

Federal Court



Cour fédérale

Date: 20100429

Docket: IMM-4963-09

Citation: 2010 FC 473

Toronto, Ontario, April 29, 2010

PRESENT: The Honourable Mr. Justice Campbell

BETWEEN:

HASSAN SHAKIL

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] The present Application concerns a negative Pre-Removal Risk Assessment with respect to the Applicant who is a citizen of Pakistan. In March 2009, the Applicant was determined to be inadmissible to Canada under s. 34(1)(f) of the *IRPA* as a result of the Applicant's membership in the MQM-Haqiqi (MQM-H), an organization that has engaged in terrorism.

[2] The issue before the PRRA Officer was whether the Applicant would be at risk under s. 97 of the *IRPA* if he returns to Pakistan. In support of a positive determination on his PRRA application, the Applicant tendered a letter, the contents of which is as follows:

June 17, 2009

TO WHOM IT MAY CONCERN

Mr. Hassan Shakil recently contacted this organization from Canada and told that he was likely to be deported from there on grounds that he had links with a faction of former Muhajir Qaumi Movement (MQM) Haqiqi group. Mr. Hassan was very upset about his security in Pakistan in the event he is ordered to leave Canada. After listening to his ordeal, I would like to elaborate briefly on the current law and order situation of Pakistan.

Pakistan in general and Karachi in particular has become a hub of racial, religious and sectarian strife. MQM is at centre stage of this unrest. MQM (Altaf) being the most powerful faction and member of the ruling coalition is bent upon killing all those whom they even suspect of having affiliation with their splinter groups like MQM (Haqiqi). More than 30 innocent people have been killed by the goons of MQM (A). Mr. Hassan who is alleged to have connections with MQM (H) will definitely become a victim of the opposing faction's retribution.

In the given circumstances, no governmental or non-governmental organization is in a position to provide security to Mr. Hassan consequent upon his return to Pakistan, as the situation is quite volatile and challenging. I will therefore strongly urge him to remain away from Pakistan in order to secure his life and that of his family.

If any further information is needed, I can be reached at the numbers given above or through email.

ARIF DAWOOD
Coordinator

[Emphasis added]

[3] As a central feature of the present Application, Counsel for the Applicant argues that the PRRA Officer failed to consider critical contents of the letter in reaching the decision under review.

With respect to this argument, the passage from the PRRA Officer's reasons is as follows:

The June 17, 2009 letter from Arif Dawood provides statements regarding the volatile and challenging security situation in Karachi. I acknowledge that Arif Dawood has expert knowledge of the present security situation in Karachi, as he is the coordinator of the Dawood Khursheed Memorial (International) Foundation in Karachi, and I acknowledge that the number of political party worker deaths is corroborated by the presented documentation and by my additional research; however, I note that those murdered due to their associations with MQM-Haqiqi faction in early June 2009 are described as leaders or workers of the political party faction. I find that these documents present sufficient objective evidence to demonstrate that the authorities in the Islamic Republic of Pakistan have taken action to end the Karachi violence.

[4] On a comparison of the letter and the reasons for decision provided, I agree with Counsel for the Applicant. In my opinion, the critical contents of the letter with respect to the Applicant's risk, as emphasised in the quotation of the letter above, did not form part of the evidence upon which the PRRA decision was rendered. As a result I find that the decision was rendered in reviewable error.

ORDER

Accordingly, I set aside the decision under review and refer the matter back to a differently constituted panel for re-determination.

There is no question to certify.

“Douglas R. Campbell”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4963-09

STYLE OF CAUSE: HASSAN SHAKIL v. THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: April 29, 2010

**REASONS FOR ORDER
AND ORDER:** CAMPBELL J.

DATED: April 29, 2010

APPEARANCES:

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Lorne McClenaghan FOR THE RESPONDENT

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