Federal Court  Cour fédérale

Date: 20231218

Docket: IMM-6029-22

Citation: 2023 FC 1714

Montréal, Quebec, December 18, 2023

PRESENT: Mr. Justice Gascon

BETWEEN:

PALWINDER SINGH MOMI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Mr. Palwinder Singh Momi, is seeking judicial review of a decision dated May 31, 2022 [Decision], whereby the Refugee Appeal Division [RAD] dismissed his appeal and confirmed the Refugee Protection Division's [RPD] decision denying his refugee claim. The RAD rejected Mr. Momi's claim for refugee protection under sections 96 and 97 of the

Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA] because it identified a viable internal flight alternative [IFA] in New Delhi in his country of citizenship, India.

[2] Mr. Momi submits that the RAD erred in its determination of a viable IFA in New Delhi, by disregarding contradictory elements in the documentary evidence and by ignoring more recent decisions of the Immigration and Refugee Board [IRB] and country conditions documents.

[3] For the reasons that follow, I will dismiss this application for judicial review. In my view, the RAD's Decision was responsive to the evidence and its findings regarding the IFA location in New Delhi have the qualities that make the decision maker's reasoning logical and consistent in relation to the relevant legal and factual constraints. Furthermore, there is no convincing evidence of any alleged "new current" decisions at the IRB regarding the treatment of IFA matters involving India. There are no reasons justifying the Court's intervention.

II. Background

A. *The factual context*

[4] The basis of Mr. Momi's refugee claim is that he fears persecution or ill treatment by the Punjab police, who are targeting him at the behest of a corrupt member of the legislative assembly [MLA] and the National Investigation Agency [NIA], India's central counter-terrorism law enforcement agency. Mr. Momi alleges that the MLA for his constituency is closely linked with the drug mafia, and that he is targeted by both the Punjab police and the MLA for denouncing a drug transaction apparently condoned by the police.

[5] When he was in India, Mr. Momi worked in his village to help victims of drug addiction and fought against drug dealers and smugglers who were active in the area. During the 2018 elections, Mr. Momi supported the Aam Admi Party and actively worked against the re-election of the MLA. During and after the election, Mr. Momi was threatened and assaulted on multiple occasions for having worked against the MLA. On two occasions, he attempted to file a complaint at the local police station, but nothing happened.

[6] A few months later, local goons approached Mr. Momi and his brother, who was himself a Punjab police officer, and told them they would be "fixed soon."

[7] In March 2019, Mr. Momi witnessed a shopkeeper selling illegal drugs and reported him to the local Punjab police, who did nothing. Mr. Momi then called the Indian Narcotic Emergency Hotline in June 2019, on the advice of his brother. Shortly thereafter, the local police raided the shopkeeper's shop and detained him. However, no charges were laid and the shopkeeper was released later that day.

[8] A few days later, the Punjab police raided Mr. Momi's house, detained him, and tortured him after accusing him of being involved in cybercrime and narcoterrorism. Mr. Momi's brother used his contacts within the police to have him released on the payment of a bribe. His brother then told him that he would be targeted and killed by the police, so he went into hiding.

[9] In August 2019, the Punjab police came looking for Mr. Momi again. The next day, his brother was found dead. Further to those events, Mr. Momi fled India for Canada to seek protection.

[10] Since Mr. Momi's arrival in Canada, the Punjab police raided his house in India three more times on false allegations that he was involved in anti-national movements and was a threat to national security.

[11] In an amendment to his basis of claim narrative, Mr. Momi also asserted that the NIA questioned his father, the head of the local council, and a neighbour as to his whereabouts after accusing him of being involved with Khalistan militants and laundering money for the Khalistani cause. The Khalistan movement is a separatist movement seeking to create a homeland for Sikhs by establishing a religious sovereign state called Khalistan, and is considered a security and terrorist threat by the Indian government.

[12] On February 4, 2022, the RPD rejected Mr. Momi's claim for protection. The determinative issue in the RPD's analysis was the availability of a viable IFA in New Delhi. After examining the objective documentary evidence and the circumstances of Mr. Momi's claim, the RPD concluded that, on a balance of probabilities, Mr. Momi's perpetrators do not have the motivation nor the means to locate him in the proposed IFA.

B. *The RAD Decision*

[13] On appeal, the RAD also found that the determinative issue was the availability of an IFA in New Delhi, and conducted its own assessment of the viability of the proposed IFA. In its Decision, the RAD agreed with the RPD that Mr. Momi had not demonstrated that his agents of persecution had the motivation nor means to find him in New Delhi. The RAD also determined that it would not be unreasonable for Mr. Momi to relocate to the proposed IFA based on his personal circumstances.

[14] In its analysis, the RAD considered various factors to conclude that New Delhi is a viable IFA. First, the RAD assessed the size and location of New Delhi. It noted that it is a city of more than 30 million people located more than a 7-hour drive away from Jalandhar, a city in Punjab close to where Mr. Momi was targeted.

[15] Second, the RAD considered the illegal nature of the arrest and detention of Mr. Momi. To this effect, the RAD determined that, in light of the extra-judicial arrest and detention, there was no case filed against Mr. Momi, which means he would not be recorded in any of India's databases or watch lists for persons of interest. The RAD similarly noted that, since the NIA officials who interrogated Mr. Momi's father were likely acting improperly and extra-judicially at the behest of the corrupt MLA, they too would be unlikely to leave a paper trail or record against Mr. Momi.

[16] Third, the RAD discussed the limitations of the police tracking systems in India. Based on its assessment of the objective documentary evidence found in the National Documentation Package for India [NDP], the RAD found it unlikely that Mr. Momi would be traceable in the Crime and Criminal Tracking Network and Systems [CCTNS] or through India's tenant verification system. The RAD also observed that the agency controlling the CCTNS has been judicially excluded from access to Aadhaar data such that the police cannot track individuals for criminal investigations through their Aadhaar identity data. The RAD further concluded that, based on information found in the NDP, most police stations in New Delhi do not use the tenant verification system and that its functionality is extremely limited.

[17] Finally, the RAD acknowledged that the objective evidence about the police's ability to track people across jurisdictions in India using the CCTNS was mixed. Ultimately, the RAD

determined that even if Mr. Momi were in the database — a fact the RAD deemed unlikely —, the objective evidence does not establish that the local police are consistently able to communicate with other police stations or access information in databases. As such, the RAD concluded there is no risk of Mr. Momi being found by his agents of persecution in New Delhi.

[18] Turning to the second part of the IFA test, the RAD determined it would not be unreasonable for Mr. Momi to relocate to the proposed IFA. In its Decision, the RAD underlined that Mr. Momi did not establish that he would face cumulative discrimination amounting to persecution in New Delhi based on his religion and Sikh identity. The RAD also noted that Punjabi is widely spoken in New Delhi and that there would be no linguistic barrier to Mr. Momi's relocation to the proposed IFA. Consequently, the RAD concluded that Mr. Momi had not demonstrated that the proposed IFA would be objectively unreasonable or unduly harsh in his particular circumstances, nor that the conditions in the proposed IFA were such that they would endanger his life or safety.

C. *The standard of review*

[19] It is not disputed that the standard of reasonableness applies to the Decision under review and to findings regarding the existence of a viable IFA (*Khosla v Canada (Citizenship and Immigration)*, 2023 FC 1557 at para 16; *Valencia v Canada (Citizenship and Immigration)*, 2022 FC 386 [*Valencia*] at para 19; *Adeleye v Canada (Citizenship and Immigration)*, 2022 FC 81 at para 14; *Ambroise v Canada (Citizenship and Immigration*), 2021 FC 62 at para 6; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 350 [*Singh 2020*] at para 17; *Kaisar v Canada (Citizenship and Immigration)*, 2017 FC 789 at para 11). This is confirmed by the Supreme Court of Canada's landmark decision in *Canada (Minister of Citizenship and Immigration) v*

Vavilov, 2019 SCC 65 [*Vavilov*], where the Court established a presumption that the standard of reasonableness is the applicable standard in judicial reviews of the merits of administrative decisions (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [*Mason*] at para 7).

[20] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on "an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85; *Mason* at para 64). The reviewing court must therefore ask whether the "decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99). Both the outcome of the decision and its reasoning process must be considered in assessing whether these hallmarks are met (*Vavilov* at paras 15, 95, 136).

[21] Such a review must include a rigorous and robust evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a "reasons first" approach and begin its inquiry by examining the reasons provided with "respectful attention," seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Mason* at paras 58, 60; *Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene "only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process" (*Vavilov* at para 13), without "reweighing and reassessing the evidence" before it (*Vavilov* at para 125).

[22] The onus is on the party challenging the decision to prove that it is unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are "sufficiently serious shortcomings" (*Vavilov* at para 100).

III. Analysis

A. *The applicable test for IFA determinations*

[23] The test to determine the existence of a viable IFA comes from *Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706 (FCA) and *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 (CA) [*Thirunavukkarasu*]. These decisions from the Federal Court of Appeal state that two criteria must be established, on a balance of probabilities, in order to find that a proposed IFA is reasonable: 1) there must be no serious possibility of the claimant being subject to persecution in the part of the country in which the IFA exists; and 2) it must not be unreasonable for the claimant to seek refuge in the IFA, upon consideration of all their particular circumstances.

[24] In *Singh 2020*, the Court reminded that "the analysis of an IFA is based on the principle that international protection can only be offered to refugee protection claimants in cases where the country of origin is unable to provide to the person requesting refugee protection adequate protection everywhere within their territory" [emphasis added] (*Singh 2020* at para 26). If a refugee claimant has a viable IFA, this will negate a claim for refugee protection under either section 96 or 97 of the IRPA, regardless of the merits of other aspects of the claim (*Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at para 7).

[25] When an IFA is established, the onus is on the refugee claimant to demonstrate that the IFA is inadequate (*Thirunavukkarasu* at para 12; *Salaudeen v Canada (Citizenship and Immigration)*, 2022 FC 39 at para 26; *Manzoor-Ul-Haq v Canada (Citizenship and*

Immigration), 2020 FC 1077 at para 24; *Feboke v Canada (Citizenship and Immigration)*, 2020 FC 155 at paras 43–44).

B. ***New IRB decisions and NDP materials***

[26] In his written submissions, Mr. Momi mentioned that the "most recent current of decisions" of the IRB was to accept that those who have been tagged as militants by Punjab authorities do not have viable IFAs in India. According to Mr. Momi, this was because the most recent version of the NDP for India, which was not part of the record in this case, contains more persuasive documents about the Indian police's tracing capacities, as well as India's growing intolerance and intransigence towards its minorities. Mr. Momi thus argued that refugee claimants should be allowed to benefit from new information prior to them being returned to potential danger.

[27] At the hearing before the Court, counsel for Mr. Momi, however, acknowledged that the vast majority of this Court's recent decisions dealing with IFA issues involving refugee claimants from India had not espoused this alleged new current of decisions at the IRB.

[28] In any event, I find that Mr. Momi's argument on this front has no merit in this case.

[29] First, Mr. Momi does not provide any indication as to the nature and substance of this "recent current of decisions," or whether these uncited and abstract decisions were even presented before the RAD. Indeed, as the Minister noted, there is no evidence to indicate that the decisions referred to were raised before the RPD or the RAD in this matter. Furthermore, Mr. Momi did not file a supplementary affidavit to attest to these issues.

[30] Second, the updated documentary evidence allegedly contained in the NDP comes from an updated version which was published on June 30, 2022, after the date on which the Decision was issued (i.e., May 31, 2022). It therefore goes without saying that the RAD could not have taken this material into account in its reasons, and cannot be faulted for having failed to consider it.

[31] Third, it is well recognized that, in applications for judicial review, the general rule is that materials which were not in front of the decision maker cannot be considered by the reviewing court, except for limited exceptions (*Gittens v Canada (Attorney General)*, 2019 FCA 256 at para 14; *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 [*AUCC*] at paras 19–20). Those limited exceptions extend to materials that: 1) provide general background assisting the reviewing court in understanding the issues; 2) demonstrate procedural defects or a breach of procedural fairness in the administrative process; or 3) highlight a complete absence of evidence before the decision maker (*Tsleil-Waututh Nation v Canada (Attorney General)*, 2017 FCA 128 at para 98; *Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 23, 25; *AUCC* at paras 19–20; *Seklani v Canada (Public Safety and Emergency Preparedness)*, 2020 FC 778 at para 18; *Nshogoza v Canada (Citizenship and Immigration)*, 2015 FC 1211 at paras 16–18).

[32] The essential purpose of judicial review is the review of decisions, not the determination, by trial *de novo*, of questions that were not adequately canvassed in evidence at the tribunal or trial court (*AUCC* at para 19, citing *Gitxsan Treaty Society v Hospital Employees' Union (CA)*, [2000] 1 FC 135 at pp 144–145). An application for judicial review is not an appeal.

[33] Since Mr. Momi's materials were not presented to the RAD and do not fit any of the exceptions mentioned above, the Court cannot examine them to determine the reasonableness or legality of the Decision (*Fortier v Canada (Attorney General)*, 2022 FC 374 at para 17).

C. *First prong of the IFA test: no serious possibility of persecution in the IFA*

[34] Turning back to the IFA finding, Mr. Momi alleges that the RAD erred in determining that there is no serious possibility of persecution in the proposed IFA by not properly considering the documentary evidence and by ignoring other evidence found in the NDP that specifically contradicted its findings on the tenant verification system and the CCTNS.

[35] First, Mr. Momi submits that, according to Item 10.14 of the NDP, 92% of police stations in India are able to conduct searches in the CCTNS database, and that the RAD should have considered this evidence in its assessment. He also submits that the RAD ignored other evidence showing blatant corruption and wanton disregard for human rights and due process in India. In this respect, Mr. Momi posits that the RAD erred in its determination that the Punjab authorities would not be interested in following people who they claim have aided terrorists.

[36] Second, Mr. Momi contends that the RAD's assessment of the tenant verification system, which he argues is meant precisely to discover potential terrorists, was unreasonable. Relying on certain passages in the NDP, Mr. Momi alleges that his personal information would be captured in this database.

[37] Third, according to Mr. Momi, the RAD erred in its determination that if the Punjab police were to obtain his information, they would not act on it, given they are notoriously corrupt and brutal. As such, Mr. Momi alleges that his information is traceable by the Punjab police and

that they will be motivated to find him in the eventuality that he is flagged by either the CCTNS or the tenant verification system.

[38] I do not agree.

[39] First, on the question of the capacity of the agents of persecution to locate Mr. Momi in the proposed IFA, the RAD found that the heart of the issue was whether Mr. Momi's name was in databases available to the police that would identify him as a criminal or a militant. The evidence pointed to the contrary and established that Mr. Momi did not have the profile of a criminal or a militant. Indeed, Mr. Momi's appeal submissions before the RAD did not challenge the RPD's finding that his name was not recorded in a police database or on a watch list as a person of interest. Furthermore, given the unlawful circumstances of Mr. Momi's arrest and detention, it was reasonable for the RAD to conclude that it was unlikely that his information was officially recorded in any database or any other place that could be accessed.

[40] In sum, no link was established between Mr. Momi's personal circumstances and profile and India's various databases.

[41] Moreover, the RAD did not ignore the relevant documentary evidence. The RAD reviewed the RPD's findings and stated in its decision that the objective evidence about the police's ability to track people across jurisdictions in India was mixed. In its reasons, the RAD referred to numerous NDP sources. This evidence indicates that there are considerable differences in the versions of the software being used for police databases in India's different states and that it is difficult to locate individuals. With respect to the tenant verification system, the RAD found serious limitations to the ability of the police to locate someone through this

system. Furthermore, Mr. Momi has not explained how his agents of persecution would be able to track him down through this system if his name and information were not recorded in a police database or watch list in the first place.

[42] Here, as the Minister noted, the RAD specifically mentioned the passages of the NDP referred to by Mr. Momi. In light of Mr. Momi's particular circumstances, the RAD preferred certain evidence regarding the police's inability to locate people, the lack of interstate police communications, and the limits and shortcomings of India's tenant verification system. The RAD also considered evidence specific to New Delhi as a viable IFA. After assessing the conclusions of the RAD and the documentary evidence it relied on, I am satisfied that it was reasonable for the RAD to select and accept parts of the evidence that it considers to be the most persuasive to support its findings (*Arora v Canada (Citizenship and Immigration)*, 2021 FC 1270 at paras 22–26).

[43] On the question of motivation, the fact that the agents of persecution are willing to locate Mr. Momi within his own village does not demonstrate that they would be motivated or capable of locating him outside of the state of Punjab. Moreover, the agents of persecution did not seriously consider Mr. Momi as a militant or terrorist since he was released upon the payment of a bribe and was not charged with any crime.

[44] In my view, Mr. Momi did not meet his onus with respect to establishing the motivation of the agents of persecution to locate him across state lines. Indeed, this Court has established that "there is a difference between a persecutor's *ability* to pursue an individual throughout a country and his *desire* to do so or *interest* in doing so. The fact that a persecutor is able to pursue an individual is not decisive evidence that he is motivated to do so. If the persecutor has no

desire to find, pursue and/or persecute an individual, or interest in doing so, it is reasonable to conclude that there is no serious possibility of persecution" [emphasis in original] (*Leon v Canada (Citizenship and Immigration)*, 2020 FC 428 at para 13).

[45] Based on its interpretation of the evidence, it was reasonable for the RAD to determine that Mr. Momi's agents of persecution do not have the means or motivation to locate him. It bears reminding that the onus was on Mr. Momi to establish that his agents of persecution had the motivation and the capacity to track him down and harm him in the proposed IFA (*Thirunavukkarasu* at para 12). He failed to discharge that onus.

[46] As rightly observed by counsel for the Minister, there are numerous RAD decisions dealing with IFA findings involving refugee claimants from India and closely similar fact patterns. However, the determination of each case is dependent on its specific evidence and factual scenario. Here, the RAD specifically considered Mr. Momi's illegal arrest and detention, coupled with the limitations of the various police tracking systems such as the Aadhaar card, CCTNS, and tenant verification system. Upon conducting a thorough analysis, the RAD determined that Mr. Momi's profile and arrest circumstances made it unlikely that his information would be officially recorded in any database. In my view, the RAD provided intelligible and justified reasons as to why it found that there was insufficient information to conclude that Mr. Momi's name appears in any police database.

[47] It is a well-settled principle that administrative decision makers are presumed to have weighed and considered all the evidence before them unless proven otherwise (*Kanagendren v Canada (Citizenship and Immigration)*, 2015 FCA 86 at para 36; *Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 598 (FCA) at para 1). In the same vein, a failure

to mention a particular piece of evidence does not mean that it was ignored (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 16).

[48] It is true that, when an administrative decision maker does not properly deal with evidence squarely contradicting its findings of fact, the Court may intervene and infer that the decision maker overlooked the contradictory evidence when reaching its conclusion (*Ozdemir v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331 at paras 9–10; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425 (QL) at para 17). However, the failure to consider specific evidence must be viewed in context, and it is only when the evidence is critical and squarely contradicts the decision maker's conclusion that the reviewing court may determine that the tribunal disregarded the material before it (*Torrance v Canada (Attorney General)*, 2020 FC 634 at para 58). This is not the case here.

[49] In the present circumstances, Mr. Momi is simply expressing his disagreement with the RAD's assessment of the evidence. However, it is not the role of a reviewing court to reweigh this evidence (*Singh 2020* at para 39 citing *Kanthasamy v Canada (Citizenship and Immigration)*, 2014 FCA 113 at para 99). The RAD was entitled to prefer documentary evidence that was more detailed than the excerpts cited by Mr. Momi. The RAD's IFA findings are essentially factual and are based on its assessment of all the evidence, including the documentary evidence. These findings are within the RAD's area of expertise and require a high degree of deference from the Court. Based on all the evidence, the RAD could reasonably conclude that Mr. Momi has failed to demonstrate that, on a balance of probabilities, he would be at risk in the proposed IFA. It is not the role of this Court to reassess the evidence to reach a conclusion more

favourable to an applicant. The role of this Court is to assess whether the Decision bears the hallmarks of reasonableness (*Vavilov* at paras 99, 125; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59). Here, the RAD assessed the whole of the NDP evidence and simply weighed the evidence differently from what Mr. Momi would have liked.

D. *Second prong of the IFA test: IFA location is reasonable*

[50] To satisfy the second prong of the IFA test and determine that an IFA is unreasonable, there must be actual and concrete evidence of conditions that would jeopardize an applicant's life and safety in travelling or temporarily relocating to the proposed safe area (*Ranganathan v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 164 at para 15). Mr. Momi argues that the RAD's findings are unreasonable because, as a Sikh, New Delhi is not an acceptable IFA location, given the rise of violence in India against religious minorities.

[51] Again, I disagree with Mr. Momi.

[52] The only evidence submitted by Mr. Momi on the second prong of the IFA test is the documentary evidence that Sikhs face persecution and challenges across India. However, in its Decision, the RAD noted that Mr. Momi did not establish that he would face cumulative discrimination amounting to persecution in New Delhi based on his religion and Sikh identity. The RAD grounded its analysis on references to the documentary evidence in the NDP. Furthermore, this Court has determined that with respect to the second prong of the IFA test, the fact that being Sikh outside of Punjab can be a challenge in itself is not sufficient "to satisfy the stringent second prong of the [IFA] test" (*(Major) Singh v Canada (Citizenship and Immigration)*, 2020 FC 277 at paras 25–26). In other words, Mr. Momi's disagreement with the

assessment made by the RAD cannot be equated with a failure to consider his profile as Sikh. This is particularly true given the RAD explicitly considered his profile as a Sikh practitioner in its analysis of the second prong of the test.

[53] In addition to its findings related to Mr. Momi's religious identity, the RAD also noted that Punjabi is widely spoken in New Delhi and that there would be no linguistic barrier to Mr. Momi's relocation to the proposed IFA. Consequently, the RAD concluded that Mr. Momi has not demonstrated that the proposed IFA would be objectively unreasonable or unduly harsh in his particular circumstances, nor that the conditions in the proposed IFA are such that they would endanger his life or safety. This conclusion was reasonable, bearing in mind the stringent requirements of the second prong of the IFA test.

[54] The party challenging an administrative decision must satisfy the reviewing court that "any shortcomings or flaws relied on… are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100). In this case, the RAD's reasoning can be followed without a decisive flaw in rationality or logic, and the reasons were developed in such a way that the analysis could reasonably lead the RAD, having regard to the evidence and the relevant legal and factual constraints, to conclude as it did (*Vavilov* at para 102). There is no serious deficiency in the Decision that would taint the analysis and that would be likely to undermine the requirements of justification, intelligibility, and transparency.

[55] Following *Mason* and *Vavilov*, the reasons given by administrative decision makers have taken on a greater importance and are now the starting point for the analysis on an application for judicial review. They are the primary mechanism by which administrative decision makers show that their decisions are reasonable, both to the affected parties and to the reviewing courts

(*Vavilov* at para 81). They serve to state "how and why a decision was made," demonstrate that "the decision was made in a fair and lawful manner," and shield against "the perception of arbitrariness in the exercise of public power" (*Vavilov* at para 79). In short, it is the reasons that establish the justification for the decision, and the reviewing courts must read them "holistically and contextually" in "light of the record and with due sensitivity to the administrative regime in which they were given" (*Vavilov* at paras 97, 103; *Alexion Pharmaceuticals Inc v Canada (Attorney General)*, 2021 FCA 157 at para 15).

[56] Here, the RAD's reasons provide a transparent and intelligible justification for the Decision (*Vavilov* at paras 81, 136). At paragraph 102 of *Vavilov*, the Supreme Court held that the reviewing court "must be satisfied that 'there is [a] line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived'." In this case, it is easy to trace and to follow the RAD's line of analysis and the Decision does bear the hallmarks of reasonableness, which are justification, transparency, and intelligibility (*Vavilov* at para 99).

IV. Conclusion

[57] For the reasons set forth above, this application for judicial review is dismissed. I am satisfied that the RAD reasonably considered the evidence in concluding that Mr. Momi had a viable IFA in New Delhi. Numerous factors have led the RAD to conclude that the agents of persecution do not have the motivation or means to track down Mr. Momi in the proposed IFA. There are no grounds for the Court to intervene.

[58] No question for certification was proposed, and I agree that none arises.

JUDGMENT in IMM-6029-22

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed, without costs.

2. There is no question of general importance to be certified.

"Denis Gascon"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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