

Federal Court



Cour fédérale

**Date: 20240620**

**Docket: IMM-8316-23**

**Citation: 2024 FC 959**

**Toronto, Ontario, June 20, 2024**

**PRESENT: Mr. Justice Diner**

**BETWEEN:**

**Sarah FAROOQ  
Salman FAROOQ  
Abbas FAROOQ  
KHADIJA**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP &  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicants seek judicial review of a decision made by the Refugee Appeal Division [RAD], dismissing their appeal and confirming the decision of the Refugee Protection Division [RPD], finding that the Applicants are neither Convention refugees nor persons in need of protection.

[2] The RAD rejected the Applicants' refugee claims due to credibility concerns, as well as because they have a viable Internal Flight Alternative [IFA] in the city of Hyderabad. For the reasons below, this application is rejected. The RAD's Decision is justifiable, intelligible and transparent.

[3] In short, the Applicants are siblings and citizens of Pakistan. They arrived in Canada on December 26, 2018 with their mother, and made their refugee claim on January 14, 2019. Their claims were heard and rejected by the RPD, and subsequently appealed to the RAD, who found that only their mother is a Convention refugee due to her pro-Shia political activities in Pakistan. The Applicants' claims were subsequently sent back to the RPD for redetermination, and were once again rejected. The RAD dismissed their appeal in a Decision dated June 6, 2023.

[4] The issue before this Court in this application for judicial review is whether the RAD's Decision was 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*]).

[5] The Applicants raise the following three issues. First, they claim that the RAD's reasons on the credibility are not justified because they did not conduct their own assessment and rather just adopted the RPD's, and also because they ignored documentary evidence on the corrupt nature of the Pakistan police.

[6] Second, they claim that the RAD should have assessed their case in light of their mother's successful refugee claim.

[7] Third, they claim that the IFA assessment was unreasonable. On the first prong of the IFA analysis, they claim that the RAD simply adopted the RPD's findings and failed to consider that the Applicants fit the profile of those typically targeted by the agents of persecution, and that because they are associated with their parents, the alleged agents of persecution (a terrorist group) will also be motivated to harm them. The Applicants further argue that the agents of persecution has the means to locate them in the IFA using the internet and technology. On the second prong of the IFA analysis, the Applicants argue that the move to Hyderabad is unreasonable because the agents of persecution is well-established in Karachi, only a two and a half hour drive away from Hyderabad, and therefore still pose a threat in the IFA.

[8] Similar to their argument on credibility, overall, the Applicants claim that the RAD did not engage in an independent assessment.

[9] In my view, however, the Applicants have not raised any reviewable errors. First, with regard to credibility findings, the RAD based its observations on various material inconsistencies surrounding the main event where one of the Applicants was targeted by the agents of persecution. The RAD also reasonably found that it was implausible that there would be no First Information Report on that occurrence. In reaching these conclusions, the RAD assessed the evidentiary record before it, including the documentary evidence. The Applicants are asking this Court to reweigh the evidence before the RAD, which is not this Court's role. In addition, the

RAD is owed significant deference on issues of credibility, and I do not see a reason to intervene in their findings (*Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 at para 15).

[10] For their second argument, the Applicants claim that they should have obtained status by virtue of their mother's successful claim, as like cases should be treated alike (citing *Shafi v. Canada (Minister of Citizenship and Immigration)*, 2005 FC 714 at paras. 12 and 33). Here, the Applicants are all Shia adherents, who lived in the same home as minors and engaged in the same pro-Shia activities as their mother (they also cite *Mengesha v Canada (Citizenship and Immigration)* 2009 FC 431 at para 5 and *Rusznayak v Canada (Citizenship and Immigration)*, 2014 FC 255 at para 57).

[11] However, as the Respondents correctly outlined, claims must be determined on their own facts and the RAD is not bound by the result in another claim, even if the claim involves a relative and is based on the same or substantially similar allegations (*Uygur v Canada (Citizenship and Immigration)*, 2013 FC 752 at paras 28–30; *Bakary v Canada (Citizenship and Immigration)*, 2006 FC 1111 at para 10). In this case, the RAD had previously distinguished their mother's claims from theirs.

[12] On the third ground raised in this judicial review, I disagree with the Applicants' contention that the IFA finding was unreasonable. Once a viable IFA is proposed, the onus is on the Applicants to prove that it is unreasonable. To do so, the Applicants must provide "actual and concrete evidence" that their life or safety would be jeopardized in the IFA (*Ranganathan v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16789 at paras 15–17 (FCA)).

Here, they did not do that, as per the RAD's Decision. Nor have they provided concrete evidence that the agents of persecution would either have the means or motivation to find them in Hyderabad.

[13] Finally, I am not persuaded by the argument that the RAD did not act independently in conducting their own analysis on appeal. The RAD is entitled to express agreement with the RPD's findings, and that fact alone does not suggest that they have failed to conduct their own assessment of the matter (*Baig v Canada (Citizenship and Immigration)*, 2023 FC 1388 at para 25). Here, the RAD highlighted passages of the RPD's decision which it agreed with – and those that it found fault with (namely, regarding the credibility concerns raised by the RPD regarding the failure to make a claim in the US, as well as delay). RAD Member Bousfield went on to provide a reasonable assessment of his own accord.

[14] I do not see a reason to intervene in his comprehensive decision that I find to have been justified, intelligible and transparent (*Vavilov* at para 99). This application for judicial review is thus dismissed.

**JUDGMENT in file IMM-8316-23**

**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"

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Judge

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

**DOCKET:** IMM-8316-23

**STYLE OF CAUSE:** SARAH FAROOQ, SALMAN FAROOQ, ABBAS FAROOQ, KHADIJA V THE MINISTER OF CITIZENSHIP & IMMIGRATION

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

**DATE OF HEARING:** JUNE 19, 2024

**JUDGMENT AND REASONS:** DINER J.

**DATED:** JUNE 20, 2024

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