

Federal Court



Cour fédérale

**Date: 20140502**

**Docket: IMM-5161-13**

**Citation: 2014 FC 414**

[UNREVISED ENGLISH CERTIFIED TRANSLATION]  
Ottawa, Ontario, May 2, 2014

**PRESENT: The Honourable Mr. Justice Roy**

**BETWEEN:**

**PARAMJIT SINGH  
PREETI SANDHU  
ANGELINA SANDHU**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER**

[1] **CONSIDERING** the application for judicial review of the decision rendered by the Refugee Protection Division (RPD), dated June 18, 2013, in which the applicants' claims for protection as refugees or persons in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC (2001), c 27 (IRPA or Act), were rejected;

[2] **AND CONSIDERING** the written submissions filed by the parties and the oral submissions made at the hearing of April 23, 2014;

[3] **AND CONSIDERING** the arguments of both parties, for the reasons below, the application for judicial review is dismissed.

[4] In its decision, the RPD dealt with the principal applicant's credibility in a highly articulate manner. This was the determinative issue in this case. The applicants are two spouses and their child, but it is Paramjit Singh, the husband, who is arguing that he requires the protection of the Act because of his association with a cousin in his country of origin, India.

[5] The RPD also considered the issues of home state protection and the availability of internal flight alternatives. In my view, the serious issues raised regarding the credibility of the principal applicant are sufficient to dispose of the issue.

[6] The story initially provided by the principal applicant was very weak. I believe that it would have been difficult to justify granting refugee protection or the protection of persons described in section 97 of the Act on that basis alone. The principal applicant had stated that his cousin had been elected, in their country of origin, to the All India Sikh Student Federation. Despite the fact that the principal applicant was not a member of this federation (having graduated from high school in 2002 and gone on to work on the family farm), he stated that he had been invited by the cousin in question to participate in a demonstration. While he was in a car that was travelling toward the demonstration, the principal applicant was allegedly arrested

by the police and detained for a short period. When he was released, he was told to report to the local police station monthly for the following six months.

[7] His cousin apparently disappeared for a week following this interception, and, when he was released, he allegedly complained that he had been tortured because the authorities had been suspicious about his role as a Sikh militant. This cousin was allegedly arrested a second time, at which point the principal applicant decided to leave India. He and his family travelled to the United States in February 2008, and they were granted a one-year Canadian work permit not long after. They arrived in the country in August 2008. However, when he experienced difficulty finding employment in Canada, the principal applicant allegedly told his family in India in May 2009 that he intended to return to his country of origin. He was warned by his mother that his cousin had denounced him to the police as another Sikh militant. On July 31, 2009, the principal applicant filed a claim for protection under sections 96 and 97 of the Act.

[8] The parties agree that the application for judicial review must be heard on the basis of the standard of reasonableness. The Court agrees. Therefore, the Court must show deference with regard to the questions of fact and questions of mixed fact and law that were considered by the RPD. Naturally, this includes any findings regarding the credibility of the principal applicant. The Supreme Court of Canada stated the following in *Dunsmuir v New Brunswick*, 2008 SCC 9; [2008] 1 SCR 190:

A court conducting a review for reasonableness inquires into the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes. In judicial review, reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. But it is also concerned with whether the decision

falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

(Para 47)

[9] In this case, the RPD's decision seems to be very well articulated and unassailable. In many important aspects of the principal applicant's story, it is very clear that he embellished his version or made errors regarding important dates and events as he claims they occurred. For example, despite several opportunities to mention it, it was not until late in the proceedings that he submitted that his father had been brutally killed in 1991 on account of his militant activities. Not only was this detail added late, but it lacks credibility on its own terms and is not supported by any corroborating evidence whatsoever. Even if it could be corroborated, with a death certificate, for example, this would not help the principal applicant, since this death took place in a city quite far from the location of the assault that allegedly killed him almost instantly. Along the same lines, the only evidence filed in support of this allegation of assassination is an article of which only a few words have been translated into English. What was available to the RPD did not allow it to establish a link between the principal applicant and the individuals named in the article.

[10] Furthermore, the story related by the principal applicant about the moment he began to fear for his safety in his home country is contradicted by subsequent versions of his story. This is not trivial.

[11] The principal applicant tried to explain away all of these contradictions, discrepancies and implausible explanations with documentary evidence about the situation in his country of nationality. It was argued that corruption is rampant and that the police authorities act without

regard for the law. With respect, it seems to me that this accumulation of contradictions, discrepancies and explanations lacking in credibility renders the RPD's findings completely reasonable, and the documentary evidence does nothing to change the weak explanations provided by the principal applicant as to why he feared for his safety. The documentary evidence cannot serve as a substitute for a personal account lacking in credibility.

[12] Claiming that the first counsel was incompetent and failed to refer in the documentation to the circumstances of the death of the principal applicant's father does not explain how the principal applicant, when interviewed directly by an immigration official, could have neglected to address a point that should have favoured him, at least at first glance. This would have at least provided some explanation as to why the Indian authorities might have taken an interest in him. However, he did not seize the opportunities that presented themselves. The lack of clarity surrounding when the principal applicant began to feel that it would be dangerous for him to return to India is similarly significant. One must wonder why the Indian authorities would take any interest in somebody who was not a student and who was intercepted only once while he was on his way to a student demonstration. The statement allegedly made by the cousin, which was reported to the principal applicant by his mother, with no further explanation or corroborative evidence, is not sufficiently substantiated to be credible.

[13] The RPD also concluded that the applicants could have benefitted from home state protection had they asked for it, which they clearly never did. Again, the applicants tried to argue that seeking protection would be counterproductive in the circumstances. In my opinion, their persuasive efforts on this point were fairly limited. The RPD also concluded that they had an internal flight alternative in a city far from their home region of Punjab. It has been established

that the capital, New Delhi, has a large Sikh community, and the RPD accepted the evidence that the applicants could live there without fear. The metropolitan region of New Delhi is home to some fifteen million inhabitants.

[14] In any case, there is no need to elaborate any further on these issues because, as indicated above, the principal applicant's lack of credibility is determinative. If the principal applicant is not believed, then it is unnecessary to consider other issues such as state protection and internal flight alternatives. In my view, the RPD's findings regarding the principal applicant's credibility are reasonable and merit this Court's deference. This is a sufficient basis on which to decide the issue.

[15] Accordingly, the application for judicial review of the RPD's decision is dismissed. There is no question for certification.

**ORDER**

**THIS COURT ORDERS that** the application for judicial review of the RPD's decision is dismissed. There is no question for certification.

“Yvan Roy”

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Judge

Certified true translation  
Francie Gow, BCL, LLB

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

**DOCKET:** IMM-5161-13

**STYLE OF CAUSE:** PARAMJIT SINGH, PREETI SANDHU, ANGELINA SANDHU v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** APRIL 23, 2014

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

**DATED:** MAY 2, 2014

**APPEARANCES:**

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