

Date: 20091006

Docket: IMM-838-09

Citation: 2009 FC 1010

Toronto, Ontario, October 6, 2009

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

TENZIN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] The Applicant is a Tibetan citizen from China. The present Application concerns a challenge by a Pre-Removal Risk Assessment (PRRA) Officer who found that the Applicant would not be at risk if he were returned to China.

[2] A panel of the Refugee Protection Division (RPD) refused the Applicant's refugee claim on the basis that he failed to provide sufficient credible evidence as to his identity as a Tibetan citizen.

With respect to his PRRA application, the Applicant tendered new evidence that supports his claim as a Tibetan. He advanced two affidavits from individuals who deposed that he is Tibetan, and, in addition, he provided the PRRA officer with a letter from the Canadian Tibetan Association of Ontario which states as follows:

This is to certify that holder of Tibetan Green book number 12464 is Mr. **Tenzin**. As per his Tibetan Green book, the official Tibetan identity proves that he is a *bona-fide* Tibetan.

He is an active member and also volunteers during the activities of Canadian Tibetan Association of Ontario, www.ctao.org. [Emphasis in original]

(Tribunal Record, p. 34)

[3] Faced with the new evidence, the PRRA Officer issued a decision which included the following reasons:

This new evidence does not provide reasonable grounds to believe that he has attracted the attention of Chinese authorities in Canada, or that he is from China, or needs fear [sic] Chinese authorities.

[...]

The applicant has submitted a letter from The Canadian Tibetan Association of Ontario certifying that the holder of Tibetan Green Book, number 12464, is Mr. Tenzin. The letter states the Tibetan identity proves that the applicant is a *bona-fide* Tibetan. [...] The applicant does not state whether the Canadian Tibetan Association of Ontario determined the authenticity of his Green Book. Documentary evidence indicates that there is a process for determining the authenticity of a Green Book. “According to a representative of the Officer of Tibet in New York, the authenticity of a Green Book can be verified by the Tibetan office or association that issued the document (20 Apr. 2006).”

[...]

[...] the documents in question here were available to the Board, [...] and the issue appears not to have been raised there. Therefore, the current submission is really a request for a re-evaluation of the evidence weighed and found wanting by the Board, the Tribunal which did have the resources at hand to investigate it.

(Tribunal Record, pp. 9-10)

[4] There is no dispute that all evidence with respect to identity must be considered in reaching a conclusion on a PRRA application. The most cogent piece of evidence that was not before the RPD is the letter from the Canadian Tibetan Association of Ontario authenticating the Green Book. In my opinion, given this new evidence, the PRRA Officer was required to properly evaluate the authenticity of the Green Book because it speaks to the identity of the Applicant. Because the Officer did not meet this requirement, I find the PRRA decision was rendered in reviewable error.

ORDER

Accordingly, I set the aside the decision under review and refer the matter back to a different PRRA officer for re-determination.

There is no question to certify.

“Douglas R. Campbell”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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PLACE OF HEARING: TORONTO, ONTARIO

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DATED: OCTOBER 6, 2009

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