

Federal Court



Cour fédérale

Date: 20231207

Docket: IMM-9971-22

Citation: 2023 FC 1652

Montréal, Quebec, December 7, 2023

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

PARDEEP SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

(Delivered from the Bench at Montréal, Quebec, on December 7, 2023)

[1] Mr. Singh, a citizen of India, seeks judicial review of a decision of the Refugee Appeal Division [RAD] dismissing his claim for asylum. He argues that the RAD unreasonably held that he has an internal flight alternative [IFA] in Mumbai or New Delhi. I am dismissing his application, because the RAD's IFA finding was reasonable.

[2] Mr. Singh alleges that he was detained and tortured by the Punjab police because they thought he was harbouring a Sikh militant. He was freed when his father paid a bribe. A few

months later, he was called to the police station and asked to help identifying certain Sikh militants. He was freed when he said he did not know them. After he left India, the police visited his family on a number of occasions, but each time left after the family paid a bribe.

[3] From this evidence, the RAD concluded that the police were unlikely to look for Mr. Singh throughout India. It found that had the police truly suspected him of helping Sikh militants, they would not have set him free. Moreover, the RAD noted that there are no criminal proceedings against Mr. Singh. Thus, Mr. Singh would not be at risk of persecution or serious harm in the proposed IFA locations.

[4] On judicial review, my role is not to decide the case afresh or to substitute my own assessment of the evidence to the RAD's. It is to ascertain whether the RAD's findings are properly grounded in the evidence and whether the RAD's reasons are logical. I find that they are.

[5] The RAD applied the well known test for an IFA, which requires it to ascertain whether Mr. Singh would be safe in the proposed IFAs and whether it would be reasonable to relocate there. Contrary to what Mr. Singh argues, there is no presumption that a victim of torture cannot have an IFA. Rather, once the issue of IFA is raised, refugee claimants have a burden to show that they would not be safe there.

[6] Mr. Singh's main contention is that he is seen as a threat to national security in India. The RAD, however, found that he has no such profile. To demonstrate that this finding is

unreasonable, Mr. Singh cannot simply call it ridiculous, contrary to the truth or other similar descriptions. Rather, he must show that the RAD fundamentally misapprehended the evidence. This he has not done.

[7] Mr. Singh relies on *Chahal v United Kingdom* (1996), 23 EHRR 413, a decision of the European Court of Human Rights. As he recognizes, however, his situation is fundamentally different from that of Mr. Chahal. Mr. Chahal was a well-known Sikh militant who had high profile activities in both India and the United Kingdom. It was publicly known that the United Kingdom government believed he was a national security threat. Even assuming they are still current today, the Court's findings simply cannot be transposed to Mr. Singh's situation. They do not support the generalization that victims of police torture, whatever their profile, can never have an IFA.

[8] Mr. Singh also cites the Guidelines issued by the United Nations High Commissioner for Refugees [UNHCR] with respect to IFA. These Guidelines, however, do not preclude an IFA finding where the agent of persecution is linked to the state, if "the risk of persecution stems from an authority of the State whose power is clearly limited to a specific geographical area." This is exactly what the RAD found. See, in this regard, *Vartia v Canada (Citizenship and Immigration)*, 2023 FC 1426.

[9] For these reasons, Mr. Singh's application for judicial review will be dismissed.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. The applicant will have five days to propose a certified question by serving and filing a letter to this effect.
3. The respondent will have five days to respond by serving and filing a letter.

"Sébastien Grammond"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-9971-22

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

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: DECEMBER 7, 2023

JUDGMENT AND REASONS: GRAMMOND J.

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