

Federal Court



Cour fédérale

**Date: 20120529**

**Docket: IMM-5159-11**

**Citation: 2012 FC 660**

**Ottawa, Ontario, May 29, 2012**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**REGINOLD JEBANESAN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] Mr. Reginold Jebanesan (the “Applicant”) seeks judicial review of the decision made by Visa Officer Rena Patel (the “Officer”) of the High Commission of Canada located in New Delhi, India. In that decision dated March 7, 2011, the Officer refused the Applicant’s application for a permanent resident visa as a member of the Convention refugee abroad or the Humanitarian-protected persons abroad classes pursuant to section 96 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the “Act”), as well as sections 147, 145 and paragraph 139(1)(e) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the “Regulations”).

[2] The Applicant is a citizen of Sri Lanka, of Tamil ethnicity. His application was based upon a fear of rebels and the army in Sri Lanka. He claimed that he had been abducted twice, once with his brother and cousin, and on a second occasion with his father, brother and cousin. His father had been abducted once, on his own, and held for three months.

[3] The Applicant was interviewed by the Officer, with his brother, on March 1, 2011. His father was also interviewed on that day. The Officer expressed concerns about the credibility of the father's evidence and gave him the opportunity to resolve those concerns. She did not express concerns about the Applicant's account of his experiences.

[4] In her decision the Officer said that she did not have "reasonable grounds" to believe that the Applicant had a well-founded fear of persecution, noting a lack of "reasonable objective grounds to believe that you or your family has been or would be specifically targeted or persecuted".

[5] This decision, involving an assessment of facts to determine if a person is a Convention refugee within the meaning of section 96 of the Act, is reviewable on the standard of reasonableness since it involves a question of mixed fact and law. In this regard, I refer to the decisions in *Dunsmuir v New Brunswick*, [2008] 1 SCR 190 at para 53 and in *Canada (Minister of Citizenship and Immigration) v Khosa*, [2009] 1 SCR 339.

[6] The Applicant raises a single challenge to the decision. He submits that it fails to meet the standard of reasonableness since the reasons given do not address his specific circumstances. The Officer sent the same negative decision to his father, brother and cousin.

[7] The application for permanent residence, as Convention refugees abroad and as members of the Humanitarian-protected persons abroad, was made by the Applicant's father on behalf of his family, including the Applicant, his brother and his cousin, and the Applicant's particular circumstances for his fear of persecution were set out in his father's narrative. I am satisfied that the Officer was not obliged to deliver individual reasons in deciding the application. The Officer properly addressed the constituent elements of a claim for Convention refugee protection, that being a subjective and objective fear. She was not satisfied that the Applicant had met the burden of proving that he was at risk. The reasons adequately set out the basis for her decision and meet the standard of reasonableness set out in *Dunsmuir*, above at para 47.

[8] In the result, this application for judicial review is dismissed. There is no question for certification arising.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** this application for judicial review is dismissed.

There is no question for certification arising.

\_\_\_\_\_  
"E. Heneghan"

Judge

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

**DOCKET:** IMM-5159-11

**STYLE OF CAUSE:** REGINOLD JEBANESAN v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** May 24, 2012

**REASONS FOR JUDGMENT  
AND JUDGMENT:** HENEGHAN J.

**DATED:** May 29, 2012

**APPEARANCES:**

Wennie Lee FOR THE APPLICANT

Prathima Prashad FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Lee and Company FOR THE APPLICANT  
Toronto, Ontario

Myles J. Kirvan FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Toronto, Ontario