

Federal Court



Cour fédérale

**Date: 20230606**

**Docket: IMM-1660-22**

**Citation: 2023 FC 789**

**Ottawa, Ontario, June 6, 2023**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**MD NOOR HOSSAIN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Md Noor Hossain (“Mr. Hossain”), sought refugee protection in Canada because he feared persecution in Bangladesh based on his political opinion. The Refugee Protection Division [RPD] dismissed his claim because it found him not credible in his allegations. Mr. Hossain appealed this rejection to the Refugee Appeal Division [RAD]. The RAD agreed with the RPD that Mr. Hossain’s description of his attacks was not credible and dismissed the appeal on this basis. However, the RAD, unlike the RPD, accepted that Mr. Hossain had written the political articles that he claimed put him at risk.

[2] Mr. Hossain raises a number of arguments on judicial review. The determinative issue is the RAD's failure to consider a core basis of the asylum claim. As this relates to the merits of the decision, I will review this issue on a reasonableness standard of review (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65).

[3] The RAD focused in its decision on whether the attacks occurred as described by Mr. Hossain instead of the broader issue of whether Mr. Hossain was at risk due to his political opinion. The RAD did not consider two outstanding issues: having found that Mr. Hossain had written the political articles critical of the ruling party in Bangladesh, the RAD had to consider whether writing the articles put Mr. Hossain at risk, regardless of whether it accepted the attacks occurred. Second, the RAD made no findings with respect to the connection between Mr. Hossain and his wife, who is active in politics and is the child of the former president of Bangladesh, which Mr. Hossain referenced in his articles.

[4] Based on the reasons below, I grant the application for judicial review.

## II. Analysis

[5] Mr. Hossain sought refugee protection in Canada because he feared persecution in Bangladesh based on his political opinion. He claimed that, between February and March 2019, he wrote three articles in a local newspaper in Bangladesh critical of political opponents of his wife, who is both the child of the former president of Bangladesh and active in politics herself. Mr. Hossain alleged that his articles led to threats, a kidnapping, and a physical attack against him.

[6] The RPD and the RAD both found Mr. Hossain's accounts of the alleged kidnapping and attacks not credible. The RAD found that Mr. Hossain's claim is "based solely upon his fear of the perpetrators of the attacks." Therefore, the RAD concluded that Mr. Hossain has not established a well-founded fear of persecution because his accounts of those attacks were not credible.

[7] The RAD's narrow framing of Mr. Hossain's asylum claim is unreasonable. The claim was not based *solely* on the fear of those who attacked Mr. Hossain. The claim was based on his risk from the ruling party because of the political opinion expressed in the published articles. The RAD's narrow framing prevented it from considering whether the publishing of these articles put Mr. Hossain at risk. There is no analysis of this issue in the RAD's reasons.

[8] The RAD reached a different conclusion than the RPD on whether Mr. Hossain wrote these articles. The RPD determined that Mr. Hossain did not demonstrate a level of knowledge of journalistic procedures commensurate with being a professional or amateur journalist in Bangladesh. The RPD noted that Mr. Hossain's allegation about being a journalist "does not have the ring of truth." The RPD placed little weight on the copies of newspaper articles Mr. Hossain provided and alleged he wrote. The RPD found it plausible that another journalist shares Mr. Hossain's name and noted that genuine documents with false information are easily obtainable in Bangladesh.

[9] By contrast, the RAD determined that the RPD erred in finding that Mr. Hossain failed to show he was employed as a journalist. The RAD admitted as new evidence a letter from Mr.

Hossain's editor in Bangladesh and an attached cheque. The RAD accepted that Mr. Hossain was an amateur who dabbled in journalism and that, as a successful and wealthy local businessman, he was able to persuade the newspaper to publish his three articles.

[10] Having found that Mr. Hossain had written the articles in question, the RAD was required to consider whether this put him at risk. Framing his claim as being "solely" about his "fear of the perpetrators of the attacks" is not a reasonable assessment of Mr. Hossain's claim and distorts the framework of the analysis required.

[11] I also note that the RAD did not make any findings about another key issue raised on appeal. The RPD found that Mr. Hossain has not established an imputed political opinion based on his wife's or his wife's family's alleged involvement in politics in Bangladesh. The RPD found that Mr. Hossain gave a contradictory account of whether he and his wife separated and whether she had accompanied him to the United States, raising, in the RPD's view, doubt about the true status of Mr. Hossain's relationship with his wife.

[12] The RAD did not assess the RPD's findings about the status of Mr. Hossain's relationship with his wife, even though Mr. Hossain challenged those findings on appeal. The RAD had to assess this aspect of Mr. Hossain's claim and whether this family connection combined with the articles he published put him at risk due to his political opinion.

[13] Given that I find the matter has to be redetermined based on the issues above, it is unnecessary to address the other arguments the Applicant raised challenging the RAD's

credibility findings. My lack of comment on these arguments should not be taken to suggest a view on their merits.

[14] Neither party raised a question for certification and I agree none arises.

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is allowed;
2. The RAD's decision dated January 28, 2022, is set aside and sent back to be redetermined by a different panel; and
3. No serious question of general importance is certified.

"Lobat Sadrehashemi"

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Judge

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

**DOCKET:** IMM-1660-22

**STYLE OF CAUSE:** MD NOOR HOSSAIN v. THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

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

**DATE OF HEARING:** MARCH 14, 2023

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** JUNE 6, 2023

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