

Federal Court



Cour fédérale

Date: 20220621

Docket: IMM-2588-21

Citation: 2022 FC 931

Ottawa, Ontario, June 21, 2022

PRESENT: Mr. Justice James W. O'Reilly

BETWEEN:

**DALJIT SINGH
PUNEETA
HARSHPREET SINGH**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mr Daljit Singh, along with his wife and son, arrived in Canada in 2018 on a visitor's visa. The family subsequently sought refugee protection based on Mr Singh's fear of persecution in India as a member of the Chhiba caste, regarded as having low status in Indian society. In particular, Mr Singh claimed that he had been working in a milk plant and learned that one of the

plant's suppliers had been selling a contaminated product. Mr Singh reported his discovery to authorities, who imposed administrative sanctions and criminal charges against the supplier. The supplier and his family tried to carry out reprisals against Mr Singh in the form of false accusations and, later, harassment and assaults.

[2] In 2020, the family presented a refugee claim to the Refugee Protection Division, which dismissed their application. The RPD found that the family could probably live safely in New Delhi. In other words, they had an internal flight alternative (IFA) in New Delhi. The family appealed the RPD decision unsuccessfully to the Refugee Appeal Division. The RAD also concluded that the family had an IFA in New Delhi since the alleged agents of persecution would have neither the means nor the motivation to pursue them in such a large city so far away. In addition, the RAD found that it would be reasonable for the family to move to New Delhi where there would be employment opportunities and less likelihood of caste discrimination.

[3] The family argues that the RAD's conclusion regarding an IFA was unreasonable because it ignored evidence showing that the agents of persecution would have means of locating them in New Delhi and had previously demonstrated persistence in pursuing them. They also submit that the RAD failed to conduct an independent assessment of the evidence relating to the reasonableness of relocating to New Delhi. They ask me to quash the RAD's decision and order another panel to reconsider their case.

[4] I can find no basis for overturning the RAD's decision. The RAD considered the relevant evidence relating to the issue of an IFA and conducted its own review of that evidence. I will, therefore, dismiss this application for judicial review.

[5] The sole issue is whether the RAD's decision regarding an IFA was unreasonable.

II. The RAD's Decision

[6] The RAD began by dismissing the family's request to admit new evidence. They had provided an affidavit from Mr Singh that departed from his earlier version of events. The RAD found that the family could have presented this evidence to the RPD, so it could not be considered new.

[7] The RAD then addressed the main issue – whether the family had an IFA in New Delhi. That issue has two branches: First, would the family be at risk in New Delhi? Second, would it be reasonable for the family to move to New Delhi?

[8] On the first question, the RAD noted that Mr Singh had continued to work for the same milk company until he left India in 2018. In 2011, he transferred from Sandhaur to the company's branch in Ludhiana, 45 kilometres away, but he did not move to Ludhiana until 2013. This meant that until 2018 the agents of persecution could easily locate Mr Singh and continue to harass him simply by following him to and from work, whether in Sandhaur or Ludhiana. The RAD found that this situation did not suggest that the persecutors would seek out Mr Singh in New Delhi, a much larger city in a different state far from Ludhiana.

[9] The family pointed out that the alleged persecutors had contacts in the Punjab police who could determine where Mr Singh was living. But the RAD noted that there was no evidence that the police had helped the persecutors in the past. In fact, the Punjab police had previously released Mr Singh after a false accusation of assault, which suggested they bore Mr Singh no animus.

[10] The family also suggested that the agents of persecution could locate them through the tenant registration system. The RAD explained that the system is a form of criminal record check for prospective tenants. Since the family was not being sought by police and did not have criminal records, the RAD concluded that the tenant registration system would be unlikely to yield any information about them or expose them to harassment by the agents of persecution.

[11] The family contended that the Aadhaar biometric system could also be used to locate them. The RAD found, though, that legal restrictions on the use of this system probably prevented it from being used to track individuals. The RAD conceded that there had been breaches of the Aadhaar system in the past, but there was no evidence that personal information about the family could reach the agents of persecution.

[12] The RAD concluded that there was no serious possibility of persecution or other serious mistreatment by the agents of persecution in New Delhi.

[13] On the second branch of the issue, the RAD pointed out that the family did not have a language barrier in New Delhi and that there was a large Sikh population there, with schools,

cultural centres, and employment opportunities. The RAD did not accept that the family was likely to be singled out and discriminated against because of their caste. In fact, they were relatively well-off members of their caste. The evidence also showed that caste distinctions are more significant in rural areas as compared to cities. The family did not experience difficulties, even in Ludhiana. In New Delhi, they would likely find employment, housing, and education available to them.

[14] The RAD also found that the family was unlikely to face violence from Hindu extremists. The risk was statistically low and present mainly in Punjab.

[15] Overall, the RAD concluded that it would not be unreasonable for the family to move to New Delhi.

III. Was the RAD's decision regarding an IFA unreasonable?

[16] The family argues that the evidence before the RAD did not support its conclusion that an IFA was available in New Delhi. They cite the following omissions from the RAD's decision:

- The agents of persecution sought out the family in Ludhiana, which shows that they had the motivation and means to find them in New Delhi.
- The local Panchayat (village council) had come to a decision resolving Mr Singh's situation. Given that the Panchayat had considerable sway over local police, the decision suggests that any inaction by police in Sandhaur or Ludhiana was the consequence of that

influence, not the result of a lack of means or interest in locating the family. The Panchayat's influence would not extend to police in New Delhi.

- Information about Mr Singh's arrest and subsequent contacts with police would appear in the tenant registration system and Aadhaar, even though he was never charged.
- The agents of persecution harassed and pursued the family for years, suggesting that they are still motivated to find them.
- Members of the family's caste face discrimination in many parts of India, including New Delhi. Further, people who move to urban areas require a social network in order to find housing and employment; without one, settling in a large city would be difficult.

[17] I disagree with the family's submission that the RAD failed to take account of all the evidence.

[18] The RAD found that it was unlikely that the family would be flagged by the tenant registration system or Aadhaar. There were no ongoing criminal matters in which they were involved, there was no evidence that the agents of persecution had been able to get police assistance in locating the family, there was no evidence that the police themselves were interested in them, and there was no plausible means by which information about the family could be relayed to the agents of persecution.

[19] Similarly, even if the agents of persecution were still intent on finding the family, there was little evidence that they had the means to do so. Again, there was no evidence showing that they had been able to enlist the police in efforts to locate the family.

[20] As for the situation in New Delhi, the RAD cited evidence showing a large Sikh population there, with plentiful opportunities for education and cultural activities. Further, while the family belongs to a caste that may be subject to discrimination, the RAD noted that they were relatively well-off members of the caste and had achieved high levels of education and employment. In fact, the situation would likely be better for them in New Delhi than it had been in Ludhiana; even there, they had not experienced caste discrimination.

[21] I cannot conclude that the RAD's decision was unsupported by the evidence. Its conclusion that the family had an IFA in New Delhi was not unreasonable.

IV. IV. Conclusion and Disposition

[22] Based on the evidence, the RAD reasonably concluded that the family had an IFA in New Delhi. I must, therefore, dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT IN IMM-2588-21

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

"James W. O'Reilly"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2588-21

STYLE OF CAUSE: DALJIT SINGH PUNEETA HARSHPREET SINGH v.
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

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DATE OF HEARING: FEBRUARY 23, 2022

JUDGMENT AND REASONS O'REILLY J.

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