Federal Court  Cour fédérale

Date: 20230713

Docket: IMM-6138-22

Citation: 2023 FC 949

Ottawa, Ontario, July 13, 2023

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

HARI CHAPAGAIN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS AND JUDGMENT

[1] Mr. Hari Chapagain (the "Applicant") seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the "RPD"), dismissing his application for protection, pursuant to section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

[2] The Applicant is a citizen of Nepal. He went to the United States of America in 2007, to study. He remained in that country until 2021, without seeking protection. In 2021, he entered Canada and claimed protection.

[3] The RPD made negative credibility findings but in any event, found that an Internal Flight Alternative ("IFA") was available to the Applicant in Dhankuta and Biratnagar.

[4] The Applicant now argues that the credibility and IFA findings are unreasonable.

[5] The Minister of Citizenship and Immigration (the "Respondent") submits that the decision is reasonable.

[6] Following the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, the decision is reviewable on the standard of reasonableness.

[7] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision"; see Vavilov, supra at paragraph 99.

[8] I see no reviewable error in the manner in which the RPD assessed credibility.

[9] The test for a viable IFA is addressed in *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 at 710-711 (F.C.A.). The test is two-part and provides as follows:

- First, the Board must be satisfied that there is no serious possibility of a claimant being persecuted in the IFA.

- Second, it must be objectively reasonable to expect a claimant to seek safety in a different part of the country before seeking protection in Canada.

[10] In order to show that an IFA is unreasonable, an applicant must show that conditions in the proposed IFA would jeopardize their life and safety in travelling or relocating to that IFA; see *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 at 596-598 (F.C.A.).

[11] In light of the materials contained in the Certified Tribunal Record and the submissions of the parties, I am satisfied that the RPD reasonably concluded that an IFA is available to the Applicant, in both Dhankuta and Biratnagar.

[12] I am satisfied that the RPD reasonably concluded that the Applicant was not exposed to a “serious possibility” of persecution in the proposed IFA locations.

[13] Since the Applicant has failed to show an error in the RPD's treatment of the first part of the IFA test, it is not necessary for me to consider any arguments about the second part of that test.

[14] There is no basis for judicial intervention and the application for judicial review will be dismissed. There is no question for certification.

JUDGMENT in IMM-6138-22

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

There is no question for certification.

"E. Heneghan"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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STYLE OF CAUSE:	HARI CHAPAGAIN v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION
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