

Federal Court



Cour fédérale

Date: 20240522

Docket: IMM-4762-23

Citation: 2024 FC 768

Toronto, Ontario, May 22, 2024

PRESENT: Mr. Justice Diner

BETWEEN:

KARAN VASHIST

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Karan Vashist [Applicant], seeks judicial review of a decision of the Refugee Appeal Division [RAD], dated March 31, 2023, dismissing his appeal and confirming the Refugee Protection Division's [RPD] decision dated September 21, 2022, finding him not to be a Convention Refugee, pursuant to section 96 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], nor a protected person, pursuant to section 97 of the IRPA. I am refusing to grant the application for the following reasons.

[2] The RAD allowed the appeal in part, and found that the Applicant's wife is a Convention Refugee due to a combination of her gender and caste, and dismissed the appeal in part, by upholding the RPD's finding that the Applicant is not a Convention Refugee or a protected person. The Applicant's refugee claim revolved solely on his fear of persecution from his father, the alleged central agent of harm, because he did not approve of his inter-caste relationship. The RAD evaluated the Applicant's claim, and concluded that the Applicant did not present sufficient credible evidence to support his fear, and in addition, that either Bengaluru or Delhi would be a viable internal flight alternative.

[3] The sole issue before this Court is whether the RAD's decision is reasonable (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 59–63; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 99 [*Vavilov*]).

[4] The Applicant's argument is twofold. First, the RAD erred by separating his refugee claim from his spouse's and failing to consider the nexus between their claims. Second, the RAD ignored objective evidence regarding inter-caste persecution in India.

[5] I disagree. While family is a valid social group for the purposes of seeking refugee protection, there still must be a personal nexus between the refugee claimant and the alleged persecution suffered by the family member (*Tomov v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1527 at paras 10–11; *Toscano Rosales v Canada (Citizenship and Immigration)*, 2024 FC 553 at para 66; *Anonyai v Canada (Citizenship and Immigration)*, 2021 FC 480 at para 27 [*Anonyai*]). Just because one family has been persecuted does not mean

that all other family members are: claimants must show that they have been or will be targeted by persecutors because they are members of the family: *Theodore v Canada (Minister of Citizenship and Immigration)*, 2021 FC 651 at para 8.

[6] Here, the RPD found the spouse was targeted because of the intersectionality of her gender and caste, namely as a woman and Dalit in India. The RAD explained that this was distinct from her husband's claim, who did not meet those risk profiles, and claimed as his agent of persecution his father. The RAD went on to reasonably assess the Applicant's claim independently, and concluded that, for a host of justifiable, transparent and intelligible reasons, he failed to establish a well-founded fear of persecution, including credibility, speculative assertions, and valid IFAs.

[7] Furthermore, I am unpersuaded by the Applicant's argument that the RAD ignored objective evidence on the persecution of inter-caste couples in India. The Applicant notes multiple excerpts from the documentary evidence that he claims contradict the RAD's findings. However, the RAD assessed the documentary evidence presented by the Applicant, and reasonably concluded that the Applicant did not establish a well-founded fear of persecution by his father or others due to his inter-caste relationship (see *Ramachandiran v Canada (Citizenship and Immigration)*, 2023 FC 228 at paras 15, 28).

[8] The RAD also scrupulously considered the family relationship and its impact on potential persecution both from a subjective and objective perspective. The situation in *Anonyai* on which the Applicant relies, is distinct. There, the decision-maker failed to adequately assess the nexus

between the refugee claimant and their family members (*Anonyai* at para 28). Here, on the other hand, the RAD carefully considered both the Applicant's connection to his wife, and the threat posed by the agent of harm, his father, along with potential broader, community threats in India.

[9] An inextricable part of the RAD's analysis was the fact that it agreed with the RPD's IFA analysis vis-à-vis the Applicant in either Bengaluru or Delhi, where the Applicant would not be threatened by his family or others. These were reasonable IFAs given the Applicant's attributes – namely a young, Hindu, well-educated, trilingual man (in English, Punjabi, and Hindi), with sufficient resources to avoid difficulties seeking employment. In light of the evidence, these findings were all open to the RAD. Thus, whereas the Applicant bore the onus of establishing that he does not have a viable IFA, he failed to do so (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 1526 at para 19).

[10] In short, the Applicant is asking this Court to reweigh and reassess the evidence that was before the RAD, which is not this Court's mandate on judicial review. Rather, I find the decision is justified, transparent and intelligible (*Vavilov* at paras 99, 125). This application for judicial review is dismissed.

JUDGMENT in file IMM-4762-23

THIS COURT'S JUDGMENT is that:

1. The judicial review is dismissed.
2. There is no question to certify.
3. No costs will issue.

"Alan S. Diner"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4762-23

STYLE OF CAUSE: KARAN VASHIST v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE

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JUDGMENT AND REASONS: DINER J.

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APPEARANCES:

Alp Debreli FOR THE APPLICANT

Michelle Brar FOR THE RESPONDENT

SOLICITORS OF RECORD:

Alp Debreli FOR THE APPLICANT
Barrister and Solicitor
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT
Toronto, Ontario