

Federal Court



Cour fédérale

**Date: 20230720**

**Docket: IMM-7422-22**

**Citation: 2023 FC 999**

**Ottawa, Ontario, July 20, 2023**

**PRESENT: Madam Justice McDonald**

**BETWEEN:**

**RAVINDER SINGH HALLAN**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, a citizen of India, seeks judicial review of the July 6, 2022 decision [Decision] of the Refugee Appeal Division [RAD], dismissing his appeal from the Refugee Protection Division [RPD] decision that denied his refugee claim. The determinative issue for both the RPD and the RAD was credibility.

[2] For the reasons that follow, this Application is dismissed as the Applicant has not established that the RAD Decision is unreasonable.

I. Background

[3] The Applicant claimed to be at risk of persecution in India from the Congress Party and the local police, who he alleges collude together in the illicit drug trade. He claims he was beaten after he witnessed a drug deal between Congress Party members and police, and he says that after trying to file a police report about the incident, he was harassed by the police.

[4] He also claims to be at risk as a result of his father being accused of Sikh militancy over 20 years ago. His father sought refugee protection in the United States, but the outcome of that claim is unknown.

[5] The RPD denied the Applicant's refugee claim. The determinative issue was credibility, with the RPD noting significant omissions and contradictions between his Basis of Claim narrative [BOC] and his testimony at the hearing.

A. *Decision Under Review*

[6] Before the RAD, the Applicant argued the RPD erred: (1) in its treatment of omissions from his BOC; (2) on the findings regarding his interactions with police; and (3) on the evidence relating to the allegations against his father.

[7] One omission from the Applicant's narrative related to an incident in 2018 that was later described as a drug deal. In his BOC, the Applicant states that in 2018, he saw two youths giving money to the police. When he was seen witnessing this transaction, he says he was beaten. He claims to have been called into the police station two days later and threatened.

[8] At the RPD hearing, the Applicant testified the transaction was a drug deal and that he knew one of the youths was a drug dealer before this incident. When asked why his BOC did not mention this incident was a drug deal, the Applicant stated he was unable to fully express some of the things in his written narrative.

[9] The RAD found the Applicant's explanation for the omission was not reasonable. The RAD noted the Applicant was represented by counsel at the hearing and that he confirmed at the RPD hearing that the evidence he provided in the BOC was complete and true. The RAD considered a reference to 'drug dealers' in the BOC, but found it did not negate the absence of any mention of witnessing a drug deal involving the police. The RAD found the omission was significant and material, as it related to a central aspect of his claim. The RAD drew a negative credibility finding from the omission.

[10] The second omission was regarding an interaction with the agent of harm identified as BH. In his BOC, the Applicant claims he was assaulted by BH, but did not reference any further interactions. At the hearing, the Applicant testified that the day after the assault, he saw BH again and was threatened by him.

[11] The RAD agreed with the RPD that the omissions relating to the incident were material and significant. The failure of the Applicant to offer an explanation for these omissions led the RAD to draw a negative credibility inference, considering these were the events that led the Applicant to flee India. The RAD concluded, on the balance of probabilities, that these events did not occur.

[12] On the issue of the Applicant's interactions with police, in his BOC the Applicant stated the police would come to his house "all the times", but at the hearing, he testified the police came three times. The Applicant explained the police came once, then again two days later, and then three days after that, which was why he said they came "again and again". The RAD concluded the Applicant's inability to provide consistent testimony on the number of times the police came to his home undermined the credibility of his allegation of harassment by the police.

[13] With regard to his father's refugee claim in the United States, the Applicant testified he did not learn about his father's claim until after his father's death in 2015. The RAD agreed with the RPD's analysis that without knowing the outcome of the father's refugee claim, the claim itself was not enough to establish on a balance of probabilities that the Applicant's father had been wanted by police and, in turn, that the Applicant himself would be wanted if he returned to India. The RAD concluded the Applicant had not established that he was politically active himself or that he would be targeted as a result of his father's political activity if he returned to India.

[14] The RAD confirmed the RPD's finding that the Applicant was neither a Convention refugee, nor a person in need of protection.

## II. Issue and Standard of Review

[15] The only issue is if the RAD Decision is reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]).

[16] A reasonable decision is one that possesses the three hallmarks of reasonableness – justification, transparency, and intelligibility – within the decision-making process (*Vavilov* at paras 86, 99). Any flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100).

## III. Analysis

[17] The Applicant argues the RAD erred in drawing negative credibility findings from the inconsistencies in his testimony, contrary to the presumption of truthfulness. He also argues the RAD engaged in an overly microscopic assessment of the evidence.

[18] One of the key omissions identified by the RAD related to the Applicant's description of the 2018 incident he witnessed that forms the basis of his claim to be at risk in India. In his BOC, he describes the incident as follows:

Some youths of Congress party of our area are involved with the gangsters. They were supplying drugs to innocent youths. They were doing this business with the help of police. They are paying big bribe to police officers. Further they were paying to all cadres

of police officers. They told me to join Congress party and also lured me to join their gang. When I refused they threatened me.

In the month of June 2018, I was coming back from my work. A warehouse comes on the way to bus stop from college. I was passing by that warehouse. I saw those youths with the two policemen. They were giving money to the police. I was so much scared that I tried to run away from there. It makes noise and alerted them. They followed me and grabbed me in the market. They beat me. ...

[19] At the RPD hearing, the Applicant stated “First I saw him trading the drugs, and then I saw him handing over the money”.

[20] The RAD noted that his evidence on this incident was inconsistent, as his BOC made no reference to him actually seeing drugs being exchanged.

[21] Despite the Applicant’s submissions that this omission can be attributed to a poorly written and disorganized BOC, in my view, it was reasonable for the RAD to find this omission significant. There is a clear difference between observing some known drug dealers giving the police money (as noted in the BOC) as compared to actually seeing “drugs” being traded for money, which was the Applicant’s RPD evidence. Considering the centrality of this event to his claim for protection, it was reasonable for the RAD to conclude that the missing details of this event were significant and material.

[22] The Applicant also submits that the RAD’s finding of an inconsistency on the number of times the police visited his house was unreasonable, as the RAD was unfairly testing his memory (*Sheikh v Canada (Minister of Citizenship and Immigration)*, (2000) 190 FTR 225 (FCTD)).

However, a review of the evidence demonstrates the RAD was not testing the Applicant's ability to recall specific dates, but was simply trying to ascertain the number of times the police came to his home.

[23] In his BOC, the Applicant stated the police would come all the time. At the RPD hearing, he testified the police came three times. The RAD concluded the Applicant's inability to provide consistent answers on the number of times the police came to his home undermined the credibility of his allegation that he was being harassed by the police.

[24] I do not view this as the RAD testing the Applicant on the dates of the visits, but rather attempting to determine the number of times this occurred, given his claim that he was harassed by the police "all the times". This was a fair assessment as it was reasonable for the RAD to expect consistent evidence about police visits to his house.

[25] On the issue of the father's refugee claim, the Applicant did not provide any evidence that his family had any difficulties with the Indian authorities as a result of his father's political profile. Accordingly, it was reasonable for the RAD to find that the Applicant had failed to establish that he was a target due to his father's political activity.

[26] Finally, the Applicant argues the RAD did not properly consider the Affidavits from his family members and the country condition documents. The Applicant submits the country condition documents show unlawful police killings are common in India and that the Indian Police are plagued by corruption, arbitrary arrests, and detentions.

[27] The challenge for the Applicant on the country condition documents is that he did not establish a link between that information and his personal circumstances. Further, with respect to the Affidavits, the Applicant has not identified the specific content in the Affidavits that was overlooked by the RAD. The RAD expressly noted “[t]he affidavits that the Appellant provided in support of his claim also provide conflicting information about whether the police were visiting his home routinely”. Without demonstrating the RAD was unreasonable in the treatment of this evidence, the Applicant’s arguments are essentially an invitation to the Court to reweigh this evidence.

IV. Conclusion

[28] I have not been convinced that the RAD Decision is unreasonable. The RAD reasonably concluded that the omissions and inconsistencies went to the core of the Applicant’s claim, as they all relate to the events that led to his fear of persecution and, ultimately, led him to leave India. This Application for judicial review is therefore dismissed.



**JUDGMENT IN IMM-7422-22**

**THIS COURT'S JUDGMENT is that:**

1. This Application for judicial review is dismissed; and
2. There is no question for certification.

"Ann Marie McDonald"

---

Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-7422-22

**STYLE OF CAUSE:** HALLAN v MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ON

**DATE OF HEARING:** JUNE 6, 2023

**JUDGMENT AND REASONS:** MCDONALD J.

**DATED:** JULY 20, 2023

**APPEARANCES:**

Ariel Hollander FOR THE APPLICANT

Aida Kalaj FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

LEWIS & ASSOCIATES LLP FOR THE APPLICANT  
Barristers and Solicitors  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, ON