Lastly, the RPD found there was no evidence the SSP have the ability to locate Mr. Rashid anywhere in Pakistan.

[9] The RPD also noted the original “random request for financial support and/or martyrdom” was made at the fashion stall Mr. Rashid operated with his brothers, which had ceased operations.

[10] The RPD summarized its findings on the documentary evidence as follows:

- a) There is limited documentary evidence that indicates the SSP have been active in personally targeting individuals with a profile similar to the Claimants in Karachi, Rawalpindi, or Islamabad.
- b) The evidence that the Taliban has carried out attacks against state actors and members of religious minorities or others it perceives to be in opposition to its goals, have taken place mainly in the region previously known as the FATA, and in other regions well distant from Karachi, Rawalpindi, or Islamabad.
- c) The evidence establishing the SSP in Pakistan does not operate as a unified, integrated organization that operates within a solitary hierarchical structure.
- d) The proposed IFA in Karachi, Rawalpindi, or Islamabad, are cities with a population of 27 million, 2.09 million and one half million people respectively. The panel additionally notes that any of these cities would meet the criteria of a “large urban center” that would provide a “degree of anonymity” as stated in the U.K. Home Office document.

[11] The RPD held that in order for the SSP to target Mr. Rashid in the IFAs, the SSP would have to learn he had returned to Pakistan, learn he had relocated to the IFA, and then find him in the IFA. Considering the geographic size of Pakistan and the vast populations in the IFAs, the RPD found “it would take a significantly coordinated, networked and organized entity to target the claimants in Karachi, Rawalpindi, or Islamabad,” which the documentary evidence did not support.

[12] In considering the second prong of the IFA test, the RPD found that, on the balance of probabilities, there were no serious social, economic, or other barriers to Mr. Rashid relocating to any of the proposed IFAs. Mr. Rashid and his brothers were businesspeople, who had travelled to other countries, spoke Urdu, and were comfortable with other religious practices. These factors led the RPD to conclude it could not “foresee any reason why they would be prevented from acquiring work or starting a business in Karachi, Rawalpindi, or Islamabad.”

Issue and Standard of Review

[13] The only issue in this Application is whether the RPD’s finding that an IFA existed was reasonable.

[14] I agree with the parties that the standard of review applicable to the RPD decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]). On a reasonableness review, the Court considers the reasons provided to determine if they are based on an internally coherent and rational chain of analysis and are justified in relation to the facts and the law that constrain the decision maker (*Vavilov* at para 85)

Analysis

[15] Mr. Rashid argues the RPD failed to take into consideration documentary evidence that contradicted the conclusion that a viable IFA existed in Pakistan. Specifically, Mr. Rashid highlights a Response to Information Request [RIR], dated December 14, 2020, which considers

extremist groups in Pakistan. This RIR was part of the National Documentation Package [NDP] before the RPD, but not specifically referenced by the RPD.

[16] Mr. Rashid argues the information in the RIR directly contradicts the RPD's findings on the organization and integration of Pakistani extremist groups and the ability of the SSP to track targets. In effect, Mr. Rashid argues the SSP has the motivation and means to locate him in the IFAs identified by the RPD.

[17] Mr. Rashid argues that where the RPD fails to consider important evidence, the decision is unreasonable (*Zhang v Canada (Minister of Citizenship and Immigration)*, 2005 FC 982). Therefore, Mr. Rashid argues it was incumbent on the RPD to identify and address documents with the NDP that are contradictory to its conclusions.

[18] Contrary to Mr. Rashid's submissions, I do not read the RIR to be contradictory to the RPD's assessment of the capacity of the SSP. The RIR indicates various extremist groups are related and operate as a loose network, but does not indicate these groups have the operational capacity to track targets across the proposed IFAs. The RIR indicates that "targeting 'tactics and approval depended on the strategic value of the target.'" However, this single statement does not support a conclusion that a "network" is used to track individual targets across Pakistan, or specifically in the IFAs proposed by the RPD. There is also nothing in the RIR that suggests Mr. Rashid would be at risk from the SSP in any of the proposed IFAs. The RIR does not speak about SSP activities in any of the identified IFAs.

[19] The RPD found the SSP tend to engage in generalized attacks on Shias, where high profile individuals are targeted. The RIR Mr. Rashid relies upon also notes that the SSP targets Shia Muslims. In contrast, Mr. Rashid is a Sunni Muslim.

[20] Accordingly, Mr. Rashid has not demonstrated that the SSP have the capacity to locate him in the IFAs. Nor has Mr. Rashid demonstrated that the RPD failed to consider the RIR. The RIR does not show extremist groups in Pakistan are coordinated to such a degree that Mr. Rashid could be tracked and found anywhere in Pakistan. Further, the RIR does not show that someone with Mr. Rashid's profile would be at risk from the SSP in the IFAs.

[21] In order to demonstrate that an IFA is unreasonable, the applicant must provide “[a]ctual and concrete evidence of the existence of conditions that would jeopardize the life and safety of [the applicant] in travelling or temporarily relocating” to the IFA (*Calderon v Canada (Citizenship and Immigration)* 2019 FC 1447 at para 26). Mr. Rashid has not provided such evidence.

[22] In essence, Mr. Rashid is asking the Court to reweigh the RPD's assessment of the country condition documentation, which is not the role of the Court on judicial review. The mere fact the RPD referenced certain parts of the NDP and not others does not make the Decision unreasonable. In any event, the excerpts of the NDP that Mr. Rashid references and claims the RPD ignored do not in fact contradict the RPD's findings.

Conclusion

[23] This judicial review is dismissed, as the RPD finding of viable IFAs in Pakistan is reasonable in light of the evidence and the applicable law.

[24] No question for certification was proposed and none arises in this case.

JUDGMENT IN IMM-8897-21

THIS COURT'S JUDGMENT is that:

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

"Ann Marie McDonald"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8897-21

STYLE OF CAUSE: RASHID v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

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